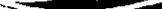


CITY OF
OXNARD

CALIFORNIA

Regular Meetings
City Council Chambers, 305 West Third Street, Oxnard
July 10, 2012
5:30 P.M.

City of Oxnard internet address: www.ci.oxnard.ca.us.

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA (30 Minutes)

At this time, the legislative body will consider public comments for a maximum of thirty minutes. A person may address the legislative body only on matters not appearing on the agenda and within the subject matter jurisdiction of the legislative body. A person not able to address the legislative body at this time because the thirty minutes expires may do so just prior to adjournment of the meeting. The legislative body cannot enter into a detailed discussion or take any action on any items presented during public comments at this time. Such items may only be referred to the City Manager/ Executive Director/Secretary for administrative action or scheduled on a subsequent agenda for discussion. Persons wishing to speak on public hearing items should do so at the time of the hearing. The presiding officer shall limit public comments to three minutes.

G. REVIEW OF INFORMATION/CONSENT AGENDA

The members of the legislative body will consider whether to remove Information/Consent Agenda items for discussion later during the meeting.

H. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

At this time, a person may address the legislative body only on matters appearing on the information/consent agenda. The presiding officer shall limit public comments to three minutes.

I. INFORMATION/CONSENT AGENDA

City Clerk Department

1. SUBJECT: Minutes of the Regular Meeting of the Oxnard City Council for June 5, 12, 19 and 26, 2012; and Minutes of the Regular Meeting of the Oxnard Community Development Commission Successor Agency for June 5, 12, 19 and 26, 2012. (003)

RECOMMENDATION: Approve.

Legislative Body: CC/SA

Contact: Daniel Martinez

Phone: 385-7803

City Manager Department

2. SUBJECT: Agreements for City Council Review. (037)

RECOMMENDATION: Pursuant to Ordinance 2835, approve and authorize the Interim City Manager, to execute the attached agreements/contracts and change orders/amendments in amounts more than \$25,000 but less than \$250,000.

Legislative Body: CC

Contact: Karen Burnham

Phone: 385-7430

3. SUBJECT: Consent to Assignment and First Amendment to Agreement with AEP California LLC for New Police Vehicle Outfitting. (041)

RECOMMENDATION: Approve and authorize the Mayor to execute the Consent to Assignment and First Amendment to the Agreement with AEP California LLC (4844-09-CM), transferring the agreement from TW Mobile Engineering to AEP California LLC and extending the agreement until September 1, 2013, in an annual amount not to exceed \$144,000 for a total contract amount of \$576,000, for the installation of equipment in new Police patrol black & white vehicles.

Legislative Body: CC

Contact: Joseph Rodriguez

Phone: 385-8011

Housing Department

4. SUBJECT: Affordable Housing and Rehabilitation Division Relocation Appeals Process. (045)
RECOMMENDATION: Adopt a Resolution Establishing an Affordable Housing and Rehabilitation Division Relocation Appeals Process.
Legislative Body: CC Contact: Karl Lawson Phone: 385-8095
5. SUBJECT: Resolution of Support for Assembly Bill 1797 and Assembly Bill 2150. (053)
RECOMMENDATION: Adopt a resolution expressing support for Assembly Bills 1797 and 2150.
Legislative Body: CC Contact: Karl Lawson Phone: 385-8095

Human Resources Department

6. SUBJECT: Memorandum of Understanding with the Service Employees International Union, Local 721. (057)
RECOMMENDATION: 1) Ratify a Memorandum of Understanding (MOU) between the City and the Service Employees International Union, Local 721 (SEIU), commencing January 1, 2012, and expiring on December 31, 2012; 2) Adopt a resolution implementing the MOU for SEIU, Local 721; and 3) Authorize the City Manager to transfer funds between accounts, in amounts to be determined, to implement the terms and conditions of the MOU.
Legislative Body: CC Contact: Michelle Tellez Phone: 385-7596

Recreation and Community Services Department

7. SUBJECT: Acceptance of Senior Nutrition Grant Funds from the Ventura County Area Agency on Aging ("VCAAA") for FY 2012-2013. (109)
RECOMMENDATION: 1) Adopt a resolution approving and authorizing the Mayor to execute a twelve-month (July 1, 2012 to June 30, 2013) agreement (A-7513) between the City of Oxnard and the Ventura County Area Agency on Aging ("VCAAA") for FY 2012-2013; and 2) Approve a special budget appropriation to recognize grant award and program donation for the Senior Nutrition Program FY 2012-2013.
Legislative Body: CC Contact: Richard Arias Phone: 385-7998

J. TRANSMITTAL OF INFORMATION ONLY ITEMS

K. INFORMATION/CONSENT PUBLIC HEARINGS

L. PUBLIC HEARINGS – 7:15 P.M.

Development Services Department

1. SUBJECT: Planning & Zoning Permit No. 11-570-02 Requesting a Zone Change to General Commercial Planned Development (C-2-PD), and Appeal of Planning Commission's Denial of Planning & Zoning Permit No. 11-510-09 Requesting a Type 20 ABC License for a Proposed 7-Eleven Store. Located at 1001 and 1051 East Channel Islands Blvd. Filed by Designated Agent Lucy Dinneen, Cadence Capital Investments LLC, on Behalf of Property Owner Channel Islands Inn LP. (137)

RECOMMENDATION: Adopt a resolution denying Planning & Zoning Permit No. 11-570-02 and denying the appeal and upholding the Planning Commission's denial of Planning & Zoning Permit No. 11-510-09.

Legislative Body: CC

Contact: Brian Foote

Phone: 385-8312

M. REPORT OF CITY MANAGER/EXECUTIVE DIRECTOR/SECRETARY

The City Manager/Executive Director/Secretary shall report on items of interest to the legislative body occurring since the last meeting. The legislative body cannot enter into detailed discussion or take action on any item presented during this report. Such items may only be referred to the City Manager/Executive Director/Secretary for administrative action or scheduled on a subsequent agenda for discussion.

1. SUBJECT: Verbal Report on Oxnard Community Development Commission Successor Agency and Status of Redevelopment Activities in the City of Oxnard, including report on effect of AB 1484, State Budget Trailer Bill; summary of delinquencies with respect to Successor Agency and City owned assets possibly subject to ABx1 26; and summary of the Downtown Assistance Plan described in Agreement No. A-5965 (Fourth Amendment to Owner Participation Agreement between the former Community Development Commission and certain Riverpark Developers).

RECOMMENDATION: Receive and consider report.

Legislative Body: CC/SA

Contact: Curtis Cannon

Phone: 385-7407

N. CITY COUNCIL/HOUSING AUTHORITY/SUCCESSOR AGENCY/FINANCING AUTHORITY
BUSINESS/COMMITTEE REPORTS

City Manager Department

1. SUBJECT: Consideration of Support for the Ventura County Transportation Commission (VCTC's) Adopted Position on Countywide Transit and Discussion of AB 1778 (Williams). (259)

RECOMMENDATION: Consider supporting the adopted position of VCTC concerning countywide transit and provide direction to the City Manager.

Legislative Body: CC

Contact: Martin Erickson

Phone: 385-7870

O. REPORTS

City Manager Department

2. SUBJECT: Draft City Council Procedures Manual/Ethics Training Update. (305)
RECOMMENDATION: 1) Receive a report and draft copy of the City of Oxnard City Council Procedures Manual; 2) Consider edits and proposed changes to the draft Procedures Manual submitted during the 14-day comment period, and adopt the Procedures Manual; and 3) Receive a verbal update on ethics training options and provide direction to the City Manager.
Legislative Body: CC Contact: Martin Erickson Phone: 385-7870

P. PUBLIC COMMENTS ON REPORTS

At this time, a person may address the legislative body only on matters appearing on the reports. The presiding officer shall permit a person to address the legislative body after the staff presentation on the report and before the consideration of the report by the legislative body. The presiding officer shall limit public comments to three minutes.

Q. APPOINTMENT ITEMS

R. STUDY SESSION

S. PUBLIC COMMENTS ON STUDY SESSION

At this time, a person may address the legislative body only on matters appearing on the study session agenda. The presiding officer shall permit a person to address the legislative body after the staff presentation on the item and before the consideration of the item by the legislative body. The presiding officer shall limit public comments to three minutes.

C. CLOSED SESSION - (Continued from page 1)

1. **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION.**

CC Chavez, Miguel Morillo v. Oxnard Police Dept., et al.
U.S. District Court Case No. CV11-8930-PA (PCAx)

The City Manager and the City Attorney requested that this item be discussed in closed session under the Brown Act exception of Conference with Legal Counsel – Existing Litigation. The purpose of the closed session is to report to City Council on the status of the litigation.

2. CONFERENCE WITH LABOR NEGOTIATOR.

- CC Instructions to negotiators, Karen Burnham, Interim City Manager, and Michelle Tellez, Human Resources Director, regarding salaries, salary schedules and compensation paid in the form of fringe benefits for employees represented by the Service Employees International Union (SEIU), Local No. 721 and other matters within the scope of representation.

The Interim City Manager and the Human Resources Director requested that these items be discussed in closed session under the Brown Act exception of Conference with Labor Negotiator. The purpose of the closed session is for the City Council to review the status of negotiations and to provide instructions to negotiators.

T. ADJOURNMENT



Meeting Date: 7 / 10 / 12

ACTION	TYPE OF ITEM
☐ Approved Recommendation	☐ Info/Consent
☐ Ord. No(s). _____	X Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☐ Other _____

Prepared By: James Cameron *J.C.* Agenda Item No. 0-1Reviewed By: City Manager *JRB* City Attorney *WAT* Finance *J.C.* Other (Specify) _____

DATE: July 5, 2012

TO: City Council

FROM: James Cameron *James Cameron*
Chief Financial Officer

SUBJECT: Fiscal Year 2012-13 Budget Balancing Discussion

RECOMMENDATION

1. That City Council receive Departmental presentations by Fire, Recreation and Community Services, Public Works, and General Services.
2. That City Council consider options for balancing the Fiscal Year 2012-13 General Fund Budget and provide direction to staff.

DISCUSSION

On July 19, 2011 the City Council approved the Fiscal Years 2011-12 & 2012-13 Two-Year Budget. The Fiscal Year 2012-13 (FY 2013) budget included a \$111.2 million General Fund revenue projection and expenditure appropriation. The Fiscal Years 2011-12 & 2012-13 Two-Year Budget can be found in the Libraries and on the City's web page at:

<http://www.ci.oxnard.ca.us/uploads/FY%202011-2013%20Adopted%20Budget%20Document%202012-12-11.pdf>

On June 19, 2012, City Council received a presentation by the Police Department on various programmatic issues, as well as an update of the FY 2013 General Fund budget which included revenue projections of \$104.2 million and a base expenditure budget of \$107.4 million. Anticipated revenues have been revised by \$1.8 million to \$106.0 million. While the economic recovery has been lagging and still faces potential hurdles, the recently reported assessed valuations for Oxnard (up 1.5%) and relatively strong sales tax growth has largely offset the use of one-time sources in prior years. However, economic growth has not been adequate to meet FY 2013 expenditure appropriations and the State's taking of vehicle license fees added to the shortfall with a \$744,000 reduction from FY 2013 projected amounts. Revenues are projected to be 4% lower than the original projection for FY 2013.

The revised General Fund base appropriations budget for FY 2013 reflects a decrease of about 3% from that approved FY 2013. Including \$1 million for the Performing Arts and Convention Center, appropriation requirements are \$108.4 million, resulting in a \$2.4 million deficit; however, there are several funding issues that require City Council attention. First, based on current year trends, there is a high probability that an additional \$1.1 million will be required for, fuel and vehicle maintenance, animal shelter, and public safety overtime costs. These costs are highly variable and could change depending on factors largely beyond the control of the City despite efforts to minimize their impacts. Second, while the Golf Fund has not required a subsidy from the general fund for several years based on available fund balances and transfers from capital funds, a \$1.3 million short fall is projected in FY 2012-13. Finally, based on the California Department of Finance review of the Recognized Obligation Payment Schedule (ROPS) for the Successor Agency to the Community Development Commission, a \$1 million shortfall is estimated. Assuming the various funding needs are covered by the General Fund, a total of \$6 million from savings or revenue solutions is required to balance the budget for FY 2013.

At the City Council's strategic planning session, one of the key priorities identified by the City Council was to balance the budget without impacting City services. Subsequently, the City Council asked staff to provide options for meeting this priority. Given the economic environment, this is clearly a challenge for the City and a significant effort has been made to identify options that while not proposals or recommendations of staff, will include difficult choices. At the July 10th meeting, in addition to continuing departmental presentations by Fire, Recreation and Community Services, Public Works, and General Services, staff will present budget balancing options for City Council consideration.

After July 10th meeting, the following schedule is anticipated in order to meet Government Code Section 7900 and City ode, Section 2-81:

July 11-13	Incorporate direction provided by City Council in the recommended budget and prepare the appropriations limit
July 16	Submit appropriations limit to City Clerk for public review
July 16	Submit required budget summaries for publication in the newspaper
July 16 -18	Print Update to FY 2013 budget
July 19	Newspaper publishes budget summaries and Update to FY 2013 budget sent to City Council, City Clerk, and Libraries and posted on the City web page
July 31	FY 2013 Budget Public Hearing and Consideration for Adoption

FINANCIAL IMPACT

Budget balancing direction provided by Council will be incorporated in the FY 2013 budget recommendations for Council consideration at the Budget Public Hearing scheduled for July 31, 2012.

JC:tr

MINUTES

OXNARD CITY COUNCIL

Regular Meeting

June 5, 2012

A. ROLL CALL/POSTING OF AGENDA

At 6:16 p.m., the regular meeting of the Oxnard City Council convened in the Council Chambers. Councilmembers Thomas E. Holden, Irene G. Pinkard, Bryan A. MacDonald, Timothy B. Flynn and Carmen Ramirez were present. The City Clerk stated that the agenda was posted on Thursday in the Library and City Clerk's Office. Mayor Holden presided and called the meeting to order. Staff members present were: Daniel Martinez, City Clerk; and Alan Holmberg, City Attorney.

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

C. CLOSED SESSION

At 6:17 p.m. the City Council recessed to a closed session, pursuant to Government Code section 54956.9(c), based on existing facts and circumstances, the City Council shall decide whether to initiate litigation in one potential case.

At 6:55 p.m. the City Council reconvened and recessed to the evening session. The City Attorney announced the start of litigation against Kennedy & Jenkins Engineering regarding the Redwood Trunk Sewer Project.

D. OPENING CEREMONIES

At 7:02 p.m., the regular meeting of the Oxnard City Council reconvened in the Council Chambers, concurrently with Community Development Successor Agency. The meeting opened with the pledge of allegiance to the flag of the United States, followed by a moment of silence. Mayor Holden presided. Additional staff members present were: Karen Burnham, Interim City Manager; Jeri Williams, Police Chief; Matthew Winegar, Development Services Director; Curtis P. Cannon, Community Development Director; Grace Magistrale Hoffman, Deputy City Manager; Michael Henderson, General Services Manager; Lou Balderrama, City Engineer; Rob Silverstein, Code Compliance Officer; and Karl Lawson, Compliance Services Manager; and Jason Samonte, Traffic Engineer.

E. CEREMONIAL CALENDAR

1. **SUBJECT:** Presentation of Water Conservation Student Art Contest Award Winners
DISCUSSION: The City Council recognized student winners of the annual Water Conservation Student Art Contest.
2. **SUBJECT:** Presentation of a Commendation to Linda Windsor for over 18 Years of Exemplary Service to the City of Oxnard
DISCUSSION: Linda Windsor thanked the council for the recognition.

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Received public comments from: Donald Thibeault; Martin Jones; Ed Ellis; Steve Nash; Sharon Reid; Armando Vazquez; Peggy Rivera; Julie Pena; Larry Stein; Julie Pena; Rosa Dominguez; Rudy Salvio; and Pat Brown.

K. INFORMATION/CONSENT PUBLIC HEARINGS**L. PUBLIC HEARINGS**

ACTION: Mayor Holden declared the public hearing open.

DISCUSSION: The City Clerk reported on posting, publication and that there were no written communications received.

City Manager Department

1. **SUBJECT:** Levy of 2012-2013 Assessments in Mandalay Beach Maintenance District. (223)
RECOMMENDATION: 1) Hold a Public Hearing to receive public testimony regarding the proposed FY 2012-2013 assessments for the Mandalay Beach Maintenance District; and 2) Adopt **Resolution No. 14,211**, fixing the special assessment tax in the Mandalay Beach Maintenance District for FY 2012-2013.
DISCUSSION: The General Services Manager briefly reviewed the proposed action.
ACTION: Close the public hearing. (Holden/Pinkard) Approved as recommended. (Pinkard/MacDonald) Ayes: Pinkard, MacDonald, Flynn, Ramirez, and Holden.

Development Services Department

2. **SUBJECT:** Adopt PZ 02-640-01 (Specific Plan) and 02-570-04 (Zone Change) and Certification of Final EIR No. 06-01 for the Sakioka Farms Specific Plan.
RECOMMENDATION: Continue to June 12, 2012.
ACTION: Approved as recommended (Holden/Pinkard) unanimously.

ACTION: Mayor Holden declared the public hearing open.

DISCUSSION: The City Clerk reported on posting, publication and that there was one written communications received.

3. **SUBJECT:** Amendments to: RiverPark Specific Plan (PZ 09-630-03) and Development Agreement (PZ 11-670-01). Filed by E.D. 2, LLC / KOH 12-17 LLC, 304 South Broadway, Suite 400 Los Angeles, CA 90013. (233)
RECOMMENDATION: Deny the applicant's requests for (in accordance with the Planning Commission's recommendation) **Resolution No. 14,212**, 1) Amendment to the RiverPark Specific Plan (PZ 09-630-03) to increase the maximum number of residential units; and 2) Amendment to the Development Agreement [A-6128 (PZ 11-670-01)], between the City of Oxnard and E.D. 2, LLC / KOH 12-17 LLC.

DISCUSSION: The Development Services Director commented on the requested changes by developer, reduction of commercial use and parking issues.

Paul Keller, Urban Partners LLC, reviewed the development request including zoning and number of units. He also provided cards of support and commented on the original master plan.

Public comments in opposition of changes: Justin Glen; Terry Carter; Orlando Dozier; Eric Burg; Robert Villegas; Mike Smith; Ellie Smith; Cheryl Pease; Andrew Jones-Cathcart; Yonatan Bermene; Elaine Janess; Pat Brown; Larry Stein; Matthew Klinefelt; and Bert Perello.

Public comments supporting changes: Ron Streibich; Richard Willson; and Ashley Nguyn.

The Council discussed: requested changes regarding number of units; zoning changes; parking issues; transportation issues; density issues; and the original general plan.

ACTION: Close the public hearing. (Holden/Pinkard) Approved as recommended with the Planning Commission reviewing the parking plan to address parking issues. (Holden/Pinkard) Ayes: Holden, Pinkard, and MacDonald. Noes: Flynn and Ramirez.

O. REPORTS

City Attorney Department

1. SUBJECT: Big League Dreams, \$400,000 License Fee. (285)
RECOMMENDATION: Receive a report concerning the Big League Dreams \$400,000 license fee paid by the City to Big League Dreams USA ("BLD USA").
ACTION: The City Council concurred to continue this item.

L. PUBLIC HEARINGS

ACTION: Mayor Holden declared the public hearing open.

DISCUSSION: The City Clerk reported on posting, publication and that there were no written communications received.

Police Department

4. SUBJECT: Recovery of Nuisance Abatement Costs. (271)
RECOMMENDATION: 1) Conduct a public hearing to consider objections of property owners whose property is to be assessed for nuisance abatement costs as stated in the cost report; 2) Approve the cost report; and 3) Direct the City Manager or designee to file a certified copy of the cost report with the Ventura County Auditor-Controller.
DISCUSSION: The Code Compliance Officer reviewed the process including the appeal process to the hearing officer.
ACTION: Close the public hearing. (Pinkard/Holden) Approved as recommended. (Ramirez/Holden) Ayes: Ramirez, Holden, Pinkard, MacDonald, and Flynn.

ACTION: Mayor Holden declared the public hearing open.

DISCUSSION: The City Clerk reported on posting, publication and that there were no written communications received.

5. SUBJECT: Recovery of Civil Citation Fines. (273)

RECOMMENDATION: 1) Conduct a public hearing to consider objections of property owners whose property is to be assessed for civil citation fines as stated in the cost report; 2) Approve the cost report; and 3) Direct the City Manager or designee to file a certified copy of the cost report with the Ventura County Auditor-Controller.

DISCUSSION: The Code Compliance Officer reviewed the process including the appeal process to the hearing officer.

Comments received from: Alice Trejo; Luis Enrique Rodriguez; Rudy Salvio; Juana Chavez; Bricio Zaragoza; and Sylvia Rodriguez.

The Council provided directions and comments to staff to meet with several individuals regarding citations.

ACTION: Close the public hearing (Holden/Pinkard) unanimously. Approved as recommended with directions to staff regarding several citations issues. (Holden/Ramirez) Ayes: Holden, Pinkard, MacDonald, Flynn, and Ramirez.

G. REVIEW OF INFORMATION/CONSENT AGENDA

The Traffic Engineer commented on cable use with the Intelligent Transportation System backbone (I-5). The City Engineer reviewed the drainage system and master plan (I-9). The Compliance Services Manager reviewed the proposed Assembly Bill 1938 (I-6).

At 11:45 p.m., Mayor Holden left the meeting and Mayor Pro Tem Pinkard presided. At 11:49 p.m., Mayor Holden returned and presided.

H. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

Public comments were received from: Larry Stein (I-1) and Pat Brown (I-6).

I. INFORMATION/CONSENT AGENDA

City Clerk

1. SUBJECT: Minutes of the Regular Meetings of the City Council for April 24, 2012, and May 1, 8 and 15, 2012; Minutes of the Special Meeting of the City Council for May 9, 2012. (001)
RECOMMENDATION: Approve.

City Manager Department

2. SUBJECT: Agreements for City Council Review. (035)
RECOMMENDATION: Approve and authorize the Interim City Manager to execute the attached agreements/contracts and change orders/amendments in amounts more than \$25,000 but less than \$250,000.*

3. **SUBJECT:** Fourth Amendment to Agreement for On-Call Landscape Architect Services. (041)
RECOMMENDATION: Approve and authorize the Mayor to execute the Fourth Amendment to Agreement for On-Call Landscape Architect Services provided by Jordan, Gilbert & Bain Landscape Architects, Inc. (4734-09-CM).
4. **SUBJECT:** Adoption of Resolutions Levying FY 2012-2013 Assessments in Landscape Maintenance District Nos. 27 through 59. (073)
RECOMMENDATION: Adopt resolutions levying FY 2012-2013 assessments for Landscape Maintenance District Nos. 27 through 59 as follows: • **Resolution No. 14,176**, Tract No. 5016, District No. 27 (Rose Island); • **Resolution No. 14,177**, Tract No. 4268, District No. 28 (Harborside); • **Resolution No. 14,178**, APN 202-0-110-175 and 202-0-110-295, District No. 29 (Mercy Charities Housing Project); • **Resolution No. 14,179**, Tract No. 5020, District No. 30 (Haas Automation); • **Resolution No. 14,180**, Tract No. 4714, District No. 31 (Rancho de la Rosa); • **Resolution No. 14,181**, Tract No. 5070, District No. 32 (Oak Park); • **Resolution No. 14,182**, Tract No. 5153, District No. 33 (El Paseo); • **Resolution No. 14,183**, Tract No. 5136, District No. 34 (Sunrise/Sunset Cove); • **Resolution No. 14,184**, Parcel Map No. 97-5-55, District No. 35 (Airport Marina Center); • **Resolution No. 14,185**, Tract No. 5135, District No. 36 (Villa Carmel/Villa Santa Cruz); • **Resolution No. 14,186**, Tract No. 5137, District No. 37 (Pacific Breeze); • **Resolution No. 14,187**, Tract No. 5148, District No. 38 (Aldea Del Mar); • **Resolution No. 14,188**, Tract No. 5198-1 and 5198-2, District No. 39 (Promesa/Sueno); • **Resolution No. 14,189**, Tract No. 5214, District No. 40 (Cantada); • **Resolution No. 14,190**, Tract No. 5171, District No. 41 (Pacific Cove); • **Resolution No. 14,191**, Tract No. 5228, District No. 42 (Cantabria/Coronado); • **Resolution No. 14,192**, Parcel Map No. 98-5-117, Tract Nos. 4317, 5293 and 5294, District No. 43 (Parc Rose, Tierra Vista, Sonrisa II and Mayfield Village); • **Resolution No. 14,193**, Tract No. 5253, District No. 44 (American Pacific Homes); • **Resolution No. 14,194**, Parcel Map No. 00-5-55, District No. 45 (Channel Point); • **Resolution No. 14,195**, Tract No. 5276, District No. 46 (Daily Ranch); • **Resolution No. 14,196**, Tract No. 5339, District No. 47 (Sycamore Place); • **Resolution No. 14,197**, Tract No. 5234, District No. 48 (Victoria Estates); • **Resolution No. 14,198**, Tract No. 5296, District No. 49 (Cameron Ranch); • **Resolution No. 14,199**, Tract No. 5273, District No. 50 (Pleasant Valley Senior Housing); • **Resolution No. 14,200**, Tract No. 5389-1, 2 and 3, District No. 51 (Pfiler); • **Resolution No. 14,201**, Tract No. 5340, District No. 52 (Wingfield); • **Resolution No. 14,202**, Tract No. 5305, District No. 53 (Huff Court); • **Resolution No. 14,203**, Tract No. 5459, District No. 54 (Meadowcrest); • **Resolution No. 14,204**, Tract No. 5640, District No. 55 (Wingfield West); • **Resolution No. 14,205**, Tract No. 5450, District No. 56 (The Cottages); • **Resolution No. 14,206**, APN 144-0-150-085, APN 144-0-150-075, District 57 (Golden State Self Storage); • **Resolution No. 14,207**, Tract No. 5441, District No. 58 (Westwind); and • **Resolution No. 14,208**, Tract No. 5542, District No. 59 (Orbela).

Development Services Department

5. **SUBJECT:** Third Amendment to Agreement with Iteris, Inc. for Engineering Services for the Intelligent Transportation System (ITS) Construction Integration. (179)
RECOMMENDATION: Approve and authorize the Mayor to execute the third amendment to the agreement with Iteris, Inc. (5217-10-DS) to increase the amount by \$364,702 (a total of \$2,490,644) for engineering services for the ITS construction integration.

Housing Department

6. **SUBJECT:** Resolution of Support for Assembly Bill 1938. (183)
RECOMMENDATION: Adopt **Resolution No. 14,209**, expressing support for Assembly Bill 1938.

Human Resources Department

7. **SUBJECT:** Contract for Professional Services with Acclamation Insurance Management Services DBA AIMS. (187)
RECOMMENDATION: Approve and authorize the Mayor to execute an agreement with Acclamation Insurance Management Services (A-7495) in the amount of \$1,373,788 to administer the Workers' Compensation Program for the City of Oxnard for fiscal years 2012 through 2017.

Public Works Department

8. **SUBJECT:** Assessment for the City's National Pollutant Discharge Elimination System (NPDES) Storm Water Management Program. (213)
RECOMMENDATION: Adopt **Resolution No. 14,210**, authorizing an assessment for the City's National Pollutant Discharge Elimination System (NPDES) Storm Water Management Program for inclusion in the Ventura County Watershed Protection District's (VCWPD) Benefit Assessment Program (BAP).
9. **SUBJECT:** PW06-93 Tierra Vista Neighborhood Street and Storm Drain Improvement Project. (219)
RECOMMENDATION: Approve Project Specification No. PW06-93 for the improvements of streets sidewalks, curbs, gutters, alleyways and replacing street name signs, and construction of a new storm drain system in the Tierra Vista Neighborhood and authorize staff to solicit bids.

INFORMATION/CONSENT AGENDA ACTION: Approved as recommended. (MacDonald/ Holden) Ayes: Pinkard, MacDonald, Flynn, Ramirez, and Holden. *Abstain: Pinkard only for I-2 districts 3 and 16.

COMMUNITY DEVELOPMENT SUCCESSOR AGENCY AND HOUSING AUTHORITY

At 11:45 p.m. the joint meeting with the Community Development Successor Agency concluded.

J. TRANSMITTAL OF INFORMATION ONLY ITEMS

At 11:45 p.m., Mayor Holden left the meeting and Mayor Pro Tem Pinkard presided.

M. REPORT OF CITY MANAGER

1. **SUBJECT:** Verbal Report on Oxnard Community Development Commission Successor Agency and Status of Redevelopment Activities in the City of Oxnard.
RECOMMENDATION: Receive and consider report, including a report on the California State Department of Finance action on the Successor Agency's Recognized Obligation Payment Schedules (ROPS) for January 1, 2012 through June 30, 2012 and July 1, 2012 through December 31, 2012.

DISCUSSION: The Community Development Director reviewed the report of the California State Department of Finance regarding Recognized Obligation Payment Schedules for January 1, 2012 through June 30, 2012 and July 1, 2012 through December 31, 2012. The City Attorney stated that the City was in the same situation as other cities which had redevelopment districts.

Comments were received from: Steve Nash, Pat Brown and Bert Perello.

ACTION: Received the report

N. CITY COUNCIL BUSINESS COMMITTEE REPORTS

Councilman MacDonald commented on the International Conference of Shopping Centers and contacts made. He stated he would meet with the public if answer any questions.

M. REPORT OF CITY MANAGER

The Interim City Manager stated the Fire Academy would be starting July 23 due to Measure O funding.

COMMUNITY DEVELOPMENT SUCCESSOR AGENCY

At 11:58 p.m. the joint meeting with the Community Development Successor Agency concluded.

N. CITY COUNCIL BUSINESS COMMITTEE REPORTS

The Council commented on: the Measure O funding process; update regarding the Public Access Channel; staff response regarding Homeless issues including State Senate Bill 2 and Year Round Housing Shelter facilities; Recognized Obligation Payment Schedules (ROPS) reports of other cities; downtown property default report and placement of the Ventura County Transportation Plan on future agenda for Council input.

P. PUBLIC COMMENTS ON REPORTS

Q. APPOINTMENT ITEMS

R. STUDY SESSION

S. PUBLIC COMMENTS ON STUDY SESSION

T. ADJOURNMENT

At 12:14 a.m. the City Council concurred to adjourn the meeting.

DANIEL MARTINEZ
City Clerk

DR. THOMAS E. HOLDEN
Mayor

DR. IRENE G. PINKARD
Mayor Pro Tem

MINUTES

OXNARD CITY COUNCIL

Regular Meeting

June 12, 2012

A. ROLL CALL/POSTING OF AGENDA

At 7:04 p.m., the regular meeting of the Oxnard City Council convened in the Council Chambers concurrently with the Community Development Successor Agency and Housing Authority. Councilmembers Thomas E. Holden, Irene G. Pinkard, Bryan A. MacDonald, Timothy B. Flynn and Carmen Ramirez were present. The City Clerk stated that the agenda was posted on Thursday in the Library and City Clerk's Office

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

C. CLOSED SESSION

D. OPENING CEREMONIES

The meeting opened with the pledge of allegiance to the flag of the United States, followed by a moment of silence. Mayor Holden presided and called the meeting to order. Staff members present were: Daniel Martinez, City Clerk; Karen Burnham, Interim City Manager; Alan Holmberg, City Attorney; Michael O'Malia, Interim Fire Chief; Curtis P. Cannon, Community Development Director; Matthew Winegar, Development Services Director; James Cameron, Chief Financial Officer; Rob Roshanian, Interim Public Works Director; William "Bill" Wilkins, Housing Director; Grace Magistrale Hoffman, Deputy City Manager; Michael Henderson, General Services Manager; Chris Williamson, Principal Planner; and Martin Erickson, Special Assistant to the City Manager.

E. CEREMONIAL CALENDAR

2. SUBJECT: Presentation of a Check for \$25,000 by State Farm Insurance to the City Council and Oxnard Fire Department for Water Safety Public Information Campaign
DISCUSSION: Michael Diggs and Jeanette Williams, State Farm Insurance, presented a check to the Fire Department for water safety programs.
3. SUBJECT: Recognizing Juneteenth Organizing Committee
DISCUSSION: Mayor Pro Tem Pinkard presented proclamation to Vince Steward recognizing local Juneteenth events. Mr. Steward presented a \$500 check to the Oxnard City Corps.
1. SUBJECT: Presentation of Certification of Commendation to the AFC Soccer Academy u-19 Girls Team
DISCUSSION: The City Council recognized the coaches and members of the AFC Soccer Academy for their accomplishments.

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from: Martin Jones; Ed Ellis; Larry Stein; Gloria Roman; William "Bill" Terry; Steve Nash; Allen Dirrim; Kevin Ward; Ingrid Ward; George Sorkin; Orlando Dozier; Theadora Corryyn; Jim Lavery; Douglas Johannes; and Daniel Lechlitter.

G. REVIEW OF INFORMATION/CONSENT AGENDA

The City Council concurred to receive comments from the public regarding I-3, remove (I-3) from the agenda and placed the item on a future closed session. The Interim Public Works Director reviewed changes made in the field (I-2, item 3) as changed orders. The Housing Director reviewed the intend of the purchase of the housing (I-2, item 5) and reviewed workers compensation insurance information (I-6). The Development Services Director reviewed past deferral of other projects (I-4) and revisiting RiverPark EIR specific plan (I-5).

H. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

Public comments were received from: Ed Ellis; Harold Ceja; Larry Stein; William "Bil" Terry; Danny Carrillo; Mary Chappell; Elaine James; Ralph James; Eileen Tracy; Rhea Voll; Bert Perello (I-2) (I-3); Pat Brown; E. Gloria Roman; Martin Jones; Rebecca Ralph; and Daniel Lechlitter.

I. INFORMATION/CONSENT AGENDA

City Manager Department

2. **SUBJECT:** Agreements for City Council Review. (019)
RECOMMENDATION: Approve and authorize the Interim City Manager, to execute the attached agreements/contracts and change orders/amendments in amounts more than \$25,000 but less than \$250,000.
3. **SUBJECT:** Approval of Contract for Interim City Manager. (023)
RECOMMENDATION: Remove from agenda.

Development Services Department

4. **SUBJECT:** Extension of Agreement to Defer Development Fees for St. Paul Baptist Church. (029)
RECOMMENDATION: 1) Approve the first reading by title only and subsequent adoption of **Ordinance No. 2857** extending the deferral of the payment of \$139,881.29 in development fees owed for construction of a new building at 1787 Statham Boulevard by St. Paul Baptist Church by one-year to June 26, 2013; and 2) Approve and authorize the Mayor to execute the first amendment and restatement of agreement to pay deferred development fees between the City and St. Paul Baptist Church (A-7021) extending the payment due date to June 26, 2013.
5. **SUBJECT:** **Ordinance No. 2855** Adopting Amendments to RiverPark Specific Plan (PZ 09-630-03) and **Ordinance No. 2856** Approving the Fourth Amendment to the RiverPark Development Agreement No. A-6128 (PZ 11-670-01). (037)
RECOMMENDATION: Second reading and approval.*

Public Works Department

7. **SUBJECT:** Approval of Award of Contract for GS11-13 Del Norte Facility Restroom Remodel. (063)
RECOMMENDATION: 1) Approve and authorize the Mayor to execute the Contract with Ardalan Construction Company, Incorporated (A-7493) in the amount of \$163,000 on Project Specification Number GS11-13 for the Del Norte Facility Restroom Remodel Project located at

111 South Del Norte Boulevard; and 2) Approve a Special Budget Appropriation of \$63,000 to the Solid Waste Asset Management Project No. 106801 to provide funding for the remodel of restrooms at the Del Norte Facility.

INFORMATION/CONSENT AGENDA ACTION: Approved as recommended with removal of I-3. (Pinkard/Holden) Ayes: Pinkard, MacDonald, Flynn, Ramirez, and Holden. *Noes: Flynn and Ramirez only I-5.

HOUSING AUTHORITY

At 9:10 p.m., the joint meeting with the Housing Authority concluded.

J. TRANSMITTAL OF INFORMATION ONLY ITEMS

Finance Department

1. SUBJECT: Monthly Budget Status Report for the Period Ending April 30, 2012. (067)

RECOMMENDATION: Receive Report.

ACTION: Received and filed.

K. INFORMATION/CONSENT PUBLIC HEARINGS

L. PUBLIC HEARINGS

Mayor Holden opened the public hearing. The City Clerk reported on publication and that there were no written communications received.

City Manager Department

1. SUBJECT: Public Hearing and Adoption of Resolutions to Levy FY 2012-2013 Assessments for Landscape Maintenance District Nos. 1 through 3, and 7 through 26. (085)

RECOMMENDATION: 1) Hold a public hearing to receive public testimony regarding the proposed FY 2012-2013 assessments for Landscape Maintenance District Nos. 1 through 3, and 7 through 26; and 2) Adopt resolutions for FY 2012-2013 confirming assessments for Landscape Maintenance District Nos. 1 through 3, and 7 through 26 in the following tracts: •

Resolution No. 14,212, Tract No. 2247, District No. 1 (Summerfield); • **Resolution No. 14,213**, Tract Nos. 4065, 4164, 4355 and 4225, District No. 2 (Channel Islands Business Park); •

Resolution No. 14,214, Tract No. 3384, District No. 3 (River Ridge); • **Resolution No. 14,215**, Tract Nos. 4183 and 3943, District Nos. 7 and 8 (Northfield/Seagate Business Park); •

Resolution No. 14,216, Tract Nos. 3051-2, 3051-3, and 4351, District No. 9 (Strawberry Fields); • **Resolution No. 14,217**, Tract No. 4405, District No. 10 (Country Club Estates); •

Resolution No. 14,218, Tract No. 4376, District No. 11 (St. Tropez); • **Resolution No. 14,219**, Tract No. 4294, District No. 12 (Standard Pacific); • **Resolution No. 14,220**, Tract No. 4424, District No. 13 (Le Village); • **Resolution No. 14,221**, Tract No. 4492, District No. 14 (California Cove); • **Resolution No. 14,222**, Tract No. 4443, District No. 15 (Pelican Pointe); •

Resolution No. 14,223, Tract No. 4810, District No. 16 (California Lighthouse); • **Resolution**

No. 14,224, Tract No. 4702, District No. 17 (Village of San Miguel); • **Resolution No. 14,225**,

Parcel Map Nos. 213-0-031-355, 375, 385, 405, 415 and 425, District No. 18 (St. John's Regional Medical Center); • **Resolution No. 14,226**, Tract No. 4827, District No. 19 (Shopping

at the Rose); • **Resolution No. 14,227**, Parcel Map Nos. 231-0-020-200, 210, 240, District No. 20 (Wallenius Vehicle Preparation Center); • **Resolution No. 14,228**, Tract No. 3384-7, 8, District No. 21 (Cypress Pointe); • **Resolution No. 14,229**, Tract No. 4611, District No. 22 (McDonald's Median); • **Resolution No. 14,230**, Tract No. 4529, District No. 23 (Greystone); • **Resolution No. 14,231**, Tract No. 4529, District No. 24 (Vineyards); • **Resolution No. 14,232**, Tract No. 4840, District No. 25 (The Pointe); and • **Resolution No. 14,233**, Parcel Map No. 202-0-010-685, District No. 26 (Albertson's).

DISCUSSION: The General Services Manager commented on RFP process and stated all districts are maintained in-house.

ACTION: Close the public hearing. (Holden/Pinkard) Approved as recommended. (Flynn/MacDonald) Ayes: MacDonald, Flynn, Ramirez, Holden, and Pinkard. Abstain: Pinkard only District 3 and 16.

Mayor Holden opened the public hearing. The City Clerk reported on publication and that there were no written communications received.

Development Services Department

2. SUBJECT: Planning and Zoning Permit Nos. 02-640-01 (Specific Plan) and 02-570-04 (Zone Change), and Certification of Final Environmental Impact Report (FEIR) No. 06-01 for the Sakioka Farms Business Park Specific Plan. Located at 2190 and 1400 N. Rice Avenue. Filed by Sakioka Farms, 3183-A Airway Avenue, #2, Costa Mesa, California, 92626. (133)

RECOMMENDATION: 1) Certify the Final Sakioka Specific Plan Environmental Impact Report (EIR No. 06-01) and adopt **Resolution No. 14,234**, Findings of Fact, Statement of Overriding Considerations, and the Adaptive Management Mitigation Monitoring and Reporting Program; 2) Adopt **Resolution No. 14,235**, the Sakioka Specific Plan (PZ No. 02-640-01); and 3) Approve the first reading by title only and subsequent adoption of **Ordinance No. 2858** (PZ No. 02-570-02) to change the zone designation of an approximately 13-acre area along Del Norte Boulevard from Business Research Park (BRP) to Light Industrial-Planned Development (M1-PD).

DISCUSSION: The Principal Planner reviewed the proposed development plan including possible types of development, traffic circulation, local jobs, location of fire station, water use, and zoning changes. The Development Director commented on discussions with developer regarding building a fire station and development costs.

Mike Adams, Sakioka development, commented on proposed development including job creation being balanced with local housing, over-all development, and transportation system.

The Council discussed job creation, funding of fire station, development fees, proposed zone changes, water use, vacancy rate of commercial buildings, and loss of farm land.

Comments were received from: Steve Kinney For; Larry Stein; Daniel Lechlitter; Nancy Lindholm; Pat Brown, Bert Perello; and Rebecca Ralph.

ACTION: Close the public hearing. (Holden/MacDonald) unanimously. Approved as recommended. (Holden/MacDonald) Ayes: Ramirez, Holden, Pinkard, and MacDonald. Noes: Flynn.

Mayor Holden opened the public hearing. The City Clerk reported on publication and that there were no written communications received.

3. SUBJECT: Adoption of 2006-2014 Housing Element. (155)

RECOMMENDATION: 1) Hold a public hearing on the 2006-2014 Housing Element; 2) Adopt **Resolution No. 14,236** the 2006-2014 Housing Element; and 3) Direct staff to incorporate the 2006-2014 Housing Element into the 2030 General Plan as Chapter 8 and forward the 2006-2014 Housing Element to the Department of Housing and Community Development (HCD) for certification.

DISCUSSION: The Principal Planner commented on the role of City, the Regional Housing Needs Allocation (RHNA) process, and affordable housing building issues.

Public comments were received from: Sonja Flores; Ellen Tracy; Pat Brown; Barbara Macri-Ortiz; and Bert Perello.

The Council discussed the proposed housing element including land use, affordable housing projects, future State & federal funding, and consequences of not having a certified plan.

ACTION: Close the public hearing. (Holden/Pinkard) Approved as recommended. (MacDonald/Holden) Ayes: Ramirez, Holden, Pinkard, MacDonald, and Flynn.

M. REPORT OF CITY MANAGER

1. SUBJECT: Verbal Report on Oxnard Community Development Commission Successor Agency and Status of Redevelopment Activities in the City of Oxnard.

RECOMMENDATION: Receive and consider report.

DISCUSSION: The Interim City Manager announced an Oversight Board meeting June 13, 2012.

Comments received from: Bert Perello.

ACTION: Received information from staff.

Q. APPOINTMENT ITEMS

1. SUBJECT: Ventura County Regional Sanitation District Presentation. (Mark Lawler)

ACTION: The Council concurred to continue to future date.

COMMUNITY DEVELOPMENT SUCCESSOR AGENCY

At 11:08 p.m. the joint meeting with the Community Development Successor Agency concluded.

N. CITY COUNCIL BUSINESS /COMMITTEE REPORTS

City Manager Department

1. SUBJECT: Consideration of Support for the Ventura County Transportation Commission (VCTC's) Adopted Position on Countywide Transit and Discussion of AB 1778 (Williams). (175)

RECOMMENDATION: Consider supporting the adopted position of VCTC concerning countywide transit and provide direction to ~~the~~ City Manager.

DISCUSSION: The Special Assistant to the City Manager outlined use of TDA funds, request of VCTC for Council position, and schedule requiring action to be taken.

Comments received from: James Joyce, State Assemblyman Das Williams Office; Carla Castilla; Pat Brown; Mina Layloa, City of Thousand Oaks; and Barbara Macri-Ortiz.

The Council discussed: the communication process with other agencies; current County transportation services; and working with other cities and agencies.

ACTION: Continue the discussions of VCTC countywide transit position and oppose AB 1778. (Holden/Pinkard) Ayes: Holden, Pinkard, and MacDonald. Noes: Flynn and Ramirez.

O. REPORTS

City Attorney Department

1. **SUBJECT:** Big League Dreams, \$400,000 License Fee. (181)

RECOMMENDATION: Receive a report concerning the Big League Dreams \$400,000 license fee paid by the City to Big League Dreams USA ("BLD USA").

DISCUSSION: The City Attorney reviewed the history of the BLD USA agreements, discussions with National Parks Service and California Parks Service, funding options, and the response of BLD USA.

The Council discussed: actions of other cities having BLD USA facilities and possible actions to resolve this situation.

Comments were received from: Bert Perello and Pat Brown.

ACTION: The City Council provided comments and directions to staff.

P. PUBLIC COMMENTS ON REPORTS

R. STUDY SESSION

S. PUBLIC COMMENTS ON STUDY SESSION

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Comments were received from: Bert Perello.

T. ADJOURNMENT

At 12:17 a.m. the City Council concurred to adjourn the meeting.

DANIEL MARTINEZ
City Clerk

DR. THOMAS E. HOLDEN
Mayor

DR. IRENE G. PINKARD
Mayor Pro Tem

MINUTES

OXNARD CITY COUNCIL

Regular Meeting

June 19, 2012

A. ROLL CALL/POSTING OF AGENDA

At 5:31 p.m., the regular meeting of the Oxnard City Council convened in the Council Chambers. Councilmembers Thomas E. Holden, Irene G. Pinkard, Bryan A. MacDonald, Timothy B. Flynn and Carmen Ramirez were present. The City Clerk stated that the agenda was posted on Thursday in the Library and City Clerk's Office. Mayor Holden presided and called the meeting to order. Staff members present were: Daniel Martinez, City Clerk; Karen Burnham, Interim City Manager; Alan Holmberg, City Attorney; and Grace Magistrale Hoffman, Deputy City Manager.

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

Comments were provided by: Bert Perello.

C. CLOSED SESSION

At 5:35 p.m. the City Council recessed to a closed session, pursuant to Government Code section 54957.6 to give instructions to its designated representative, regarding salary or compensation paid in the form of fringe benefits for Interim City Manager, Karen Burnham. Before adjourning to closed session, City Council designated Mayor Holden as representative.

At 6:15 p.m. the City Council reconvened. Additional staff members present were: James Cameron, Chief Financial Officer; Jeri Williams, Police Chief; and Jason Benites, Assistant Police Chief.

O. REPORTS

Finance Department

1. SUBJECT: Fiscal Year 2012-13 Budget Balancing Discussion. (001)

RECOMMENDATION: 1) Receive an update of the Fiscal Year 2012-13 General Fund Budget and approve options for balancing the Fiscal Year 2012-13 Budget; and 2) Receive Departmental presentations that may include: Police, Fire, Recreation and Community Services, Public Works, and General Services.

DISCUSSION: The Chief Financial Officer reviewed the latest budget projection as being balanced due to overtime control, limit use of temporary employees and deferred/elimination of purchases. He projected next year's revenues, expenditures, Successor Agency issues, and potential additional budget requirements.

The Police Chief outlined several budget issues including staffing, operational vacancies, significant incidents, court overtime, animal shelter costs and reimbursable overtime.

The Council commented on: the Performing Arts Center, Community Development Commission Successor Agency staffing requirements, River Ridge golf course, public facilities benefits (libraries, parks), use of City vehicles, staff training and the two-year budget process.

Public comments provided by: Larry Stein, Jim Lavery, Brian Elster, and Bert Perello.

ACTION: Received budget presentations.

D. OPENING CEREMONIES

At 7:16 p.m., the regular meeting of the Oxnard City Council reconvened in the Council Chambers, concurrently with the Community Development Commission Successor Agency, and Housing Authority. The meeting opened with the pledge of allegiance to the flag of the United States, followed by a moment of silence. Mayor Holden presided. Additional staff members present were: Curtis P. Cannon, Community Development Director; Michael O'Malia, Interim Fire Chief; William "Bill" Wilkins, Housing Director; Matthew Winegar, Development Services Director; Michael Henderson, General Services Manager; Rob Roshanian, Interim Public Works Director; and Martin Erickson, Special Assistant to the City Manager.

E. CEREMONIAL CALENDAR

1. SUBJECT: Presentation of Resolution to Donna M. T. Gustafson for over Thirty Eight Years of Service. (005)

RECOMMENDATION: Adopt **Resolution No. 14,237.**

DISCUSSION: Mayor Holden presented resolution to Ms. Gustafson who thanked the Council

ACTION: Approved as recommended. (Holden/Pinkard) unanimously. Ms. Gustafson commented on the honor of working for the City.

2. SUBJECT : Employee of the Second Quarter 2012.

DISCUSSION: The Chief Financial Officer commented on work efforts of Carol Venegas who was chosen as Employee of Quarter.

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments received from: Larry Stein, Tom Cady, Gaston Gomez, Daniel Bourgoing, Brian Elster, Ed Ellis, Tom Westervelt, Broderick Huggins, Orlando Dozier, Joseph Edward Scogin, Shirley Spencer, and Pat Brown.

ITEMS REMOVED FROM AGENDA

The City Manager requested item I-11 and I-3D be removed from the agenda.

G. REVIEW OF INFORMATION/CONSENT AGENDA

The Chief Financial Officer reviewed Measure "O" funding and other financial Oxnard College park information (I-4).

H. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

Comments received by: Larry Stein (I-3).

I. INFORMATION/CONSENT AGENDA

City Clerk Department

1. SUBJECT: Minutes of the Regular Meeting of the City Council for April 17, 2012. (007)
RECOMMENDATION: Approve.
2. SUBJECT: Resolutions to Call the November 6, 2012 Regular Municipal Election. (013)
RECOMMENDATION: 1) Adopt **Resolution No. 14,238** calling a regular municipal election for November 6, 2012, for the purpose of electing municipal officers; requesting consolidation with the Statewide general election on November 6, 2012; requesting the County Clerk to render services and supplies; and authorizing the Board of Supervisors to canvass the returns; and 2) Adopt **Resolution No. 14,239** establishing rules to govern submission of candidates' statements.

City Manager Department

3. SUBJECT: Agreements for City Council Review. (019)
RECOMMENDATION: Approve and authorize the Interim City Manager, to execute the attached agreements/contracts and change orders/amendments in amounts more than \$25,000 but less than \$250,000. (remove section D only)*
4. SUBJECT: Second Amendment to Agreement with Penfield and Smith Engineers for College Park Improvements –Ph. 1C Project. (023)
RECOMMENDATION: Approve and authorize the Mayor to execute a Second Amendment to Agreement with Penfield and Smith Engineers (4761-09-CM) in the amount of \$29,783.00 for the College Park Phase 1C Project, located at 3250 South Rose Ave. With this amendment the revised total of the agreement is now \$570,533.00.

Development Services Department

5. SUBJECT: **Ordinance No. 2857** Extending the Deferral of the Payment of \$139,881.29 in Development Fees Owed for Construction of a New Building at 1787 Statham Boulevard by St. Paul Baptist Church. (043)
RECOMMENDATION: Second reading and approval.
6. SUBJECT: **Ordinance No. 2858** Changing the Zone Designation of PZ No. 02-570-02 From Business Research Park (BRP) to Light Industrial Planned Development (M1-PD). (045)
RECOMMENDATION: Second reading and approval.*

Public Works Department

10. SUBJECT: Second Amendment to Agreement with AECOM for Construction Management Services for the GREAT Program Phase I Advanced Water Purification Facility and Phase I Recycled Water Backbone System. (079)
RECOMMENDATION: Approve and authorize the Mayor to execute the second amendment to the agreement with AECOM (A-7230) to increase the amount by \$181,604 for a total of \$6,800,021 for construction management services of the GREAT Program Phase I Advanced Water Purification Facility (AWPF) and the Phase I Recycled Water Backbone System (RWBS).

11. SUBJECT: Purchase Order No. 4057 with Ameron International Corporation for the Manufacture, Storing and Delivery of Pipe Line for PW12-13 Hueneme Road Recycled Water Line Project. (085)

RECOMMENDATION: Remove from agenda.*

12. SUBJECT: Resolution Commending Bill Buck for Over Thirty Years of Exemplary Service. (097)

RECOMMENDATION: Adopt the **Resolution No. 14,240**.

INFORMATION/CONSENT AGENDA ACTION: Approved as recommended with removal of I-3 section D only and I-11 from agenda. (Pinkard/Holden) Ayes: Pinkard, MacDonald, Flynn, Ramirez, and Holden. *Noes: Flynn only I-6.

J. TRANSMITTAL OF INFORMATION ONLY ITEMS

K. INFORMATION/CONSENT PUBLIC HEARINGS

ACTION: Mayor Holden declared the public hearing open.

DISCUSSION: The City Clerk reported on posting, publication and that there were no written communications received.

1. SUBJECT: FY 2012-13 Assessments in Waterway Maintenance District. (099)

RECOMMENDATION: 1) Hold a public hearing to receive public testimony regarding proposed assessments for the Waterway Maintenance District for FY 2012-13; and 2) Adopt **Resolution No. 14,241** for FY 2012-13 fixing assessments for the Waterway Maintenance District.

ACTION: Close the public hearing. (Holden/Pinkard) Approved as recommended. (MacDonald/ Ramirez) Ayes: MacDonald, Flynn, Ramirez, Holden, and Pinkard.

L. PUBLIC HEARINGS

HOUSING AUTHORITY

At 8:39 p.m. the joint meeting with the Housing Authority concluded.

M. REPORT OF CITY MANAGER

1. SUBJECT: Verbal Report on Oxnard Community Development Commission Successor Agency and Status of Redevelopment Activities in the City of Oxnard.

RECOMMENDATION: Receive and consider report.

DISCUSSION: The Interim City Manager briefly updated the Council

Comments received from: Pat Brown and Pert Perello.

ACTION: Received verbal report.

COMMUNITY DEVELOPMENT SUCCESSOR AGENCY

At 8:46 p.m. the joint meeting with the Community Development Successor Agency concluded.

N. CITY COUNCIL BUSINESS/COMMITTEE REPORTS

1. SUBJECT: Approval of Contract for Interim City Manager. (121)

RECOMMENDATION: Approve and authorize the Mayor to execute a contract (A-7507) with Karen R. Burnham for Interim City Manager.

DISCUSSION: The City Attorney reviewed on the selection process.

The Councilmembers discussed the Interim City Manager's duties and the selection process.

At 9:28p.m., Mayor Holden left the meeting and Mayor Pro Tem Pinkard presided. At 9:30 p.m., Mayor Holden returned to the meeting and presided.

Public comments were received from: Larry Stein; Tom Cady; Harold Ceja; Ralph James; Elaine M. James; Nancy Lindholm; Gloria M. Postel; Pat Brown; Charles Hookstra; Inez Tuttle; John Hatcher III; Irma J. Lopez; and Bert Perello.

ACTION: Approved as recommended. (MacDonald/Ramirez). Ayes: Ramirez, Holden, Pinkard, and MacDonald. Noes: Flynn.

O. REPORTSCity Manager Department

2. SUBJECT: Verbal Report on Gang Prevention Efforts. (127)

RECOMMENDATION: Receive and consider report.

DISCUSSION: The Deputy City Manager, Barbara Marquez-O'Neill (consultant) and Mike Matlock (consultant) presented the "Prevention and Community Outreach" project including history, partnerships, grant funds, the "action plan", community outreach, intervention efforts (Operations Cease Fire), and follow-up programs.

The Councilmembers commented on the successes of gang prevention programs with partnerships at the local, State and federal level and the results on the community.

Public comments reviewed from: Pat Brown, Sandra Sudac, and Bert Perello.

ACTION: The City Council provided comments and directions to staff.

P. PUBLIC COMMENTS ON REPORTSQ. APPOINTMENT ITEMSR. STUDY SESSION

S. PUBLIC COMMENTS ON STUDY SESSION

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from: Inez Tuttle and Bert Perello.

T. ADJOURNMENT

At 10:39 p.m., the City Council concurred to adjourn the meeting.

DANIEL MARTINEZ
City Clerk

DR. THOMAS E. HOLDEN
Mayor

DR. IRENE G. PINKARD
Mayor Pro Tem

DRAFT

MINUTES

OXNARD CITY COUNCIL

Regular Meeting

June 26, 2012

A. ROLL CALL/POSTING OF AGENDA

At 7:05 p.m., the regular meeting of the Oxnard City Council convened in the Council Chambers concurrently with the Community Development Successor Agency, Housing Authority, and Financing Authority. Councilmembers Irene G. Pinkard, Bryan A. MacDonald, Timothy B. Flynn and Carmen Ramirez were present. Mayor Thomas E. Holden was absent. The City Clerk stated that the agenda was posted on Thursday in the Library and City Clerk's Office. Mayor Pro Tem Pinkard presided and called the meeting to order.

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

C. CLOSED SESSION

D. OPENING CEREMONIES

The meeting opened with the pledge of allegiance to the flag of the United States, followed by a moment of silence. Staff members present were: Daniel Martinez, City Clerk; Grace Magistrale Hoffman, Deputy City Manager; Alan Holmberg, City Attorney; Curtis P. Cannon, Community Development Director; Jason Benites, Assistant Police Chief; Michael O'Malia, Interim Fire Chief; Rob Roshanian, Interim Public Works Director; William "Bill" Wilkins, Housing Director; James Cameron, Chief Financial Officer; Lou Balderrama, City Engineer; Michael Henderson, General Services Manager; Michael More, Financial Resources Manager; Ruth Johnson, Management Analyst I; Martin Erickson, Special Assistant to the City Manager; and Karl Lawson, Compliance Services Manager.

E. CEREMONIAL CALENDAR

ITEMS REMOVED FROM AGENDA

Mayor Pro Tem Pinkard announced agenda items I-3; L-1 and N-1 would be removed from the agenda.

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments received from: Donald Thibeault; Ed Ellis; Pieter Turley; Melinda (Adriana's Insurance); Harold Ceja; Larry Stein; Steve Nash; Gloria Roman; Jean Joneson; Francine Castanon; Joel Castanon; Isaias Castanon; Pat Brown; Bert Perello; and Inez Tuttle.

G. REVIEW OF INFORMATION/CONSENT AGENDA

The City Engineer reviewed the emergency incidents (I-3, B & C) and conditions of cast iron pipes. The General Services Manager and Interim Fire Chief commented on conditions placed on Silvas Oil Company and ground water report (I-5). The Community Development Director and Abel Magana, Oxnard Downtown Management District, reported that a downtown update report was

upcoming (I-7). Councilman Flynn requested a summary of revenue and expenditures (I-8, I-9, I-10, I-11). The Housing Director and Management Analyst reviewed the funds from in-lieu and Community Housing Development Organizations (CHDO) funds (I-15). The Assistant Police Chief commented on the transcription work provided (I-16). The Interim Public Works Director outlined the work to be performed for infrastructure updates (I-21). The Chief Financial Officer reported on the retirement contributions for police officers (I-14). The City Engineer reviewed the neighborhood street improvements.

H. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

Public comments received from: Larry Stein (I-21); Harold Ceja (I-17); and Bert Perello (I-14).

I. INFORMATION/CONSENT AGENDA

City Attorney Department

1. SUBJECT: Amendment of Conflict of Interest Code List of Designated Positions. (001)
RECOMMENDATION: Adopt **Resolution No. 14,242** amending Appendix I of the Conflict of Interest Code to add members of the Successor Agency and Oversight Board to the list of designated positions and assign disclosure categories to those positions.
3. SUBJECT: Agreement for Publication of Legal Notices and Legal Advertisements and for Publication of Display Advertisements and Classified Advertisements. (023)
RECOMMENDATION: Removed from agenda.

City Manager Department

4. SUBJECT: Agreements for City Council Review. (031)
RECOMMENDATION: Approve and authorize the Interim City Manager, to execute the attached agreements/contracts and change orders/amendments in amounts more than \$25,000 but less than \$250,000.
5. SUBJECT: Extension of Agreement with Silvas Oil Company. (033)
RECOMMENDATION: Approve and authorize the Mayor to sign a blanket purchase order (No. 4022) with Silvas Oil Company ("Silvas"), extending the agreement for 120 days, from July 1, 2012 to October 31, 2012, in an amount not to exceed \$1,000,000, for a total contract amount of \$3,500,000, for unleaded gasoline and diesel fuel from Silvas' pumps and for off-site car wash service for City vehicles and equipment through a City fuel card system.

City Treasurer Department

6. SUBJECT: Agreement for Utility Bill Printing, Inserting and Mailing Services. (037)
RECOMMENDATION: Approve and authorize the Mayor to execute an agreement between the City of Oxnard and Infosend, Inc. (Contract No. 5808-12-CT) for \$251,000 for utility bill printing, inserting and mailing services.

Community Development Department

7. **SUBJECT:** Resolution Approving Levy and Collection of Assessments for Fiscal Year 2012-13 Within the Oxnard Downtown Management District. (069)
RECOMMENDATION: Adopt **Resolution No. 14,243** ordering the levy and collection of assessments within the Oxnard Downtown Management District (the "District") for Fiscal Year (FY) 2012-13.

Finance Department

8. **SUBJECT:** Special Tax Levy for Community Facilities District (CFD) No. 88-1 (Oxnard Town Center). (079)
RECOMMENDATION: Acting as the legislative body of Community Facilities District (CFD) No. 88-1, adopt **Resolution No. 14,244** setting a special tax rate within CFD No. 88-1 (Oxnard Town Center) for Fiscal Year 2012-2013.
9. **SUBJECT:** Special Tax Levy for Community Facilities Districts No. 1 and No. 2 (Westport at Mandalay Bay). (085)
RECOMMENDATION: Acting as the legislative body of Community Facilities Districts (CFD) No. 1 and of Community Facilities Districts (CFD) No. 2: 1) Adopt **Resolution No. 14,245** setting a special tax rate within CFD No. 1 (Westport at Mandalay Bay) for FY 2012-2013; and 2) Adopt **Resolution No. 14,246** setting a special tax rate within CFD No. 2 (Westport at Mandalay Bay) for FY 2012-2013.
10. **SUBJECT:** Special Tax Levy for Community Facilities Districts No. 3 and No. 4 (Seabridge at Mandalay Bay). (105)
RECOMMENDATION: Acting as the legislative body of Community Facilities Districts (CFD) No. 3 and Community Facilities Districts (CFD) No. 4: 1) Adopt **Resolution No. 14,247** setting a special tax rate within CFD No. 3 (Seabridge at Mandalay Bay) for FY 2012-13; and 2) Adopt **Resolution No. 14,248** setting a special tax rate within CFD No. 4 (Seabridge at Mandalay Bay) for FY 2012-13.
11. **SUBJECT:** Special Tax Levy for Community Facilities District No. 5 (Riverpark). (123)
RECOMMENDATION: Acting as the legislative body of Community Facilities District (CFD) No. 5, adopt **Resolution No. 14,249** setting a special tax rate within CFD No. 5 (Riverpark) for FY 2012-13.
12. **SUBJECT:** Special Tax Levy for Community Facilities District No. 2000-3 (Oxnard Boulevard/Highway 101 Interchange). (143)
RECOMMENDATION: Acting as the legislative body of Community Facilities District No. 2000-3 ("CFD No. 2000-3"), adopt **Resolution No. 14,250** setting a special tax rate within CFD No. 2000-3 (Oxnard Boulevard/Highway 101 Interchange) for Fiscal Year 2012-2013.
13. **SUBJECT:** Special Tax Levy for Community Facilities District No. 6 (Northshore at Mandalay Bay). (153)
RECOMMENDATION: Acting as the legislative body of Community Facilities District (CFD) No. 6 adopt **Resolution No. 14,251** setting a special tax rate within CFD No. 6 (Northshore at Mandalay Bay) for Fiscal Year 2012-2013.

14. **SUBJECT:** FY 2012-13 Property Tax Rate for Voter Approved Obligations. (159)
RECOMMENDATION: Adopt **Resolution No. 14,252** establishing the FY 2012-13 tax rates on property in the City of Oxnard for the payment of voter approved obligations.

Housing Department

15. **SUBJECT:** Affordable Housing Loan Agreement with Many Mansions. (163)
RECOMMENDATION: Approve and authorize the Mayor to execute an Affordable Housing and Loan Agreement (A-7504) with Many Mansions providing gap financing in the amount of \$367,159 for the acquisition and rehabilitation of a 2 unit (duplex) at 352-354 East Channel Islands Boulevard.

Police Department

16. **SUBJECT:** Third Amendment to Agreement for Transcription Services. (201)
RECOMMENDATION: Approve and authorize the Mayor to execute the Third Amendment to Agreement for Trade Services for an additional two-year extension to the original agreement (3745-06-PO) for transcription services with Huntington Court Reporters and Transcription, Inc. in the amount of approximately \$100,000 per year, for a total amount not to exceed \$400,000.

Public Works Department

17. **SUBJECT:** Approval of Award of Contract No. A-7503 for PW 12-02 Blackstock South Neighborhood Street Reconstruction and Alley Reconstruction South of Colonia Road. (213)
RECOMMENDATION: 1) Approve and authorize the Mayor to execute the Contract with Toro Enterprises Inc. (A-7503) in the amount of \$1,511,778 for Project Specification Number 02-12 for the reconstruction of streets, sidewalks, curbs and gutters and replacing street name signs in the Blackstock South Neighborhood Street Reconstruction Project (Blackstock South Project), and for the reconstruction of Gloria Court and the alleyway south of Colonia Road between Gloria Court and Marquita Street (Phase I) and the alleyway south of Colonia Road from Marquita Street to Juanita Avenue (Phase II); and 2) Approve the appropriation of available Community Development Block Grant Recovery (CDBG-R) funds of \$93,619 from the Rose Avenue Street Improvement Project to the Colonia Road Alley Reconstruction Project Phase I.
18. **SUBJECT:** Purchase Order No. 4057 with Ameron International Corporation for the Manufacture, Storage and Delivery of Pipe for PW12-13 Hueneme Road Recycled Water Line Project. (215)
RECOMMENDATION: 1) Approve and authorize the Mayor to execute Purchase Order No. 4057 with Ameron International Corporation in the amount of \$2,416,597 on Project Specification Number PW12-13 for the manufacture, storage and delivery of pipe for a section of Phase I of the Recycled Water Backbone System (RWBS) along Hueneme Road, from Perkins Road to Olds Road; and 2) Approve a Special Budget Appropriation (SBA) of \$1,148,657 that includes \$493,144 from the Fifth Street Utility Improvement Project No. 116502 and \$655,513 from the Ventura Road Utility Improvement Project No. 106503 to the RWBS Phase I Project No. 096002.
19. **SUBJECT:** Fifth Amendment to Agreement with Aquatic Bioassay and Consulting Laboratories, Inc. for Receiving Water Monitoring Services. (227)

RECOMMENDATION: Approve and authorize the Mayor to execute the Fifth Amendment to the Agreement with Aquatic Bioassay and Consulting Laboratories, Inc. (ABC Labs) (A-6892) to add services to the scope of services, revise the schedule of charges exhibit, increase the amount by \$309,008 for a total of \$1,705,208 for receiving water monitoring services and extend the contract expiration date to June 30, 2013.

20. **SUBJECT:** PW 12-17 Effluent Sampling Facilities Project. (237)

RECOMMENDATION: Approve Project Specification No. PW 12-17 for the construction of the Effluent Sampling Facilities located at 6001 South Perkins Road and authorize staff to solicit bids for the project.

21. **SUBJECT:** Update City of Oxnard Master Plans for Conformance with the 2030 General Plan.

RECOMMENDATION: 1) Approve updating the Public Works Master Plans for conformance with the 2030 General Plan to include the update of master plans for Water, Wastewater, Recycled Water, Urban Water Management Plan, Storm Drain, and Pavement Management System, and to develop the Salt and Nutrient Management Master Plan; and 2) Approve a Special Budget Appropriation in the amount of \$1,794,286 to include the following: The sum of \$644,700 from the Water Operating Fund capital outlay account to the Water Master Plan Update Project, the Groundwater Recovery Enhancement and Treatment (GREAT) Recycled Water Master Plan Update, and the Urban Water Master Plan Update Project; the sum of \$281,388 from the Wastewater Collection Fund to the Wastewater Master Plan Update Project; the sum of \$506,388 from the Wastewater Treatment Fund to the Wastewater Master Plan Update Project and the Salt and Nutrient Management Master Plan; the sum of \$245,910 from the Storm Drain Facilities Fee Fund to the Storm Drain Master Plan Update Project; and the sum of \$115,900 from the Gas Tax Fund to the Pavement Management System Plan Update Project.

INFORMATION/CONSENT AGENDA ACTION: Approved as recommended with I-3 removed from agenda. (Pinkard/Ramirez) Ayes: Pinkard, MacDonald, Flynn, and Ramirez. Absent: Holden.

J. **TRANSMITTAL OF INFORMATION ONLY ITEMS**

Finance Department

1. **SUBJECT:** Monthly Budget Status Report for the Period Ending May 31, 2012. (245)

RECOMMENDATION: Receive Report.

ACTION: Received and filed.

K. **INFORMATION/CONSENT PUBLIC HEARINGS**

L. **PUBLIC HEARINGS**

Development Services Department

1. **SUBJECT:** Planning & Zoning Permit No. 11-570-02 Requesting a Zone Change to General Commercial Planned Development (C-2-PD), and Appeal of Planning Commission's Denial of Planning & Zoning Permit No. 11-510-09 Requesting a Type 20 ABC License for a Proposed 7-Eleven Store. Located at 1001 and 1051 East Channel Islands Blvd. Filed by Designated Agent Lucy Dinneen, Cadence Capital Investments LLC, on Behalf of Property Owner Channel Islands Inn LP. (263)

RECOMMENDATION: Continue to July 10, 2012.

ACTION: Approved as recommended (Ramirez/Pinkard) unanimously.

N. CITY COUNCIL BUSINESS/COMMITTEE REPORTS

4. SUBJECT: Cancellation of the Regular Meetings Scheduled for July 24, 2012 and November 6, 2012 and Schedule a Special Meeting for July 31, 2012. (369)

RECOMMENDATION: Cancel their regular meetings scheduled for July 24, and November 6, 2012 and schedule a special meeting for July 31, 2012.

DISCUSSION: The Deputy City Manager reviewed the proposed change of scheduled meetings.

Comments were received from: Larry Stein and Bert Perello.

ACTION: Move to approve (Pinkard/Ramirez) Ayes: Ramirez, Pinkard, MacDonald, and Flynn. Absent: Holden.

M. REPORT OF CITY MANAGER

1. SUBJECT: Verbal Report on Oxnard Community Development Commission Successor Agency and Status of Redevelopment Activities in the City of Oxnard.

RECOMMENDATION: Receive and consider report.

DISCUSSION: The Deputy City Manager stated there was no report. The City Attorney stated default information would be provided at a future meeting.

Public comments received in opposition from: Larry Stein and Bert Perello.

ACTION: Received report and comments.

COMMUNITY DEVELOPMENT SUCCESSOR AGENCY, HOUSING AUTHORITY AND FINANCING AUTHORITY

At 8:51 p.m. the joint meetings with the Community Development Successor Agency Commission, Housing Authority and Financing Authority concluded.

N. CITY COUNCIL BUSINESS/COMMITTEE REPORTS

City Manager Department

1. SUBJECT: Consideration of Support for the VCTC Adopted Position on Countywide Transit Issues. (315)

RECOMMENDATION: Consider supporting the adopted position of VCTC concerning countywide transit and provide direction to City Manager.

ACTION: Removed from agenda.

2. SUBJECT: Opposition to "Corporate Personhood" (361)

RECOMMENDATION: 1) Adopt **Resolution 14,253** supporting an amendment to the U.S. Constitution to end "Corporate Personhood."; and 2) Authorize the City Council to send letter to Senators Boxer and Feinstein, and Congresswoman Capps seeking an Amendment to the U.S. Constitution to end "Corporate Personhood."

DISCUSSION: The Special Assistant to the City Manager reviewed the proposed resolution and letter

Public comments were received from: Allen Dirrim; Travis Kelley; George Sorkin; Mina Nichols; William Terry; and Paul Graham.

The Councilmember provided comments regarding supporting this resolution.

ACTION: Move to approve as recommended. (MacDonald/Pinkard) Ayes: Pinkard, MacDonald, Flynn, and Ramirez. Abstain: Holden.

3. SUBJECT: Update on Status of Oxnard Public Access Channel 25 and Implementation of Broadcasting City Council Meetings in Spanish.

RECOMMENDATION: Receive a verbal report on the status of: 1) Operation of the Oxnard Public Access Channel and; 2) Progress on the Implementation of Broadcasting the City Council Meetings in Spanish.

DISCUSSION: The Public Information Officer reviewed process to establish the public access channel including insurance and licensing requirements.

Public comments were received from: Carlos Licea; David Cruz; Harold Ceja; Larry Stein; Gloria Roman; Pat Brown; and Bert Perello.

The Public Information Officer also commented on the progress to broadcast Council meetings in Spanish.

ACTION: The City Council provided comments and directions to staff.

The Council commented on: the State prisoner release program; McGrath State Beach Park re-opening; City-wide Improvement Program (plastic bags); AB 1897; hotel PBID program and presentation regarding Ethics in Government.

O. REPORTS

P. PUBLIC COMMENTS ON REPORTS

Q. APPOINTMENT ITEMS

R. STUDY SESSION

S. PUBLIC COMMENTS ON STUDY SESSION

T. ADJOURNMENT

At 9:52 p.m. the City Council concurred to adjourn the meeting.

DANIEL MARTINEZ
City Clerk

DR. IRENE G. PINKARD
Mayor Pro Tem

MINUTES

OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY

Regular Meeting

June 5, 2012

A. ROLL CALL/POSTING OF AGENDA

At 7:07 p.m., the regular meeting of the Oxnard Community Development Commission Successor Agency with the City Council convened in the Council Chambers concurrently with the City Council. Commissioners Thomas E. Holden, Irene G. Pinkard, Bryan A. MacDonald, Timothy B. Flynn, and Carmen Ramirez were present. The Secretary Designate stated that the agenda was posted on Thursday in the Library and City Clerk's Office. Chairperson Holden presided and called the meeting to order. Staff members present were: Daniel Martinez, Secretary Designate; Karen Burnham, Interim Executive Director; Alan Holmberg, General Counsel; Curtis Cannon, Community Development Director; and Grace Magistrale Hoffman, Deputy Executive Secretary.

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

C. CLOSED SESSION

D. OPENING CEREMONIES

The meeting opened with the pledge of allegiance to the flag of the United States, followed by a moment of silence.

E. CEREMONIAL CALENDAR

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

G. REVIEW OF INFORMATION/CONSENT AGENDA

H. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

I. INFORMATION/CONSENT AGENDA

City Clerk

1. SUBJECT: Minutes of the Successor Agency for April 24, 2012, and May 1, 8 and 15, 2012. (001)

RECOMMENDATION: Approve.

INFORMATION/CONSENT AGENDA ACTION: Approved as recommended. (MacDonald/ Holden) Ayes: Pinkard, MacDonald, Flynn, Ramirez, and Holden.

J. TRANSMITTAL OF INFORMATION ONLY ITEMS

K. INFORMATION/CONSENT PUBLIC HEARINGS

L. PUBLIC HEARINGS**M. REPORT OF SECRETARY**

1. **SUBJECT:** Verbal Report on Oxnard Community Development Commission Successor Agency and Status of Redevelopment Activities in the City of Oxnard.

RECOMMENDATION: Receive and consider report, including a report on the California State Department of Finance action on the Successor Agency's Recognized Obligation Payment Schedules for January 1, 2012 through June 30, 2012 and July 1, 2012 through December 31, 2012.

DISCUSSION: The Community Development Director reviewed the report of the California State Department of Finance regarding Recognized Obligation Payment Schedules for January 1, 2012 through June 30, 2012 and July 1, 2012 through December 31, 2012. The City Attorney stated that the City was in the same situation as other cities which had redevelopment districts.

Comments were received from: Steve Nash, Pat Brown and Bert Perello.

ACTION: Received the report.

N. COMMUNITY DEVELOPMENT COMMISSION BUSINESS/COMMITTEE REPORTS**O. REPORTS****P. PUBLIC COMMENTS ON REPORTS****Q. APPOINTMENT ITEMS****CITY COUNCIL**

At 11:58 p.m. the joint meeting with the City Council concluded.

R. STUDY SESSION**S. PUBLIC COMMENTS ON STUDY SESSION****T. ADJOURNMENT**

At 11:58 p.m., the Community Development Commission Successor Authority concurred to adjourn the meeting.

DANIEL MARTINEZ
Secretary Designate

DR. THOMAS E. HOLDEN
Chairman

MINUTES

OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY

Regular Meeting

June 12, 2012

A. ROLL CALL/POSTING OF AGENDA

At 7:04 p.m., the regular meeting of the Oxnard Community Development Commission Successor Agency with the City Council convened in the Council Chambers concurrently with the City Council. Commissioners Thomas E. Holden, Irene G. Pinkard, Bryan A. MacDonald, Timothy B. Flynn, and Carmen Ramirez were present. The Secretary Designate stated that the agenda was posted on Thursday in the Library and City Clerk's Office. Chairperson Holden presided and called the meeting to order. Staff members present were: Daniel Martinez, Secretary Designate; Karen Burnham, Interim Executive Director; Alan Holmberg, General Counsel; Curtis Cannon, Community Development Director; and Grace Magistrale Hoffman, Deputy Executive Secretary.

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

C. CLOSED SESSION

D. OPENING CEREMONIES

The meeting opened with the pledge of allegiance to the flag of the United States, followed by a moment of silence.

E. CEREMONIAL CALENDAR

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

G. REVIEW OF INFORMATION/CONSENT AGENDA

H. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

I. INFORMATION/CONSENT AGENDA

J. TRANSMITTAL OF INFORMATION ONLY ITEMS

K. INFORMATION/CONSENT PUBLIC HEARINGS

L. PUBLIC HEARINGS

M. REPORT OF SECRETARY

1. SUBJECT: Verbal Report on Oxnard Community Development Commission Successor Agency and Status of Redevelopment Activities in the City of Oxnard.
RECOMMENDATION: Receive and consider report.
DISCUSSION: The Interim City Manager announced an Oversight Board meeting June 13, 2012.

Comments received from: Bert Perello.

ACTION: Received information from staff.

N. COMMUNITY DEVELOPMENT COMMISSION BUSINESS/COMMITTEE REPORTS

O. REPORTS

P. PUBLIC COMMENTS ON REPORTS

Q. APPOINTMENT ITEMS

CITY COUNCIL

At 11:08 p.m. the joint meeting with the City Council concluded.

R. STUDY SESSION

S. PUBLIC COMMENTS ON STUDY SESSION

T. ADJOURNMENT

At 11:08 p.m., the Community Development Commission Successor Authority concurred to adjourn the meeting.

DANIEL MARTINEZ
Secretary Designate

DR. THOMAS E. HOLDEN
Chairman

MINUTES

OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY

Regular Meeting

June 19, 2012

A. ROLL CALL/POSTING OF AGENDA

At 7:15 p.m., the regular meeting of the Oxnard Community Development Commission Successor Agency with the City Council convened in the Council Chambers concurrently with the City Council and Housing Authority. Commissioners Thomas E. Holden, Irene G. Pinkard, Bryan A. MacDonald, Timothy B. Flynn, and Carmen Ramirez were present. The Secretary Designate stated that the agenda was posted on Thursday in the Library and City Clerk's Office. Chairperson Holden presided and called the meeting to order. Staff members present were: Daniel Martinez, Secretary Designate; Karen Burnham, Interim Executive Director; Alan Holmberg, General Counsel; Curtis Cannon, Community Development Director; and Grace Magistrale Hoffman, Deputy Executive Secretary.

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

C. CLOSED SESSION

D. OPENING CEREMONIES

The meeting opened with the pledge of allegiance to the flag of the United States, followed by a moment of silence.

E. CEREMONIAL CALENDAR

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

G. REVIEW OF INFORMATION/CONSENT AGENDA

H. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

I. INFORMATION/CONSENT AGENDA

J. TRANSMITTAL OF INFORMATION ONLY ITEMS

K. INFORMATION/CONSENT PUBLIC HEARINGS

L. PUBLIC HEARINGS

M. REPORT OF SECRETARY

1. SUBJECT: Verbal Report on Oxnard Community Development Commission Successor Agency and Status of Redevelopment Activities in the City of Oxnard.
RECOMMENDATION: Receive and consider report.

DISCUSSION: The Interim City Manager briefly updated the Council.

Comments received from: Pat Brown and Pert Perello.

ACTION: Received verbal report.

N. COMMUNITY DEVELOPMENT COMMISSION BUSINESS/COMMITTEE REPORTS

O. REPORTS

P. PUBLIC COMMENTS ON REPORTS

HOUSING AUTHORITY

At 8:39 p.m. the joint meeting with the Housing Authority concluded.

Q. APPOINTMENT ITEMS

CITY COUNCIL

At 8:46 p.m. the joint meeting with the City Council concluded.

R. STUDY SESSION

S. PUBLIC COMMENTS ON STUDY SESSION

T. ADJOURNMENT

At 8:46 p.m., the Community Development Commission Successor Authority concurred to adjourn the meeting.

DANIEL MARTINEZ
Secretary Designate

DR. THOMAS E. HOLDEN
Chairman

MINUTES

OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY

Regular Meeting

June 26, 2012

A. ROLL CALL/POSTING OF AGENDA

At 7:05 p.m., the regular meeting of the Oxnard Community Development Commission Successor Agency convened in the Council Chambers concurrently with the City Council, Housing Authority, and Finance Authority. Commissioners Irene G. Pinkard, Bryan A. MacDonald, Timothy B. Flynn, and Carmen Ramirez were present. Chairperson Thomas E. Holden was absent. The Secretary Designate stated that the agenda was posted on Thursday in the Library and City Clerk's Office. Vice-Chairperson Pinkard presided and called the meeting to order.

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

C. CLOSED SESSION

D. OPENING CEREMONIES

The meeting opened with the pledge of allegiance to the flag of the United States, followed by a moment of silence. Staff members present were: Daniel Martinez, Secretary Designate; Alan Holmberg, General Counsel; Curtis Cannon, Community Development Director; and Grace Magistrale Hoffman, Deputy Executive Secretary.

E. CEREMONIAL CALENDAR

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

G. REVIEW OF INFORMATION/CONSENT AGENDA

H. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

I. INFORMATION/CONSENT AGENDA

J. TRANSMITTAL OF INFORMATION ONLY ITEMS

K. INFORMATION/CONSENT PUBLIC HEARINGS

L. PUBLIC HEARINGS

N. COMMUNITY DEVELOPMENT COMMISSION BUSINESS/COMMITTEE REPORTS

4. SUBJECT: Cancellation of the Regular Meetings Scheduled for July 24, 2012 and November 6, 2012 and Schedule a Special Meeting for July 31, 2012. (369)

RECOMMENDATION: Cancel their regular meetings scheduled for July 24, and November 6, 2012 and schedule a special meeting for July 31, 2012.

DISCUSSION: The Deputy City Manager reviewed the proposed change of scheduled meetings.

Comments were received from: Larry Stein and Bert Perello.

ACTION: Move to approve (Pinkard/Ramirez) Ayes: Ramirez, Pinkard, MacDonald, and Flynn.
Absent: Holden.

M. REPORT OF SECRETARY

1. SUBJECT: Verbal Report on Oxnard Community Development Commission Successor Agency and Status of Redevelopment Activities in the City of Oxnard.

RECOMMENDATION: Receive and consider report.

DISCUSSION: The Deputy City Manager stated there was no report. The City Attorney stated default information would be provided at a future meeting.

Public comments were received in opposing from: Larry Stein and Bert Perello.

ACTION: Received report and comments.

CITY COUNCIL/HOUSING AUTHORITY/FINANCING AUTHORITY

At 8:51 p.m. the joint meetings with the City Council, Housing Authority and Financing Authority concluded.

O. REPORTS

P. PUBLIC COMMENTS ON REPORTS

Q. APPOINTMENT ITEMS

R. STUDY SESSION

S. PUBLIC COMMENTS ON STUDY SESSION

T. ADJOURNMENT

At 8:51 p.m., the Community Development Commission Successor Authority concurred to adjourn the meeting.

DANIEL MARTINEZ
Secretary Designate

DR. IRENE G. PINKARD
Vice-Chairman



Meeting Date: 7/10/2012

ACTION	TYPE OF ITEM
☐ Approved Recommendation	☒ Info/Consent
☐ Ord. No(s). _____	☐ Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☐ Other _____

Prepared By: Karen R. Burnham, Interim City ManagerAgenda Item No. I-2Reviewed By: City Manager City Attorney Finance Other (Specify)**DATE:** July 5, 2012**TO:** City Council**FROM:** Karen R. Burnham, Interim City Manager
City Manager's Office**SUBJECT:** Agreements for City Council Review**RECOMMENDATION**

That City Council, pursuant to Ordinance 2835, and Resolution No. 13,932, approve and authorize the City Manager, to execute the agreements/contracts and change orders/amendments in amounts more than \$25,000 but no more than \$250,000, which are described on the attached list.

DISCUSSION

On November 16, 2010, the City Council approved changes to the City's Purchasing Procedures reducing the threshold for City agreements/contracts and change orders/amendments requiring City Council approval to \$25,000. The agreements/contract and change orders/amendments described on the attached list involve amounts above \$25,000 and up to \$250,000.

FINANCIAL IMPACT

Funding information is included on the attached list.

Attachment - #1 – List of Agreements/Contracts and/or Change Orders/Amendments

NOTE: Copies of the agreement/contracts and change orders/amendments on the list are available in the City Clerk's Office after 8:00 a.m. on Monday prior to the Council meeting.

Item No.	Type	Department/Contact	Vendor/Agreement No.	Description/Purpose
A	Original Agreement	Fire Department Stephanie Huhn 385-8361	Performance Therapy Agreement No. 5817-12-FI	Fitness Evaluations for Firefighter Wellness/ Fitness Program Perform on going firefighter fitness testing to include annual fitness testing of strength, flexibility, aerobic capacity and body composition as well as quarterly assessments which include a review of individual exercise programs and new techniques. This agreement also includes consulting with the Safety Committee, Fire Administration and Risk Management to address areas of concern regarding firefighter fitness. Total Contract Amount: \$195,000 Funding Source: General Fund
B	Original Agreement	Fire Department Stephanie Huhn 385-8361	Coastal Occupational Medical Group Agreement No. 5816-12-FI	Pre-employment and Annual Employment Medical Examinations Provide pre-employment and annual employment medical examinations which include all Dept. of Transportation requirements and any other agreed upon requirements. Consult with the Safety Committee, Fire Administration and Risk Management to address areas of concern regarding firefighter health and wellness. Total Contract Amount: \$225,000 Funding Source: General Fund
C	Task Order	General Services Ralph Alamillo 385-7821	Lauterbach & Associates Agreement No. 5657-11-CM	Architectural Services (on call) Site identification/review and evaluation plan for new/enhanced senior center. Total Contract Amount: \$100,000 Funding Source: Measure "O"
D	Task Order	Public Works Lou Balderrama 340-5358	Sam Hill & Sons Agreement No. A-7219	Emergency Repairs to Sewers and Storm Drains (on call) Replace a 6-inch sewer line located along an alley east of Arcadia Street, south of Oxnard Blvd. Total Contract Amount: \$2,778,100 Funding Source: General Fund

Item No.	Type	Department/Contact	Vendor/Agreement No.	Description/Purpose	Amount
E	Change Order	Public Works Thein Ng 432-3575	McCarthy & Sons Agreement No. A-7259	Advanced Water Purification Facility Change Order No. 98 Provides for a change to the pumps and piping for the sulfuric acid system that was required for long term corrosion protection. Total Contract Amount: \$55,557,373 Funding Source: Water Bonds and Grant	\$164,188
F	Agreement	Eric Sonstegard 385-8290	Agreement No. 5677-12-PO	Gang Violence Suppression Project City Impact has been a partner in this grant since its inception. The agreement represents continuation of ongoing funding for this 11 year program Total Contract Amount: \$44,000 Funding Source: Gang Violence Suppression Grant	\$44,000
G	Amendment	Housing Department Karl Lawson 385-8095	Housing Rights Center	Fair Housing Support Services Extending current fair housing support services for another year. Total Contract Amount: \$72,092 Funding Source CDBG Grant Funds	\$28,992
H	Amendment	Information Systems Rich Benbrook 385-7432	Portford Solutions Agreement No. 5196-10-CM	Electric Document Imaging System Hardware and software licensing and support. Amendment will extend agreement for three years. Total Contract Amount: \$220,000 Funding Source: Internal Service Fund	\$80,000
I	Original Agreement	Housing Department Will Reed 385-8044	Community Action of Ventura County Agreement No. 5827-12-HO	Continuum of Care Support Housing Program 2011-12 Supportive Housing Program sub-recipient agreement to promote the development of supportive housing and supportive services to assist the homeless in transition from homelessness to independent living. Total Contract Amount: \$123,348 Funding Source: Grant Funding	\$123,348



Meeting Date: 7 / 10 / 12

ACTION	TYPE OF ITEM
☐ Approved Recommendation	☒ Info/Consent
☐ Ord. No(s). _____	☐ Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☐ Other

Prepared By: Joseph Rodriguez

Agenda Item No. I-3

Reviewed By: City Manager

City Attorney

Finance

Other (Specify) Police (B)

DATE: July 2, 2012

TO: City Council

FROM: Michael Henderson, General Services Superintendent
City Manager's Office

SUBJECT: Consent to Assignment and First Amendment to Agreement with AEP California LLC for New Police Vehicle Outfitting (4844-09-CM)

RECOMMENDATION

That City Council approve and authorize the Mayor to execute the Consent to Assignment and First Amendment to the Agreement with AEP California LLC, transferring the agreement from TW Mobile Engineering to AEP California LLC and extending the agreement until September 1, 2013, in an annual amount not to exceed \$144,000 for a total contract amount of \$576,000, for the installation of equipment in new Police patrol black & white vehicles.

DISCUSSION

On April 27, 2009, the City Purchasing Division issued a competitive Request for Bids for all necessary material, equipment, personnel, supervision, secure storage, and expertise to outfit new Police patrol black & white vehicles on an as-needed basis. Fleet Services staff evaluated responses from nine outfitters and, based on bid evaluations, shop visits, and positive responses, selected TW Mobile Engineering for a three-year agreement from September 1, 2009, to September 1, 2012, with the option to renew for two additional one-year periods.

In July 2010, TW Mobile Engineering assigned Agreement No. 4844-09-CM to AEP California LLC who assumed and agreed to perform all remaining obligations of TW Mobile Engineering under the contract.

FINANCIAL IMPACT

This amendment provides the capacity to perform the necessary work when future Police patrol vehicle purchases are approved by City Council. Funding would be consistent with City Council approval of those vehicles.

Attachment #1 – Consent to Assignment and First Amendment to Agreement for Trade Services
#2 – Contract Assignment from TW Mobile Engineering to AEP California LLC

**CONSENT TO ASSIGNMENT AND FIRST AMENDMENT TO AGREEMENT FOR
TRADE SERVICES**

This First Amendment ("First Amendment") to the Agreement for Trade Services ("Agreement") is made and entered into in the County of Ventura, State of California, this 10th day of May, 2012, by and between the City of Oxnard, a municipal corporation ("City"), and AEP California, LLC ("Contractor"). This First Amendment amends the Agreement entered into on September 1, 2009, by City and Contractor.

City and Contractor agree as follows:

1. In Section 3 of the Agreement, the date "September 1, 2012" is deleted and replaced with the date "September 1, 2013."
2. In Section 4 of the Agreement, the amount of "\$432,000" is deleted and replaced with the amount of "\$576,000."
3. T.W. Mobile Engineering has, subject to City consent, assigned the Agreement to Contractor. By executing this First Amendment, City consents to the assignment. In Section 12 of the Agreement, the vendor name "TW Mobile Engineering Technologies" is deleted and replaced with "AEP California, LLC."
4. As so amended, the Agreement remains in full force and effect.

CITY OF OXNARD

AEP CALIFORNIA, LLC

Dr. Thomas E. Holden, Mayor

Adam Serr, Senior Account Manager

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Alan Holmberg, City Attorney

APPROVED AS TO INSURANCE:

James Cameron, Risk Manager

APPROVED AS TO CONTENT:

Michael Henderson, Gen. Svcs. Superintendent

APPROVED AS TO CONTENT:

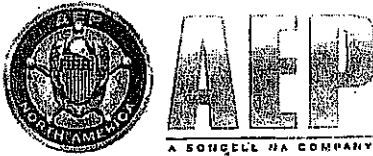
Joseph Rodriguez, Project Manager

APPROVED AS TO AMOUNT:

Karen R. Burnham, Interim City Manager

ATTACHMENT NO. 1

PAGE 1 OF 1



July 7, 2010

City of Oxnard, California
Joseph Rodriguez
Project Manager
300 West Third Street
Oxnard, CA 93030

RE: 2010-2011 Contract Assignment

Soncell North America, a Division of Bowmer & Kirkland Group - one of UK's largest privately owned construction and development companies - in April of 2009 has completed the strategic acquisition of US-based industry leaders in the public safety sector. Ten companies including: AEP-Arizona, AEP-California, AEP-Colorado, AEP-Nevada, AEP-New Mexico, AEP-Utah, Auto Additions, TW-Mobile Engineering, Emergency Vehicle Solutions and Patrol Power have been strategically acquired by Soncell to create AEP North America.

By fusing ten leading companies, AEP North America brings together the industry's most comprehensive portfolio of services, technologies and expertise. The combined organization has the technical resources and intellectual property required to deliver maximum value to customers.

Soncell North America offers the industry a single source with a complete range of high quality, enterprise-class solutions and multi-channel execution with its three distinctive business units: AEP North America, Soncell Products and Soncell Services. The majority of the projects that TW Mobile Engineering has performed for the City of Oxnard will best be handled by the AEP-California fleet outfitting group. The city of Oxnard will continue to receive the same service and support under the new AEP-California contract. This contract will continue to be serviced by the same team in all aspects including sales, service and production.

Upon acceptance and approval by the City of Oxnard, TW Mobile Engineering ("Assignor") hereby assigns and otherwise transfers ("assigns") to AEP-California, LLC ("Assignee") all rights, title and interest held by Assignor in and to the contract described as follows:

The agreement for trade services with contract number 4844-09-CM dated July 1, 2008, between TW Mobile Engineering and The City of Oxnard concerning Police vehicle outfitting services.

AEP-California, LLC ("Assignee") warrants and represents that said contract is in full force and effect and is fully assignable. TW Mobile Engineering ("Assignor") further warrants that it has the full right and authority to transfer said contract and that contract rights herein transferred are free of lien, encumbrance or adverse claim. Said contract has not been modified and remains on the terms contained therein.

AEP-California, LLC ("Assignee") hereby assumes and agrees to perform all remaining obligations of Assignor under the contract. Assignee shall be entitled to all monies remaining to be paid under the contract, which rights are also assigned hereunder.

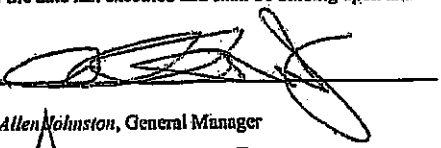
This Assignment shall become effective as of the date last executed and shall be binding upon and inure to the benefit of all parties, their successors and assigns.

"Assignor"

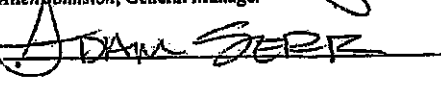
TW Mobile Engineering

"Assignee"

AEP-California, LLC


Allen Johnston, General Manager

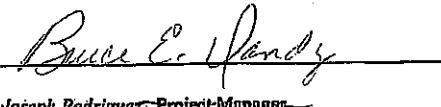
7/9/10
Dated


Adam Serr, Southern California Territory Sales Manager

7/9/10
Dated

I hereby Consent to this Assignment of Contract affirming that no modification of the contract is made or intended, except that Assignee is now and hereafter substituted for Assignor:

City of Oxnard, California


Joseph Rodriguez, Project Manager

8/19/2010
Dated

Bruce E. Dandy, Purchasing Agent



SONCELL NORTH AMERICA



EMERGENCY VEHICLE SOLUTIONS





Meeting Date: 07 / 10 / 2012

ACTION	TYPE OF ITEM
☐ Approved Recommendation	☒ Info/Consent
☐ Ord. No(s). _____	☐ Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☐ Other _____

Prepared By: Karl Lawson *Karl Lawson* Agenda Item No. I-4
Reviewed By: City Manager *JPB* City Attorney *Holmberg* Finance *NC* Other (Specify) _____

DATE: June 26, 2012

TO: City Council

FROM: Karl Lawson, Acting Housing Director *KL*

SUBJECT: **Affordable Housing and Rehabilitation Division Relocation Appeals Process**

RECOMMENDATION

That City Council adopt a Resolution Establishing an Affordable Housing and Rehabilitation Division Relocation Appeals Process.

DISCUSSION

Beginning in 1977, the City instituted programs to assist qualified property owners and homebuyers to purchase and rehabilitate homes. The City utilizes and leverages funding from various sources for the specific purposes of providing purchase loans to first-time homebuyers and rehabilitation loans to several categories of homeowners, including owners of mobilehomes.

On rare occasions, families are required to temporarily vacate their properties while rehabilitation work is underway. Families subject to these temporary relocations are provided with relocations benefits in accordance with established law. The U. S. Department of Housing and Urban Development (HUD) requires local governments to create an administrative procedure whereby relocated persons may appeal administrative determinations regarding their rights and benefits related to relocation.

On March 26, 2012, HUD issued guidelines to local jurisdictions specifying required elements to be included into local appeal procedures. Staff has reviewed those guidelines and incorporated the requirements into the attached Relocation Appeals Process (Attachment No. 1).

The proposed Relocation Appeals Process allows affected individuals to appeal staff determinations related to eligibility for relocation benefits, as well as the amount of relocation benefits and the manner in which those benefits are provided. The process also creates Relocation Appeals Board, consisting of individuals from outside of the Affordable Housing and Rehabilitation program; guarantees appellants' rights of due process and access to all pertinent documents; and requires the Board to issue a written decision setting forth the rationale for the decision.

Staff recommends adoption of this Process in furtherance of the City's commitment to equitable treatment of all City residents and full compliance with HUD requirements.

FINANCIAL IMPACT

None.

ATTACHMENTS

- #1: Proposed Affordable Housing and Rehabilitation Division Relocation Appeal Process
- #2: Resolution Adopting Relocation Appeal Process

RELOCATION APPEALS PROCESS

June 2012

A. Purpose

The purpose of the Relocation Appeals Process is to provide a mechanism whereby affected persons may appeal certain determinations of the City of Oxnard Affordable Housing and Rehabilitation program regarding relocation. The City shall provide a copy of this appeals process to affected persons at the time such persons are notified in writing as to any relocation determination subject to this appeals process.

B. Scope

Determinations related to the following are subject to the Relocation Appeals process:

1. Whether an individual qualifies as a displaced person and thus is eligible for relocation benefits.
2. The amount of relocation benefits provided.
3. The manner in which relocation benefits are provided.
4. Other matters pertinent to the applicable laws and regulations related to the relocation process.

C. Relocation Appeals Board

The Housing Director shall establish a Relocations Appeals Board (hereinafter "the Board"), consisting of no fewer than three (3) and no more than five (5) persons. That Board shall consist of individuals from outside of the Affordable Housing and Rehabilitation program. No person who has participated in the administration of any specific relocation matter shall be eligible to serve on the Board hearing that appeal. Members of the Board shall be ineligible to hear an appeal on any matter in which he or she has any financial or other interest.

D. Filing an Appeal

Any person wishing to appeal any determination ("Appellant") must submit an appeal, in writing, no later than sixty (60) days following receipt of written notification of the City's determination regarding that Appellant's eligibility for relocation benefits, the amount of relocation benefits, the manner in which relocation benefits are provided, or such other determination related to the relocation benefits and processes. The Appellant must submit the written appeal to the Manager of the Affordable Housing and Rehabilitation Program, 435 South "D" Street, Oxnard CA 93030. Appended hereto is a sample appeal form which may be used. No appeal shall be rejected for failure to use this appeal form. Written appeals should specify the determination that is being appealed, must set forth the requested remedy sought by the Appellant, and must provide an address for receipt of correspondence and notices related to the appeal. Appellant may submit any pertinent documentation or material in support of the appeal.

E. Due Process

Appellant has the right at all times to be represented by an attorney or other representative of Appellant's choice, and at Appellant's expense, by submitting an authorization signed by Appellant designating his/her representative. Appellant and his/her authorized representative have the right to inspect and copy all materials pertinent to the appeal prior to the hearing, and the City shall provide same to the appellant and/or his/her legal representative, upon request with proper authorization. The City may impose reasonable conditions on the inspection that are consistent with applicable laws.

F. Appellant's Right to Assistance

In accordance with HUD policy, an Appellant may request assistance in preparing their appeal. The City shall facilitate the provision of such assistance by referring Appellant to another individual or outside agency not involved in the City's relocation process.

G. Processing of Appeals

Within five (5) days of receipt of the written Appeal, the City shall send written confirmation of receipt of the appeal to Appellant. The letter may also request that Appellant supply additional information. Said letter shall be sent by certified mail, return receipt requested, and shall notify Appellant of the hearing process; shall advise Appellant of his/her right to inspect the case file; and shall advise Appellant of his/her right to be represented by an attorney or other person of Appellant's choosing. The letter shall include a copy of the regulations governing the appeal. The letter shall also constitute the Hearing Notice, and shall set a hearing date that shall be at least ten (10) but no more than fifteen (15) work days from the date of receipt the letter. To the extent practical, written communications with the Appellant shall be in English and also in the native language of the Appellant when so requested in the appeal form. Upon request by either party, the date of the hearing may be continued for good cause.

H. Appeal Hearing

The Board shall conduct the hearing at the date, time and place indicated in the Hearing Notice, or at such later date as may be scheduled pursuant to an approved continuance. The Board shall designate one of its members to Chair the Appeal Hearing. The Appellant/Appellant's representative shall specify the determination that is being appealed, and the requested remedy being sought by Appellant. The City shall provide the Board and shall make available to Appellant the case file and all pertinent documentation supporting the determination.

Appellant/Appellant's representative shall provide the Board with any documentation in support of Appellant's position. All documents and materials received by the Board shall be marked as Exhibits, and copies shall be provided to both parties. Witnesses shall testify under oath or affirmation, and shall be subject to cross-examination by the other party and by members of the Board. The Board itself, and each party, may make an audio or stenographic recording of the hearing, at that party's expense.

Technical rules of evidence shall not apply to the hearing, but relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. A decision of the Appeals Board shall be supported by substantial evidence relevant to the matters in question. The decision to deny an appeal may not be based solely upon hearsay evidence.

I. Decision

Within ten (10) work days after the conclusion of the Appeal Hearing, the Board shall issue a written Decision on the appeal, based on a review of the evidence and the applicable statute and regulations. The Decision shall be supported by substantial evidence. If the Board is unable to issue a Decision within ten work days, the Board shall send written notification to the parties advising them of that fact and providing an estimated date for issuance of the Decision. The Decision must be adopted by a majority of the Board, shall be signed by the Chair, and shall be mailed to Appellant and Appellant's attorney or other representative. The Board may utilize City personnel, including non-Housing Department staff, and specifically the City Attorney or outside legal counsel, to aid in drafting proposed findings and decisions. The Board's Decision shall constitute the final administrative determination of the City on the matter being appealed. The Board's Decision shall set forth the following:

- (a) The date of the appeal hearing.
- (b) The issue being appealed
- (c) Specification of the regulations governing the appeal
- (d) Identification of the documents, exhibits, and information relied upon by the Board in reaching its Decision
- (e) The rationale for the Decision, including evaluation of the documentation/exhibits with respect to the regulations
- (f) A statement advising Appellant of his/her right to seek further review by HUD and/or judicial appeal.

(Appeal Form on next page)

**RELOCATION APPEALS PROCESS
APPEAL FORM**

(This form may be used for persons who wish to appeal determinations made by the City of
Oxnard Affordable Housing and Rehabilitation Division regarding relocation benefits.)

Information about the person who is submitting this appeal:

Name: _____

Mailing address: _____

Telephone: Home: _____ Work: _____
 Cell: _____ Other: _____

**Address of the property from
which you are being relocated:** _____

What you are appealing?:

- ☐ A determination that someone is not eligible for relocation benefits
- ☐ The amount of relocation benefits offered or provided
- ☐ The manner in which the relocation benefits are offered or provided
- ☐ Another decision of the Affordable Housing and Rehabilitation Division
- ☐ (Please describe briefly: _____)

What are you requesting?

Please indicate here what it is that you are requesting from the Affordable
Housing and Rehabilitation Division:

Additional information: Please provide any additional information or reasons
which support your appeal, such as an explanation of why you believe that the
decision you are appealing is incorrect. Attach additional pages if needed.

Preferred Language: ☐ English ☐ Spanish ☐ Other: _____

Signature: _____ Date Submitted: _____

(Please submit your appeal to Affordable Housing and Rehabilitation Division,
435 South "D" Street, Oxnard CA 93030, Attention: Program Manager)

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD, CALIFORNIA,
ADOPTING THE AFFORDABLE HOUSING AND
REHABILITATION PROGRAM RELOCATION APPEALS PROCESS

WHEREAS, since 1977 the City of Oxnard has provided assistance to qualified homeowners and first-time homebuyers to assist them in the purchase and rehabilitation of homes in the City and

WHEREAS, on some occasions, individuals and families are required to vacate properties while rehabilitation work is being performed; and

WHEREAS, individuals who are relocated are eligible for certain relocation benefits; and

WHEREAS, the U. S. Department of Housing and Urban Development has issued guidelines setting forth the requirement that local governments adopt procedures whereby individuals may appeal determinations related to their eligibility for relocation benefits;

WHEREAS, whereas it is in the best interest of all concerned that such relocation appeal procedures be set forth with clarity; and

WHEREAS, the Affordable Housing and Rehabilitation Division has developed, and the City Council has reviewed and considered, relocation appeals procedures that meet the requirements set forth by HUD;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oxnard, California, hereby approves the Affordable Housing and Rehabilitation Relocation Appeals Process, effective immediately.

PASSED AND ADOPTED THIS 10th day of July, 2012, by the following vote:

AYES:

NOES:

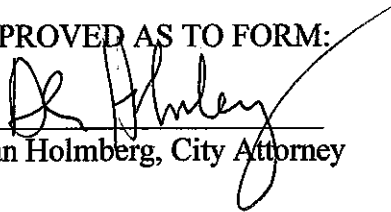
ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Alan Holmberg, City Attorney

Attachment No. 2



Meeting Date: 07 / 10 / 2012

ACTION	TYPE OF ITEM
☐ Approved Recommendation	☒ Info/Consent
☐ Ord. No(s). _____	☐ Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☐ Other _____

Prepared By: Karl LawsonAgenda Item No. I-5Reviewed By: City Manager [Signature]City Attorney [Signature]Finance [Signature]

Other (Specify) _____

DATE: June 27, 2012**TO:** City Council**FROM:** Karl Lawson, Acting Director [Signature]
Housing**SUBJECT:** Resolution of Support for Assembly Bill 1797 and Assembly Bill 2150**RECOMMENDATION**

That City Council adopt a resolution expressing support for Assembly Bills 1797 and 2150.

DISCUSSION

There are twenty-two mobile home parks in Oxnard, which serve as the permanent residences for approximately 2900 families in the City who own mobile homes. The state Mobilehome Residency Law (MRL) is the statute which governs most aspects of the relationship between the owners of mobile home parks and the owners of mobile homes who rent spaces in mobile home parks.

California Assembly Bill 2150 was introduced by Assemblywoman Toni Atkins (D-San Diego) on February 23, 2012, and was approved by the full Assembly on May 21st by a vote of 68 in favor to 2 opposed. The bill seeks to amend one section of the MRL related to notices which must be provided by park owners to the owners of mobile homes.

Under current law, park managements are required to provide each homeowner, on an annual basis, a copy of the full MRL or a notice advising of any significant changes to the MRL. A.B. 2150 would modify this to instead require that park managements annually provide homeowners with a streamlined notice that summarizes ten (10) of the key rights and responsibilities of park owners and homeowners. That notice would also advise homeowners that the MRL is subject to change, and that park owners will provide a copy of the full MRL to a homeowner upon request.

The Golden State Mobile Home Owners League (GSMOL), which represents mobile home owners in California, has endorsed A.B. 2150. The Western Manufactured Housing Communities Association (WMA), which advocates in Sacramento on behalf of mobile home park owners, does not oppose the bill.

Having been passed by the Assembly, A.B. 2150 is currently awaiting action before the Judiciary Committee of the State Senate.

Another bill affecting mobilehome parks and residents is also pending in the legislature. Assembly Bill 1797 was introduced by Assemblywoman Norma Torres (D-Pomona) on February 21, 2012. This bill addresses an existing state program regarding resident purchases of mobilehome parks, the Mobilehome Park Resident Occupancy Program (MPROP). The MPROP provides financing to homeowner groups who are in the process of purchasing their mobilehome park to convert it into a resident-owned park. Appropriations for such conversions are available through the state's Mobilehome Park Purchase Fund.

A.B. 1797 authorizes the California Department of Housing and Community Development (HCD) to offer an interest rate of below 3% for MPROP loans, if necessary, provided that such will not jeopardize the financial stability of the Mobilehome Park Purchase Fund. In addition, the bill authorizes the HCD to provide technical assistance to homeowner groups applying for financing under the MPROP, and include the reasonable costs of such assistance as part of the loan principal.

The full Assembly passed A.B. 1797 on May 29, 2012, and on June 26, 2012, the bill was referred to the state Senate Committee on Appropriations.

Oxnard residents who are members of GSMOL have appeared before the Oxnard City Council and requested City support of both A.B. 2150 and A.B. 1797. Attached is a draft Resolution in support of the legislation.

FINANCIAL IMPACT

None.

KL/kl

Attachment #1 - Resolution Supporting Assembly Bill 1797 and Assembly Bill 2150

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD, CALIFORNIA IN
SUPPORT OF ASSEMBLY BILL 1797 AND ASSEMBLY BILL 2150

WHEREAS, there are twenty-two mobile home parks in the City of Oxnard; and

WHEREAS, mobile homes constitute an important segment of our City's affordable housing stock, with approximately five percent (5%) of the City's total population living in the 2900 mobile homes in those mobile home parks; and

WHEREAS, the California Mobilehome Residency Law governs most aspects of the legal relationship between owners of mobile home parks and owners of mobile homes who rent spaces in those parks; and

WHEREAS, the State of California provides financing to mobilehome park resident organizations through the state's Mobilehome Park Purchase Fund, to assist resident organizations who wish to convert their park to resident-owner park; and

WHEREAS, the California State Senate is currently considering both Assembly Bill 1797, which would allow the state to provide loans from the Mobilehome Park Purchase Fund at lower interest rates than presently authorized, and Assembly Bill 2150, a piece of legislation aimed at strengthening the protections of the Mobilehome Residency Law; and

WHEREAS, mobile home owners in Oxnard have joined with mobile home owners throughout California in support of A. B. 1797 and A.B. 2150, and have requested support for the bill from local legislative bodies;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oxnard, California, hereby expresses its support for A. B. 1797 and A. B. 2150, and urges the California Senate to approve both bills.

PASSED AND ADOPTED THIS 10th day of July, 2012, by the following vote:

AYES:

NOES:

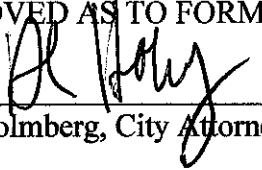
ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Alan Holmberg, City Attorney

Attachment No. 1



Meeting Date: 7/10/12

ACTION	TYPE OF ITEM
☐ Approved Recommendation	☒ Info/Consent
☐ Ord. No(s). _____	☐ Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☐ Other _____

Prepared By: Michelle Téllez, Director of Human Resources

Agenda Item No. I-6

Reviewed By: City Manager [Signature]

City Attorney [Signature]

Finance [Signature]

Other (Specify) _____

DATE: July 10, 2012

TO: City Council

FROM: Michelle Téllez, Director of Human Resources
Human Resources Department

SUBJECT: Memorandum of Understanding with the Service Employees International Union,
Local 721

RECOMMENDATION

That City Council:

1. Ratify a Memorandum of Understanding (MOU) between the City and the Service Employees International Union, Local 721 (SEIU), commencing January 1, 2012, and expiring on December 31, 2012.
2. Adopt a resolution implementing the MOU for SEIU, Local 721.
3. Authorize the City Manager to transfer funds between accounts, in amounts to be determined, to implement the terms and conditions of the MOU.

DISCUSSION

Authorized representatives of the City Manager and SEIU, Local 721 have negotiated and agreed upon wages, hours and other terms and conditions of employment for City employees occupying classifications represented by SEIU, Local 721.

If approved, the MOU will provide the following changes in wages, hours and other terms and conditions of employment:

- The new MOU shall be effective January 1, 2012 and shall remain in force and effect through December 31, 2012.
- Through the parties' Labor/Management Committee, the parties agree to create a pilot apprenticeship program for Unit employees.

- Calendar year 2012, effective April 1, 2012, Unit employees shall be entitled to have their base wages increased by one and one half percent (1.5%).

FINANCIAL IMPACT

The cost of the MOU is approximately \$71,000 in fiscal year 2011-12 and an incremental \$285,000 in fiscal year 2012-13 for a cumulative \$356,000. The General Fund impact is \$229,000.

MT

Attachment #1 - Resolution Approving Memorandum of Understanding
#2 - Memorandum of Understanding with SEIU, Local 721

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION RATIFYING A MEMORANDUM OF UNDERSTANDING FOR EMPLOYEES OCCUPYING CLASSIFICATIONS REPRESENTED BY THE SERVICE EMPLOYEES INTERNATIONAL UNION, SEIU LOCAL 721

WHEREAS, the City Manager has submitted for the consideration of the City Council of the City of Oxnard the recommended Memorandum of Understanding with the Service Employees International Union, Local 721 (SEIU); and

WHEREAS, the Memorandum of Understanding contains negotiated and agreed-upon adjustments to wages, hours and terms and conditions of employment for employees occupying classifications represented by SEIU, Local 721; and

WHEREAS, the City Council has carefully reviewed the Memorandum of Understanding and finds that the approval and implementation of the Memorandum of Understanding is desirable in the interests of maintaining efficient municipal operations.

NOW THEREFORE, the City Council of the City of Oxnard resolves as follows:

That the Memorandum of Understanding between the City and SEIU, Local 721 is ratified and staff is directed to perform all acts necessary to implement its terms.

APPROVED AND ADOPTED this 10th day of July, 2012 by the following vote:

AYES:

NOES:

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Alan Holmberg, City Attorney

MEMORANDUM OF UNDERSTANDING

*between
CITY OF OXNARD
and*

*SERVICE EMPLOYEES INTERNATIONAL UNION
LOCAL 721, CLC*

CALENDAR YEAR 2012

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PREAMBLE

This Memorandum of Understanding (MOU) is entered into by and between the City of Oxnard (City) and the Service Employees International Union CTW, CLC, Local 721, (SEIU Local 721), and represents the full and complete agreement of City and SEIU Local 721 for the term hereof concerning wages, hours, and terms and conditions of employment.

ARTICLE 1

IMPLEMENTATION

City staff agrees to recommend to the City Council and SEIU Local 721 representatives agree to recommend to its members the adoption and approval, respectively, of this MOU. City and SEIU Local 721 agree that this MOU shall not be binding, either in whole or in part, unless and until approved by the membership of SEIU Local 721 and duly adopted by the City Council.

ARTICLE 2

RECOGNITION

This MOU shall apply only to regular full-time and regular part-time employees to the extent provided for in Article 30, herein, occupying positions in the classifications specified as comprising the Professional, Technical & Administrative Support Unit (Unit). This MOU shall also apply to those limited benefit employees (LBEs) designated for inclusion in the bargaining unit pursuant to the stipulation entered into between the City and SEIU Local 721 in March 2009, a copy of which is attached to this MOU and incorporated herein by reference. Nothing in this MOU shall grant any additional compensation, benefit, term or condition of employment to any LBE which did not apply to the LBE prior to the effective date of this MOU unless specifically made applicable to LBEs by express provision of this MOU.

ARTICLE 3

CITY RIGHTS

SEIU Local 721 recognizes that City has and will continue to retain, whether exercised or not, the unilateral and exclusive right to operate, administer and manage its municipal services and work force performing those services in all respects, subject to this MOU. SEIU Local 721 recognizes that the City Manager and Department Directors have and will continue to retain exclusive decision-making authority on matters not expressly modified by specific provisions of this MOU. SEIU Local 721 recognizes that the exclusive rights of City shall include, but not be limited to, the right to determine the organization of City government and the purpose and mission of its constituent agencies, to set standards of services to be offered to the public, and, through its City Manager and Department Directors to exercise control and discretion over its organization and operations, to establish and implement administrative regulations and employment rules and regulations consistent with law and the specific provisions of this MOU, to direct employees, to classify and reclassify positions, to take disciplinary action for just cause, to relieve employees from duty because of lack of work or for other legitimate reasons, to

determine whether goods or services shall be made, purchased or contracted for, to determine the methods, means and numbers and kinds of personnel by which City's services are provided, including the right to schedule and assign work and overtime, and to otherwise act in the interest of efficient service to the community.

ARTICLE 4

SEIU LOCAL 721 RIGHTS

1. Release Time for Stewards

City agrees that the stewards of SEIU Local 721 have the right to paid release time for the time spent representing an employee under the grievance procedure and the disciplinary action procedure herein subject to the following:

a) SEIU Local 721 may designate up to twelve (12) Unit employees as stewards and shall in writing notify the City Manager and Human Resources Director of such designations. There shall be no obligation on City to change or adjust normal program scheduling or assignments of employees as a result of such designations. Employees may select a steward of choice from those twelve (12) Unit employees listed in the writing by the City Manager and Human Resources Director.

b) One such steward may, when SEIU Local 721 is designated in writing by an employee as his/her representative, attend mutually scheduled grievance or disciplinary action meetings and hearings with Department Directors without loss of pay or benefits. In no event shall the steward use this paid release time for any other purpose, such as gathering information, interviewing the subject employee or witnesses, or preparing a presentation.

c) City shall authorize stewards and/or officers to be able to attend employer-employee relations seminars. The stewards and/or officers may use available vacation leave or compensatory time off to account for the absence from work. Requests for attendance at such events must be submitted to the City Manager at least 10 working days in advance of the event, or the City Manager may deny the request.

2. SEIU Local 721 Staff Representatives

SEIU Local 721 staff representatives shall be admitted to the buildings and grounds of City during working hours for the purpose of assisting in the resolution of grievances or disciplinary actions, so long as such admittance will not interfere with any work operation or the safety and security of any work site. Such staff representatives will check in with a designated Division Manager and will be required to conform with the operational and safety regulations and procedures as directed by the Division Manager.

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3. List of Unit Employees

Biweekly, City shall provide SEIU Local 721 with a list of Unit employees and their membership status. Upon reasonable request, City will provide SEIU Local 721 with a list of Unit employees, their classifications and divisions, and updates as to transfers, promotions, new City employees, separations from service within the Unit, current address, and phone number.

4. Payroll Deductions/Membership Dues

a) City shall deduct from the biweekly paycheck of SEIU Local 721 members the regular periodic SEIU Local 721 membership dues (as certified in writing to the City Manager by an authorized official of SEIU Local 721), and the cost of regular periodic SEIU Local 721 sponsored insurance benefits pursuant to City's deduction authorization form, duly completed and signed by the Unit employee. City shall transmit such deductions biweekly to SEIU Local 721.

b) City shall deduct representation service fees from the paychecks of those employees subject to Section 5 herein and transmit promptly those fees to SEIU Local 721. Such deductions shall be made only when the Unit employee's earnings for a pay period are sufficient to pay such fees after other legally required deductions are made.

c) SEIU Local 721 agrees that City has no liability on account of any actions taken or not taken pursuant to this section.

5. Maintenance of Membership/Representation Service Fee

a) All Unit employees who on the effective date of this MOU are members of SEIU Local 721 and all employees who thereafter voluntarily become members of SEIU Local 721 shall maintain their membership in SEIU Local 721, subject to:

1) the right to resign from membership during the first seven-day period after the MOU is approved by SEIU Local 721 and ratified by the City Council;
or

2) the right to resign from membership, and pay a representation service fee in lieu of membership dues, during the first seven calendar days of September of each year.

b) All Unit employees hired after October 19, 1996, who choose not to become members of SEIU Local 721 shall be required to pay to SEIU Local 721 a representation service fee. City agrees that becoming a member of SEIU Local 721 or signing up to pay the representation service fee shall be a condition to commence employment with City. The representation service fee represents the employee's proportionate share of SEIU Local 721's cost of legally authorized representation services on behalf of Unit employees in their labor relations with City. Such representation service fee shall in no event exceed the regular, periodic

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membership dues paid by Unit employees who are members of SEIU Local 721. SEIU Local 721 shall provide affected Unit employees with the financial information required by law.

c) The representation service fee arrangement provided by this section may be rescinded by majority vote of those voting in a secret ballot election in which all Unit employees are eligible to vote provided that:

- 1) a request for such vote is supported by a petition containing the signatures of at least thirty percent of Unit employees; and
- 2) the vote is taken at any time after November 15, 1997, but in no event shall there be more than one vote taken during any one City fiscal year.

d) The sufficiency of petitions shall be determined, and the election conducted by the State Mediation and Conciliation Service.

e) SEIU Local 721 shall make available to Unit employees required to pay a representation service fee under this section, at its expense, an escrow and administrative appeals procedure for challenging the amount of the fee that complies with the requirements of law.

f) SEIU Local 721 agrees to fully indemnify City and its officers, employees and agents against any and all claims, proceedings and liability arising, directly or indirectly, out of any actions taken or not taken by or on behalf of City under this section, and to reimburse City for its attorneys' fees and costs in defending against any such claims, proceedings or liability.

6. Meeting Locations

a) Upon request of SEIU Local 721, City may provide SEIU Local 721 with a location for a meeting to occur outside working hours of the attendees, provided such space is available and SEIU Local 721 complies with all City and department rules, policies, and directions. Such meetings shall not interfere with City operations. Requests for use of City facilities will be made in advance to the City Manager or his/her designee, and will indicate the date, time, and general purpose of the meeting for which the facilities are requested.

b) SEIU Local 721 understands and agrees that the City Manager, or his/her designee, may deny the request based on his/her judgment that the purpose of the meeting makes such use inappropriate.

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7. Bulletin Boards

a) City agrees that SEIU Local 721 may use designated bulletin boards or portions of boards. A copy of all material to be displayed upon a bulletin board shall be provided to the affected Division Manager or his/her designated representative. If the Division Manager objects to the contents of such material, he/she shall notify SEIU Local 721 staff. In such event, the materials shall not be placed on the bulletin board, based upon the Division Manager's objections, and, if an agreement cannot be reached between SEIU Local 721 and the Division Manager, the matter shall be referred to the Human Resources Director for resolution. Items that are to be placed on Citywide SEIU Local 721 bulletin boards are to be approved by the City Manager or designee prior to posting. For Citywide postings, individual Division Manager permission is not required. SEIU Local 721 is responsible for posting and removal of material upon the designated bulletin board and for the neat and orderly maintenance thereof.

b) SEIU Local 721 shall, with the approval of the City Manager, have the use of the City email for the purpose of communication of SEIU Local 721/City business such as scheduling joint meetings and appointments and informing members of possible tentative agreements.

8. Distribution of SEIU Local 721 Materials

SEIU Local 721 may distribute materials on City premises, at locations designated by the City Manager, before and after scheduled working hours or in non-work areas during scheduled working hours provided that both the employee distributing and the employee receiving such material are not on City time and so that such distribution shall not interfere with City operations.

ARTICLE 5

EMPLOYEE RIGHTS - PERSONNEL FILES

1. Review of Personnel Actions

No evaluation of employee performance, salary action, resolution of grievance, or disciplinary action shall be placed in the personnel file of an employee without the employee being afforded a reasonable opportunity to read and to receive a copy of such material. The employee must acknowledge that he/she has read such material by affixing his/her signature to it. City understands that such signature does not necessarily indicate agreement by the employee of the content of the material. If the employee refuses to sign, the material shall be placed in his/her personnel file with an appropriate notation by the person filing the material.

2. Personnel File Inspection

With the exception of confidential material, such as letters of reference, examination rating sheets, and employment background investigations, an employee shall have

the right to inspect the contents of his/her personnel file, or he/she may designate in writing a steward or SEIU Local 721 staff to inspect his/her file.

ARTICLE 6

PERS/PARS WAGES

1. Payment of Employee's PERS Contribution

a) City shall pay that portion of each Unit employee's contribution to the Public Employees Retirement System (PERS) equal to seven percent of the wages upon which the employee's retirement contributions are computed. (This section applies to employees in y-rated positions.) This payment shall not be considered wages by City but shall be made pursuant to Section 414(h)(2) of the Internal Revenue Code.

b) City shall provide in its contract with PERS for all Unit employees a 2 percent (2%) at age fifty-five (55) and highest consecutive twelve-month period retirement formula.

c) City shall provide in its contract with PERS the Fourth Level Survivor Benefit and Military Service Credit for Unit employees.

d) City shall report to PERS as compensation earnable pursuant to California Government Code section 20636(c)(4) City's payment of required employee retirement contributions to PERS.

2. Payment of Employee's PARS Contribution

a) City shall provide to all Unit employees Public Agency Retirement System (PARS) supplemental retirement benefits to include the three percent (3%) at age sixty (60) supplemental retirement formula and the highest consecutive twelve-month period retirement formula.

b) The City's total contribution to PARS on behalf of Unit employees shall be equal to six percent (6%) of the wages upon which the Unit employee's retirement contributions are computed.

c) City shall report to PARS as compensation earnable pursuant to California Government Code section 20636(c)(4) City's payment of required employee retirement contributions to PARS.

3. Definition of Base Wages

Base wages shall mean the hourly rate of pay earned by an Unit employee within a salary range assigned by City to the classification occupied by the employee. Base wages does not include longevity pay, educational incentive award, overtime pay, standby pay, bilingual pay,

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cafeteria plan monies or other additional payments earned by an employee pursuant to this MOU.

ARTICLE 7

SALARY PLAN

1. Original Appointment of Unit Employee

City agrees that the beginning base wages of an employee upon original appointment to a classification within the Unit shall be no less than the minimum designated base wages for that classification.

2. Promotions

a) In the event a Unit employee is promoted from one classification to another, the beginning base wage shall be at least five (5) percent greater in amount than the employee's current base wage. However, the new base wage shall in no event be greater in amount than the maximum base wage of the higher classification to which the employee is promoted, regardless of percentage of increase.

b) Unit employees entering the following professional classification series after July 1, 1986, will not be eligible for flexible staffing:

- 1) Accountant (Junior, I, II)
- 2) Civil Engineer (Junior, Assistant, Civil)
- 3) Crime Analyst (I, II)
- 4) Housing Accountant (I, II)
- 5) Librarian (I, II)
- 6) Planner (Junior, Assistant, Associate)
- 7) Traffic Design Engineer (Junior, Assistant, Traffic Design)

c) The City shall endeavor to fill posted positions that fall within the bargaining unit covered by SEIU Local 721, which are included in the City's current classification plan, as long as the applicants meet all the minimum qualifications for the position and meet and/or pass whatever testing may be given to fulfill requirements for the position, in the following order:

- 1) Regular full-time employees;
- 2) Regular part-time employees;
- 3) Limited benefited employees.

3. Merit Increases for Exceptional Performance

When the City Manager determines, based on a recommendation of a Department Director, that a Unit employee has demonstrated an exceptional level of job performance and

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efficiency in his/her position, the City Manager may increase the base wages for that employee to any amount within the salary range established for the classification. An exceptional merit increase request by a Department Director shall be submitted to the City Manager on a City form and the Department Director shall send a copy of the request to SEIU Local 721.

4. Payroll Period - Biweekly

Unit employees shall accrue sick leave and vacation leave and be paid base wages on a biweekly basis. The payroll checks for each pay period shall customarily be issued to authorized representatives of City departments not later than the Friday following the end of each biweekly pay period. However, in cases where the Friday payday falls on a holiday, payroll checks shall be issued before the end of the prior workday.

5. Pay on Separation from Service

When a Unit employee is separated from service, all wages and benefits then due such person from City service, that are under City's control, shall be paid within ten (10) working days of such separation subject to the person completing the checkout process.

6. Salary Plan

The parties agree that Unit employees shall receive an across-the-board one-time increase to base wages in the amount of one and one half (1.5%) percent retroactive to April 1, 2012.

ARTICLE 8

LONGEVITY PAY

Unit employees who have completed five (5) regular full-time years of service shall be paid a sum equal to one (1%) percent of the base wages paid to the employee. Employees who have completed ten (10) regular full-time years of service shall be paid a sum equal to an additional one (1%) percent, making a total of two (2%) percent of the base wages paid to the employee. Employees who have completed fifteen (15) regular full-time years of service shall be paid a sum equal to an additional one (1%) percent, making a total of three (3%) percent of the base wages paid to the employee. The additional payment for longevity of service shall be made at each time any installment of base wages is made to the employee.

ARTICLE 9

OVERTIME COMPENSATION

1. Entitlement to Compensation

When an Unit employee is assigned and works beyond forty (40) hours per designated one hundred sixty-eight (168) consecutive hours work period, the employee is entitled to overtime compensation.

2. Leave as Time Worked for Overtime Compensation

Duly authorized paid holiday leave, vacation leave and sick leave shall be considered as time worked for the purposes of determining an employee's eligibility for overtime compensation. All other duly authorized paid leave time shall not be considered as time worked for the purposes of determining an employee's eligibility for overtime compensation.

3. Authorization of Overtime Work

A Unit employee shall be compensated for overtime work only if assigned to such work by an authorized representative of City. The offer to work overtime shall first be made to regular full time Unit employees.

4. Regular and Overtime Compensation

a) A Unit employee's regular rate of pay shall include base wages, longevity pay, educational incentive award, bilingual pay, shift differential pay and standby pay.

b) A Unit employee shall be compensated for overtime work at one and one-half times the employee's regular rate of pay to the nearest tenth of an hour.

c) Unit library employees who work on Sunday shall receive pay at one and one-quarter (1.25) times the regular rate of pay for all hours actually worked on Sunday unless otherwise entitled to the higher rate of pay per Section 4(b) above.

d) In lieu of cash payment for overtime hours worked, a Unit employee may request to accrue compensatory time-off credits at the rate of one and one-half (1.50) hours, credit for each overtime hour worked, up to a maximum accumulation of one hundred (100) hours, subject to the approval of the City Manager or designee. The request for compensatory time-off credits must be made at the time the overtime is worked.

e) Use of compensatory time-off credits in excess of forty hours (40) are subject to being scheduled by the employee's Division Manager with a seven (7) calendar day advance notice to the employee by the Division Manager.

f) City shall cash out all compensatory time-off credits of an employee over forty (40) during the last pay period in the City fiscal year. Unit employees may request that the forty-hour limit for compensatory time-off credits be increased up to a maximum of one hundred (100) hours. Employee requests to exceed the forty-hour (40) limitation shall be subject to the approval of the City Manager.

g) Employee use of compensatory time-off credits shall be subject to approval and scheduling by the Division Manager.

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h) If a staff or City meeting that a Unit employee is expected to attend is scheduled for a time other than during the Unit employee's regular work schedule, the Unit employee shall, with the Unit supervisor's permission, work the time between the end of the regular work schedule and the City meeting and receive overtime, compensatory time off, or an adjustment to the Unit employee's regular work schedule on the following workday.

ARTICLE 10

STANDBY PAY

When a regular full-time Unit employee is ordered to remain at home to be available for immediate emergency call back to work at times that the employee is not otherwise scheduled to be nor is on duty, the employee shall be compensated for such standby hours that he/she remained at home at sixty-six (.66) cents per hour. Notwithstanding anything else to the contrary, an employee on standby status on a holiday designated in Article 29 of this MOU shall be paid at the employee's regular rate of pay during his/her normal shift hours for being "on duty" plus eight (8) additional hours added to his/her vacation leave. In addition, the employee shall receive an additional one-half (.5) times regular pay for all hours called back to work on the holiday if assigned to standby duty.

ARTICLE 11

CALL-BACK PAY

A Unit employee called back to work after leaving work from a shift or called back to work while on standby status shall be entitled to a minimum of two (2) hours of overtime compensation. During these times the employee is entitled to pay under this Article, he/she shall not be credited with standby pay under Article 10.

ARTICLE 12

COMPENSATION FOR NIGHT WORK

Those regular full-time Unit employees who work fifty percent (50%) or more of their work shift between 6:00 p.m. and 7:00 a.m. shall receive a five percent (5%) increase in base wages for the entire shift worked.

ARTICLE 13

BILINGUAL PAY

1. Rate of Bilingual Pay

A regular, full-time Unit employee may receive bilingual pay at the rate of twenty dollars (\$20.00) biweekly to the extent the employee is required to provide bilingual services as determined by the City Manager or designee. Bilingual pay shall also be applicable to limited benefit employees working forty (40) hours per work week.

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2. Conditions for Receipt

Bilingual pay shall be paid subject to the employee satisfying the following conditions:

a) The employee's position has been designated by the City Manager or designee as one qualifying for bilingual pay on the basis that:

- 1) The predominant and primary focus of the position is to communicate in person or by telephone with members of the public in connection with providing City services and the employee on a regular ongoing basis in the course of carrying out usual job duties, is called upon to utilize Spanish in communicating with the members of the public, or
- 2) On a regular, daily basis the employee is called upon by the City to provide Spanish/English interpretation or translation services for other City employees in connection with the performance of the usual job duties of such other employees.

b) The employee is determined by the City Manager to be fluent in both Spanish and English and the employee possesses and displays a sensitivity for the cultural needs of the City's Spanish speaking population.

ARTICLE 14

OUT-OF-CLASS PAY

1. Conditions for Receipt

A Unit employee who is temporarily required to serve in a regular authorized position in a classification with a higher salary range (higher classification) than the employee currently serves in shall be compensated at the higher base wages in accordance with the following terms and conditions:

a) To be eligible for higher base wages, the Unit employee must first serve in the higher classification for more than forty (40) consecutive hours.

b) Temporary assignments to higher classifications shall be recorded only in full shift units. No out-of-class pay shall be given for out-of-class work of less than an eight-hour shift.

c) The Unit employee must be assigned to assume the majority of duties and responsibilities of the higher classification.

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d) The employee's time worked in a higher classification shall not be counted toward the completion of probationary requirements in the higher classification.

2. Conditions for Non-Authorization

Out-of-class pay is not authorized, for example, if the organization of a division is such that each Unit employee carries on his/her usual job duties during the temporary absence of a Division Manager, without the direction which the Division Manager would provide on a longer term basis.

3. Amount of Out-of-Class Pay

A Unit employee satisfying these terms and conditions shall be compensated at the minimum base wages established for the higher classification for each completed work shift served in the higher classification after serving in the classification for more than forty (40) consecutive hours, or five percent (5) above the employee's base wages, whichever is greater. However, in no event shall the employee receive an amount greater than the base wages for the maximum step for the higher classification.

ARTICLE 15

DEFERRED COMPENSATION

Unit employees shall continue to have the right to participate in a deferred compensation program so long as such program is offered by City.

ARTICLE 16

TUITION REIMBURSEMENT

1. Amount of Reimbursement/Conditions

City shall pay up to one hundred percent (100%) of the costs of tuition, registration fees, laboratory fees, and books to a maximum of one thousand (\$1000) dollars per employee per City fiscal year for work-related courses presented by accredited academic institutions, subject to the following conditions:

a) Only full-time Unit employees shall be eligible for reimbursement.

b) Courses that qualify for this reimbursement are those that directly relate to the employee's duties with City or that directly relate to and are part of a planned course of study being actively pursued for promotion within City service, that are presented by an accredited high school, college, university or other accredited institution, and that are satisfactorily completed with a grade of "C" or higher. Certificate and vocational courses shall be reimbursable under this section.

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c) Courses that do not qualify for this benefit are those taken to bring unsatisfactory job performance up to an acceptable level, those duplicating in-service training or other training the employee has already received, and those for which the employee received reimbursement from any other source.

d) There shall be no obligation for City to reschedule the work hours of any employee to facilitate attendance at any course of study.

e) To receive reimbursement, the Unit employee must file a claim, with the Human Resources Department, within thirty (30) days of receipt of a passing grade as described in subsections (a) and (b) above. City shall reimburse the Unit employee within forty-five (45) days of the submission of the approved claim.

f) Any non-reimbursed portion of a Unit employee's tuition and fees reimbursement may be carried over, by the employee, to the following fiscal year to be used to reimburse any non-reimbursed portion of the tuition and fees expense incurred by the Unit employee.

2. Limits on City's Obligations

City assumes no obligations other than those expressly provided for in this Article, nor does City assume any liability that might relate to an employee's voluntarily pursuing course work which may entitle him/her to reimbursement under this Article.

ARTICLE 17

PERSONAL PROPERTY REIMBURSEMENT

1. Conditions for Reimbursement

Through no fault of their own, when employees have an item of personal property damaged or stolen while in the performance of City Unit, and when that item is necessarily worn, carried or required as part of the job, the employee may submit a claim for reimbursement to the Human Resources Director. Such claim must be filed within five (5) working days after the loss occurred.

2. Amount of Claim

The minimum claim shall be for ten dollars (\$10) per loss. Claims of under ten dollars (\$10) shall not be paid. The maximum amount City shall pay any employee is two hundred fifty (\$250) dollars in one calendar year.

3. Level of Reimbursement

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a) Reimbursement will be based on the depreciated value of the item at the time of the loss or damage, or cost of repair, whichever is less, after offset for any insurance reimbursement the employee receives.

b) The amount of reimbursement for glasses, hearing aids or other personal prosthesis will be replacement cost or the repair cost of items that are repairable, whichever is less, less any insurance payment the employee receives. The amount of reimbursement shall not include the cost of fittings or examinations and will be subject to the ten dollar (\$10) minimum claim limit and the annual maximum payment of two hundred fifty (\$250) dollars.

c) Stolen or damaged watches required by employment will be reimbursed at their functional value, (i.e., minus their jewelry value) to the annual maximum of two hundred fifty (\$250) dollars. An employee shall be reimbursed for such stolen or damaged watches subject to a ten dollar (\$10) deductible.

4. Exclusions

The damage or theft of jewelry, automobiles or automobile equipment, and tools and uniform items covered by a City allowance, will not be reimbursable.

ARTICLE 18

EDUCATIONAL INCENTIVE AWARD

1. Requirements

Unit employees shall be eligible to receive an educational incentive award, in addition to base wages, for educational attainments not specifically required by the Unit employee's classification pursuant to the official class specifications maintained by the Human Resources Department: The educational incentive award shall be related to the attainment of the following degrees:

- a) Associates in Arts/Science Degree - two and one-half percent (2.5%)
- b) Bachelor's Degree - three percent (3%)
- c) Graduate Degree - three and one-half percent (3.5%)

2. Limitations

Unit employees eligible for an educational incentive award shall be entitled to receive only one level of educational incentive award for the highest degree attained. Incentive awards shall be granted pursuant to this article only after submission by the employee of appropriate documentation to the Human Resources Department. Unit Employees who are receiving educational incentive awards under the City's award program as of July 3, 2004, shall not receive a lesser percentage award under this program than the employee received under the previous program.

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ARTICLE 19

MILEAGE COMPENSATION

1. Reimbursement Required

When Unit employees are required by City to use their personal vehicle to perform their assigned duties for City, and they so utilize their own vehicles in traveling directly and uninterrupted from one assigned work location to another assigned work location, City shall compensate the employee as provided herein.

2. Claim Procedure

Unit employees shall make claims for mileage compensation in accordance with a periodic schedule specified by City. The employee shall submit the claim to the Division Manager on the designated City form, duly completed and signed by the employee.

3. Insurance for Regular Users

Unit employees who are regular users of personal vehicles shall be compensated at the rate of one and one-half cents per mile above the mileage rate authorized by the Internal Revenue Code, and shall have in effect and have submitted to City a copy of a certificate of automobile insurance confirming that the insurance policy provides no less than one hundred thousand dollars (\$100,000) public liability/property damage coverage, and that the policy names City as an additional insured. Regular users of personal vehicles means Unit employees who are required by City, in the performance of their duties, to drive their personal vehicles on a regular, continuing and usual basis, and in fact so use their vehicle.

4. Reimbursement for Other than Regular Users

Unit employees who are not regular users of personal vehicles but otherwise qualify under Section 1, and otherwise meet the provisions of this Article, shall be compensated at the mileage rate authorized by the Internal Revenue Code.

ARTICLE 20

UNIFORM ALLOWANCE

City shall provide uniforms, or portions of uniform costs, or uniform service, to each employee required by City to be "uniformed". Employees designated as uniformed are those required to wear uniforms and/or safety shoes as a condition of employment. In addition, City will provide legally required safety equipment, and pay the cost for repairing uniforms damaged in the course and scope of employment without negligence by the employee.

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ARTICLE 21

INSURANCE

1. Health Insurance

The City shall, as required by State law, contribute to payment of the cost of a Unit employee's health insurance provided by the Public Employees Retirement System.

2. Life Insurance

City shall continue to pay one hundred percent (100%) of the current premium for employee-only coverage under the existing level of benefits for life insurance.

3. Long-Term Disability Insurance

City agrees to maintain an SEIU Local 721 administered long-term disability (LTD) insurance plan for Unit employees. Effective November 10, 2000, City shall pay the cost of the LTD plan subject to a maximum cost of .35% of Unit employee's base wages. If the cost exceeds .35% of Unit employee's base wages, City and SEIU Local 721 shall meet to develop a fair method to distribute the additional cost to Unit employee's Cafeteria Plan monies. SEIU Local 721 shall hold City harmless on any issues related to the LTD insurance plan.

4. Dental Cafeteria

City shall contribute the sum of thirty-four dollars and twenty-five cents (\$34.25) biweekly to the Unit employee's dental insurance program for dental programs provided by the City.

5. Cafeteria Plan

During the term of this MOU the City shall contribute \$719.36 per month per bargaining unit employee towards the employee's Cafeteria Plan allocation.

6. Limited Benefit Employees (LBEs)

LBEs shall be eligible to purchase health insurance offered by the City through the City at no cost to the City and without any City obligation to cover any costs incurred by the LBE. Further, the City has no obligation to intervene on behalf of the LBE regarding any problems or issues the LBE may have with the insurer.

ARTICLE 22

VACATION LEAVE

1. Accrual

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Full-time Unit employees shall earn vacation leave for each biweekly pay period of service or major fraction thereof, as set forth in the following table:

Years of Service	Vacation Credit for Full-Time Service Hours Per Biweekly Period	No. of Hours of Vacation Earned for 26 Pay Periods
Less than 5	4.39	114.14
5 but less than 6	5.00	130.00
6 but less than 7	5.31	138.01
7 but less than 8	5.62	146.02
8 but less than 9	5.92	154.00
9 but less than 10	6.23	162.01
10 but less than 11	6.54	170.01
11 but less than 12	6.85	178.00
12 but less than 13	7.15	186.00
13 but less than 14	7.46	194.02
14 but less than 15	7.77	201.99
15 or more	8.08	210.00

2. Scheduling

Accrued vacation leave may be taken at one time, or may be taken several days at a time. The vacation leave is to be scheduled between the Unit employee and the Division Manager in such a manner that the employee's absence will not impair division operations.

3. Carrying Forward

Ordinarily, vacation leave shall be taken as earned or within the calendar year following the year that vacation leave is accrued. However, vacation leave may be carried forward to the following calendar year in accordance with the following provisions:

a) The maximum amount of vacation leave an employee may carry forward as of the last complete pay period in the calendar year shall not exceed twice the number of hours of vacation leave that the employee currently earns in twenty-six (26) biweekly pay periods.

b) The City Manager may waive the maximum amount of vacation leave authorized to be carried forward under extraordinary circumstances, subject to such conditions as the City Manager may deem appropriate.

4. Additional Vacation Leave in Lieu of Sick Leave

At the end of the last complete pay period of each calendar year, one-half of any of that calendar year's accrued but unused sick leave in excess of the six hundred (600) hour authorized maximum sick leave accumulation may be converted by the employee in accordance

with Article 23, Section 3, to vacation leave, effective the first pay period of the next calendar year.

5. Redemption

After five (5) regular full-time years of service, an employee may receive pay in lieu of up to forty (40) hours of vacation leave once during each calendar year. After ten (10) regular full-time years of service, an employee may receive pay in lieu of up to eighty (80) hours of vacation leave once during each calendar year. After fifteen (15) regular full-time years of service, an employee may receive pay in lieu of up to one hundred (100) hours of vacation leave once during each calendar year. All requests hereunder must be made by the employee in writing on a City form, and submitted to the General Accounting Division (payroll) during the month of July or the month of December.

6. Severance Pay

Any employee who leaves the service of City shall be paid for accrued vacation leave to which the employee is otherwise entitled at his/her then current base wages plus any longevity pay, educational incentive award, and bilingual pay being earned as of the effective date of separation from City service.

7. Injury or Sickness During Vacation Leave

When an employee is injured or becomes sick while on authorized vacation leave and is committed to a hospital or confined to a bed by a physician, the employee may exchange sick leave on an equal time basis for vacation leave in accordance with the following provisions:

- a) Upon such injury or sickness, or as soon thereafter as is reasonably practical, the employee must notify the Division Manager of the injury or sickness.
- b) The employee must, upon return to work, provide to City a declaration from the attending medical provider confirming the injury or sickness that must include a notation as to the number of days that the employee would have been unable to work.
- c) If the employee's injury or sickness continues, or is expected to continue, beyond the currently approved vacation leave, the employee shall notify the Division Manager as soon as he/she has knowledge of the need for sick leave beyond the end of the vacation leave. In any event, the employee shall notify the Division Manager no later than the start of the shift on the day the employee is scheduled to return to work from the vacation leave.

ARTICLE 23

SICK LEAVE

1. Accrual

Full-time Unit employees earn three and seven-tenths (3.7) hours of sick leave for each biweekly pay period of service or major fraction thereof.

2. Maximum Limit

An employee may accumulate sick leave without maximum limit but in no event shall City have any liability for cash-out or conversion of hours in excess of six hundred (600) except as otherwise provided below.

3. Conversion to Vacation Leave

During the last full pay period of December, each Unit employee may elect to convert to vacation leave any unused sick leave earned during the preceding twenty-six pay periods which exceed the six hundred (600) hour maximum. City shall convert the employee's sick leave to vacation leave by dividing the sick leave to be converted by two and crediting the sum as vacation leave. If an employee does not exercise this conversion option, he/she shall retain those hours in excess of six hundred (600) for the sole purpose of utilization while sick or injured and shall not be eligible for any further cash-out or conversion with respect to such hours.

4. Notification to Division Manager

a) If a Unit employee is absent because of injury or sickness, he/she is required to notify the Division Manager of such injury or sickness at least thirty (30) minutes before the shift begins, or within one-half hour after the start of the shift if there is not a scheduled employee designated to take the call before the start of the shift.

b) Sick leave requests for absence beyond three (3) days may require documentation by a licensed physician or other means of verification acceptable to certify the appropriateness of leave.

c) When absences are properly scheduled with the Division Manager, leaves of absence for necessary dental, optical, or other medical attention shall be considered as sick leave.

5. Pregnancy

The benefits of this Article apply to disability caused by pregnancy.

6. Penalty for Abuse

Sick leave is a Unit employee's privilege and not an absolute right. Violations of sick leave privilege will result in disciplinary action including loss of pay. An employee may be counseled by the employee's supervisor, regarding the employee's absence(s), if any of the following occur:

a) The employee exceeds 96.2 hours of absence, for any reason, during one (1) fiscal year;

b) There is a pattern of absences by the employee such as, but not limited to, on days before or after holidays, or on days before or after weekends; or

c) The employee's supervisor reasonably believes the employee is misusing sick leave.

Such counseling shall take place to help the employee's supervisor understand the circumstances surrounding the absence(s) and/or to assist the Unit employee as needed.

7. Payment Upon Separation from Service

City will redeem fifty percent (50%) of accumulated, unused or unredeemed sick leave, not to exceed six hundred (600) hours, upon death, retirement or separation from service to those employees with a minimum of five (5) years regular full-time service. Redemption of these sick leave hours will be paid at the employee's then current base wages plus any longevity pay, educational incentive award, and bilingual pay being earned as of the effective date of separation from City service.

8. Light Duty

City and SEIU Local 721 agree to implement a light-duty program. Specific guidelines for light duty shall be included in City of Oxnard Administrative Manual.

9. State Disability Insurance

Employees who are totally temporarily disabled (TTD) from working due to non-job related health conditions and are eligible for State Disability Insurance (SDI) benefits may draw down on their bank of accrued unused vacation leave to the extent necessary so that the total of their SDI benefit and their vacation leave payment equals, but does not exceed, their regular gross salary. This apportionment may continue only while the employee is TTD and until the employee's vacation leave accrual is exhausted.

ARTICLE 24

LEAVE OF ABSENCE WITHOUT PAY

City shall provide leaves of absence without pay under the current policy and shall endeavor to return the absent employee to his/her former position upon the employee's return to work.

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ARTICLE 25

BEREAVEMENT LEAVE

1. Conditions

The Division Manager may grant up to three (3) days leave of absence with pay to any eligible employee on the death of any member of the employee's immediate family. Immediate family shall include the following individuals related to the employee or the employee's spouse by reason of blood line, marriage, adoption or foster care: parents, grandparents, spouse, brother(s), sister(s), child(ren), son(s)-in-law, daughter(s)-in-law, grandchild(ren), great grandchild(ren), domestic partner, and any blood relative(s) living in the immediate household.

2. Notice to Division Manager

The employee immediately on return from bereavement leave shall furnish to the Division Manager some evidence of the death, e.g., a newspaper clipping, obituary notice, funeral card, or other record of death. If such evidence is not provided, the bereavement leave shall be converted to leave without pay.

ARTICLE 26

JURY/WITNESS DUTY

1. Conditions

If an Unit employee is called for jury duty or is subpoenaed as a witness in litigation in which he/she is not a party, he/she shall be granted a leave of absence with pay provided that:

a) The Division Manager has been notified by the employee of the jury duty summons or witness subpoena.

b) The Division Manager could not obtain an excuse for the employee from serving on the jury or as a witness, in those instances where the employee could not be conveniently spared from his/her City duties at the time.

c) The employee refunds to City fees received for jury duty or witness service except travel and actual expense reimbursement as follows:

- 1) An employee summoned for and assigned jury duty for five (5) days or less may retain the jury service fee paid for jury service.
- 2) An employee summoned for and assigned jury duty for five days or less may decline payment of the jury service fee.

- 3) An employee summoned for and assigned jury duty for six (6) or more days is required to accept the payment for jury service and to refund to the City Treasurer all fees for jury service except travel reimbursement.

2. Amount Limited

The leave of absence with pay for witness duty is limited to twenty-four (24) hours in any calendar year.

ARTICLE 27

MILITARY LEAVE

Unit employees shall be entitled to the military leave benefits as provided in the California Military and Veterans Code.

City agrees to comply with the California Military and Veterans Code provisions, the federal Uniformed Services Employment and Reemployment Rights Act (USERRA), and the Oxnard City Council resolutions and policies applicable to City employees who are members of the Armed Forces of the United States.

ARTICLE 28

INDUSTRIAL DISABILITY COMPENSATION

1. Entitlement

An employee incapacitated for work because of an injury or sickness arising out of and suffered in the course of City employment is entitled to City industrial disability compensation as provided herein.

2. Amount

During the period that any Unit employee is temporarily disabled, the employee shall receive City industrial disability compensation equal to seventy-five (75%) percent of his/her base wages plus any longevity pay, educational incentive award, and bilingual pay for the period of his/her temporary disability, but not to exceed a total period of twenty-six (26) weeks for any one injury or sickness nor twenty-six (26) weeks per twelve (12) consecutive months for all injuries or sickness.

3. Condition of Eligibility

As a condition of receiving such industrial disability compensation, the employee shall assign to City all temporary disability payments for industrial disability compensation or rehabilitation. An employee who is temporarily disabled shall not be considered to be in a City service status for the purpose of accruing paid leave benefits.

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4. Cessation of Benefits

Industrial disability compensation shall cease when the City Manager determines on the basis of medical evidence that the employee is no longer temporarily disabled. The employee shall have the right to submit written medical evidence secured by the employee to the City Manager for the City Manager's consideration before the City Manager makes such determination; so long as such submission is made by the employee on a timely basis as determined by the City Manager. City assumes no expense or liability in connection with such voluntary submission by an employee. The City Manager's determination shall be adjusted to conform to any decision of the Workers Compensation Appeals Board as to when the injury becomes permanent and stationary.

5. Conversion of Other Leave

If an employee is temporarily disabled and unable to return to work on account of such temporary disability after the maximum period provided for in Section 2 above, the employee may elect to convert accumulated sick leave, accumulated vacation leave, or both, into supplementary industrial disability compensation. The amount of leave that may be converted is that amount which will provide supplementary disability indemnity benefits to afford a combined total amount equal to the employee's base wages plus any longevity pay, educational incentive award, and bilingual pay during the period of temporary disability.

6. Report of Injury or Sickness

In the event of an injury or sickness occurring at work, a report of the injury or sickness must be made by the employee to his/her Division Manager without delay. Report of an injury or sickness is mandatory for eligibility to receive benefits provided in this section. When the employee returns to work, a copy of a medical provider's release must be submitted to the Division Manager.

ARTICLE 29

HOLIDAY LEAVE

1. Designation of Holidays

a) City shall observe the following holidays:

New Year's Day (January 1st)
Martin Luther King's Day (the third Monday in January)
Presidents' Day (the third Monday in February)
Cesar Chavez Day
Memorial Day (the last Monday in May)
Independence Day (July 4th)
Labor Day (the first Monday in September)
Veterans' Day (November 11th)

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Thanksgiving Day (by Presidential proclamation, usually the fourth Thursday in November)
Christmas Eve Day or New Year's Eve Day
Christmas Day (December 25th)

b) Unit employees shall receive either Christmas Eve Day or New Year's Eve Day as a City observed holiday as scheduled and approved by the Unit employee's Division Manager.

2. Supplementation of Holiday Leave

Unit employees shall be credited with holiday leave hours for all City observed holidays based upon the assigned customary daily work schedule of the Unit employee sufficient to compensate the Unit employee for all hours regularly worked by such employee.

3. Thanksgiving Holiday Leave

a) City will be administratively closed on the day after Thanksgiving Day. If the day after Thanksgiving Day is not a closed Friday on City's work schedule, City will adjust its work schedule to be open on the Friday immediately preceding Thanksgiving Day and will be closed on the Friday after Thanksgiving Day. City will return to the regular work schedule on the following Friday.

b) A change in an employee's work schedule pursuant to this section will not result in any overtime compensation obligations for City.

4. Holidays on Weekends

a) City-observed holidays which fall on Sunday shall be observed on the following Monday. City-observed holidays which fall on a Saturday shall be observed on the preceding Friday.

b) Employees who are in paid status on the day that a holiday occurs shall be granted time off, or compensatory time-off, or overtime compensation as appropriate.

ARTICLE 30

PART-TIME EMPLOYEES

Part-time Unit employees shall be entitled to the wages and benefits (including paid leaves) provided for in this MOU in a pro-rated amount of one-half (.5) or three-quarters (.75), based on such proportion of full-time service as is specified by City for the part-time position. However, part-time Unit employees are not entitled to any benefits under Article 8, Longevity Pay, Article 12, Bilingual Pay; and Article 18, Educational Incentive Award Program. Under Article 7, Section 2, Adjustment in Rate of Base Wage, the required periods for advancement shall be extended so as to equate to the hours worked factors specified for full-time employees.

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Part-time Unit employees shall receive a pro-rated Cafeteria Plan amount specified in Article 21, Section 5, less the amount previously provided for dental insurance (\$34.25 biweekly). In addition, part-time Unit employees shall not be eligible for any benefits under Article 21, Insurance, for which they are not eligible due to the conditions of City's insurance plan (such as dental coverage).

ARTICLE 31

HOURS OF WORK

The work schedule for regular full-time Unit employees shall consist of eighty (80) hours during a fourteen (14) day pre-established pay period. The City shall provide at least five days notice of any change in shift.

ARTICLE 32

TRANSFER

1. Conditions

For purposes of this Article, "transfer" means a change from one position to another position having substantially the same salary range. Transfer shall not be used to effectuate a promotion, demotion, or to impose disciplinary action. However, an employee may be transferred for the purpose of facilitating a more satisfactory level of performance by the employee. Upon approval of the City Manager, and after notice to the affected employee, an employee may be transferred at any time.

2. Probationary Period After Transfer

If a transfer is effected at the request of an employee, the City Manager may, as a condition of approving the transfer, require that the employee serve a probationary period in the new position, unless the employee previously held permanent status in the position transferred to. Where positions have the same duties, pay rate and/or position title, the probationary period shall be no more than six months. Where pay rates are the same but duties may vary or require other knowledge and/or experience, the supervisor and transferring employee shall agree to a probationary period that may be extended up to twelve months after a review occurring before six months after the transfer.

ARTICLE 33

RESIGNATION

1. Advance Notice

An employee may resign from City service at any time. An employee resigning from City service, however, shall give a minimum of two (2) weeks notice to his/her Division Manager in order to enable City to make proper provisions for filling his/her position. If the

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employee fails to provide at least two (2) weeks notice, City may enter on the employee's service record the statement, "Released with Prejudice."

2. Forfeiture of Privileges

Upon resignation, the employee shall forfeit all seniority and employment privileges allowed by this MOU and other applicable City policies. Any person resigning may, at the discretion of the City Manager, be reinstated in accordance with Section 3.

3. Reinstatement

Any employee who has resigned from City service may apply for reinstatement within one year by means of a written request. If, in his/her sole discretion, the City Manager determines that the reinstatement request should be granted, the applicant may be reemployed in the same job classification as occupied upon resignation. The employee will have no other rights, privileges, or benefits accrued by him/her in his/her previous employment. This section will not apply to reinstatement after military service.

ARTICLE 34

REDUCTION IN FORCE

1. Definitions

a) For purposes of this Article, "City Length of Service" is defined as the employee's total continuous service in regular City employment.

b) For purposes of this Article, Displacement Rights is defined as those rights accruing to regular employees only. These rights, commonly referred to as bumping rights, allow a laid off employee to displace another employee currently occupying a position in a classification previously held by the laid off employee in the manner specified under the section entitled Displacement Rights and contained in this Article.

2. Alternatives to Reduction in Force

The City Manager may, after consultation with SEIU Local 721 as required by law, consider alternative actions in order to minimize reductions in force.

3. Suspension of Vacation Redemption/Wage Increases

The City Manager may suspend Article 22, Section 5 Vacation Redemption for a period of time not to exceed fifty-two (52) pay periods. In addition, the City may defer any negotiated wage increases for a period of time not to exceed fifty-two (52) pay periods.

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4. Procedure for Reduction in Force

The City Manager will identify those classifications within departments to be reduced which will minimize the impact on the continued effectiveness of that department and will meet the necessary reduction in force requirements as determined by the City Manager.

5. Notification

a) All Unit employees to be laid off will be given written notice by the City Manager of the effective layoff date no less than ten (10) working days before the effective date of the layoff. Such notice will be hand delivered or sent by certified mail.

b) The written notice shall inform the employee of his/her displacement rights and reinstatement or reemployment rights.

6. Order of Layoff

Once the classifications to be reduced have been identified, the City Manager shall determine the employee(s) in the identified classification(s) to be laid off in the following order: Flex-staffed classifications shall be considered as one classification for the purpose of reduction in force.

a) Employees who are temporary.

b) Employees in limited-term positions in reverse order of their City Length of Service.

c) Employees serving an initial probationary period with the least continuous City Length of Service.

d) Employees who within the twenty-six (26) pay periods immediately prior to the date of receipt of notice of layoff received disciplinary action amounting to a suspension of more than forty (40) hours, or a demotion.

e) An employee who within the twenty-six (26) pay periods immediately prior to the date of receipt of notice of layoff has had his/her merit increase withheld for reasons of unsatisfactory job performance.

f) Employees serving a promotional probationary period with the least continuous City Length of Service.

g) Employees with the least continuous City Length of Service.

h) If there are two (2) or more employees who have identical continuous City Length of Service, their order of layoff shall be randomly determined by the City Manager.

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7. Displacement Rights

Regular Unit employees who are designated to be laid off and have previously held regular status in another classification may displace employees occupying positions in the previously held classification provided that the employee exercising the displacement privilege has greater continuous City Length of Service than the employee currently in the classification to which the employee is seeking a position. If the employee did not complete a probationary period in the previously held classification, then no displacement rights accrue to that employee for that classification. Conditions which affect displacement rights are as follows:

a) An Unit employee's displacement rights shall be calculated to each previously held classification in reverse of the order in which the employee was employed until a displacement right is determined or the City Manager determines that no displacement right exists. An employee does not have displacement rights to a classification if the employee vacated the classification as a result of a disciplinary action.

b) The employee exercising the displacement right will displace employees in previously held classifications in the same order as specified in Section 6. However, an employee identified to be laid off as a result of Section 6d or 6e criteria and who exercises displacement rights shall not have Section 6d or 6e criteria applied to them for the same offense in a subsequent reduction in force involving a new classification.

c) An Unit employee must exercise his/her displacement right within nine (9) working days after receipt of the notice of layoff, by written request to the City Manager. If the displacement right is not exercised within the specified time period, the right is automatically forfeited.

8. Demotion

a) Upon request of an Unit employee, and with the approval of the City Manager, an employee who has not held regular status in a classification may be allowed to demote to a vacant authorized position in the same department if he/she meets all the requirements of the classification as determined by the City Manager.

b) All Unit employees who are demoted will be paid at the same base wages as prior to demotion, if, and only if, the base wage is within the salary range of the classification that the employee occupies after the demotion. If this is not the case, the base wage to be paid shall be within the salary range of the demoted to classification which is closest to the employee's base wage prior to demotion.

c) Any employee subject to a demotion who has not previously completed the probationary period in the classification to which the employee is demoted shall serve the applicable probationary period without credit for the earlier service in classification.

9. Transfer

a) The City Manager may transfer an Unit employee to a vacant authorized classification if the employee is qualified and technically capable of performing the duties as determined by the City Manager.

b) An Unit employee who is transferred will be paid base wages equal to the employee's base wages prior to transfer. Any such employee who does not accept a transfer within five working days after notice of transfer is given will have automatically forfeited his/her ability to transfer to that classification.

c) Any Unit employee subject to a transfer who has not previously completed the probationary period in the classification to which the employee is transferred shall serve the applicable probationary period without credit for the earlier service in classification.

10. Reinstatement of Employees Demoted As a Result of a Reduction in Force

An Unit employee who is demoted as a result of a reduction in force shall have his/her name placed on a classification reinstatement list, in the order of the City Length of Service. Vacant positions within a classification series shall be first offered to employees on this reinstatement list.

11. Reemployment of Employees Laid Off as a Result of a Reduction in Force

An Unit employee who is laid off and who held regular Unit employee status at the time of layoff shall have his/her name placed on a reemployment list for classifications in which the employee previously held regular status and for classifications at the same or lower salary range for which the employee qualifies in the order of the City Length of Service. Vacant positions in such classifications will be offered to employees on the reemployment list after employees on the reinstatement list have been reinstated, and prior to an open or promotional recruitment to fill vacant positions in that classification.

12. Duration of Reinstatement and Reemployment Lists

The Unit employee's name shall remain on the reinstatement list and reemployment list for a period of two years from the date of demotion or layoff. An employee not responding to written notification of an opening within nine working days shall have his/her name removed from either the reemployment list or reinstatement list.

13. Restoration of Benefits Upon Reemployment Following a Reduction in Force

Upon reemployment following a layoff due to a reduction in force, an individual will have the following benefits restored:

a) Prior sick leave accruals unless previously compensated for sick leave accruals in accordance with Article 23, Section 7.

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b) Seniority at time of layoff for purposes of determining merit increases, vacation leave accrual and future layoff priority.

c) Base wages paid to an employee who is reemployed in the same classification he/she held at time of layoff shall be the base wages then in effect for the salary range and step the employee held at the time of layoff. If the employee chooses to be reemployed in a classification which has a salary range lower than the classification from which he/she was laid off, then the base wages shall be those at the step in the lower salary range that is closest to his/her base wages immediately prior to layoff, then the employee shall receive the maximum base wages provided in such salary range.

d) City desires to have contained in the reduction in force procedure a consideration of an employee's performance as a criteria in determining the order of layoffs. Therefore, upon the request of City, SEIU Local 721 agrees to meet and confer with City staff in good faith to negotiate the inclusion of the employee's performance as a criteria in the reduction in force policy. The fact that such negotiations may occur during the period in which a memorandum of understanding between any of the parties is in effect shall not affect the parties obligation to meet and confer.

14. No Credit for Earlier Service in Classification

Under any circumstances, an Unit employee subject to a demotion or transfer who has not previously completed the probationary period in the classification to which the employee is demoted or transferred shall serve the applicable probationary period for the classification to which the employee is demoted or transferred without credit for the earlier service in the employee's prior classification.

ARTICLE 35

STRIKES OR LOCKOUTS

1. No Strike Commitment

SEIU Local 721 agrees that City services directed by City shall be maintained unimpaired. SEIU Local 721 shall not cause, condone, counsel or permit its members, or Unit employees, or any of them, to strike, fail to fully and faithfully perform duties, slow down, disrupt, impede or otherwise impair the customary functions and procedures of City's operations.

2. Notification of Breach

Should any Unit employees represented by SEIU Local 721, breach this obligation, the City Manager shall immediately notify SEIU Local 721 that a prohibited action is in progress.

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3. Return to Work Order

SEIU Local 721 shall forthwith in good faith, through its executive officers and other authorized representatives, disavow the strike or other prohibited action, shall order its members orally and in writing to immediately return to work and/or cease the prohibited activity, and provide the City Manager with a copy of its order, with a declaration as to service on such employees; or, alternatively, accept the full responsibility for the strike or other prohibited activity.

4. Actions Against Employees/Remedies

The City Manager reserves the right to take actions against Unit employees who violate this Article. Such actions may include discipline up to and including discharge, loss of all wages and benefits, including seniority, during the period of such prohibited activity, and any other available administrative and legal actions. Should SEIU Local 721 breach its obligations, or any of them under this Article, SEIU Local 721 agrees that City Manager may invoke all legal and administrative remedies available.

5. No Lockouts

City agrees not to lockout Unit employees.

ARTICLE 36

OTHER-THAN-CITY EMPLOYMENT

1. Purpose

The purpose of this Article is to regulate the practice of employment other than City employment (outside employment) by Unit employees, particularly where there exists a potential that such employment would impair an employee's ability to perform his/her City duties.

2. Prohibiting Conditions

Unit employees are prohibited from holding employment or occupations other than City service when the following conditions may result therefrom:

a) The employment or occupation has the potential for interfering with satisfactory service due to physical or mental fatigue; or

b) The other-than-City employment or occupation is deemed by the City Manager to be inconsistent with or detrimental to City service.

3. Authorization

A written request on the designated City form duly completed must be provided by the employee to the Department Director for approval of any other-than-City employment. Such employment may not be undertaken without prior written approval of the Department Director of such request.

4. Limitation

In no event shall other-than-City employment exceed twenty (20) hours per week.

5. Order to Cease Working

A Department Director may order an employee to cease other-than-City employment if the employment violates any of the provisions of this Article.

ARTICLE 37

GRIEVANCE PROCEDURE

1. Definition of Grievance

a) A "Grievance" is an allegation by a Unit employee claiming that he/she has been adversely affected by a violation of the specific express terms of this MOU, or such of the Personnel Rules and Regulations that are within the statutory scope of representation, and for which there is no specific method of review provided by federal, State or local law.

b) A grievance is also a claim by a Unit employee that a letter of reprimand was issued to him/her by City without legitimate cause.

2. Informal Resolution

a) The responsibility of a Unit employee with a bona fide grievance concerning terms and conditions of employment is to inform and discuss the grievance with the Division Manager or his/her designee within twenty-one (21) business days from the date of the action causing the complaint or from the date the incident is first discovered, in order to, in good faith, endeavor to resolve the matter expeditiously and informally.

b) If such informal discussion does not resolve the grievance to the Unit employee's satisfaction, the employee may file a formal grievance in accordance with the procedure set forth in this section.

3. Procedure

a) The Unit employee shall reduce his/her grievance to writing by signing and completing all parts of the grievance form provided by City or SEIU Local 721, and shall submit it to his/her Division Manager within ten (10) business days of receipt of the answer from the Division Manager in the formal resolution procedure. The Division Manager shall further

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consider and discuss the grievance with the employee and the employee's designated representative as he/she deems appropriate, and shall, within ten (10) business days of having received the written grievance, submit his/her response thereto in writing to the employee.

b) If the written response of the Division Manager does not result in a resolution of the grievance, the employee may appeal the grievance by signing and completing the City grievance form and presenting it to his/her Department Director within ten (10) business days of the employee's receipt of the Division Manager's response. The Department Director may investigate the grievance and may set a meeting with the employee, the employee's designated representative and such other persons as he/she deems appropriate to consider the grievance. Within ten (10) business days of the meeting, the Department Director shall submit his/her response to the grievance to the employee and the employee's representative.

c) If the response by the Department Director does not result in resolution of the grievance, the employee may appeal the grievance by signing and completing the City or SEIU Local 721 form and presenting it to a designated representative of the City Manager's Office within ten (10) business days of the employee's receipt of the Department Director's response. The City Manager or designated representative may set a meeting with the employee, the employee's designated representative and such other persons as he/she deems appropriate, to consider the grievance. Within twenty-one (21) business days of receipt of the grievance form, the City Manager or designated representative shall conduct the review and submit his/her response to the employee and the employee's representative.

d) If the response of the City Manager does not result in resolution of the grievance and if the grievance was not related to an appeal of a letter of reprimand:

- 1) The employee and SEIU Local 721 may jointly appeal the grievance to advisory arbitration by signing and completing the City or SEIU form and presenting it to the City Manager within ten (10) business days of the employee's receipt of the City Manager's response.
- 2) The parties, or their designated representatives, shall agree on an arbitrator, and if they are unable to agree on an arbitrator within a reasonable time, either party may request the State Mediation and Conciliation Service to submit to them a list of seven (7) arbitrators who have had experience in the municipal sector. The parties shall select the arbitrator by alternately striking names from a list until one name remains. Such person shall then become the arbitrator.
- 3) The arbitrator so selected shall hold a hearing as expeditiously as possible at a time and place convenient to the parties, and shall be bound by the following:

e) The arbitrator shall be bound by the language of the MOU and City and department rules and regulations consistent therewith in considering any issue properly before him/her.

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f) The arbitrator shall expressly confine himself/herself to the precise issues submitted to him/her and shall have no authority to consider any other issue not so submitted to him/her.

g) The arbitrator shall be bound by federal, State and local law.

h) The arbitrator may not recommend changes in established wages or benefits, nor recommend the payment of back wages or benefits to a date prior to twenty-one (21) days before the grievance was timely filed.

i) Upon conclusion of the hearing, the arbitrator shall submit findings and an advisory recommendation to the employee and to the City Manager.

j) The City Manager shall, within ten (10) business days of the receipt of the written findings and advisory recommendation, make the final determination of the grievance and submit it in writing to the employee and his/her designated representative.

k) The cost of the arbitrator and other mutually incurred costs shall be borne equally by the parties.

4. Time Limits

Failure of City representatives to comply with time limits specified in Section 3 shall entitle the employee to appeal to the next level of review; and failure of the employee to comply with the time limits shall constitute abandonment of the grievance, except however, that the parties may extend time limits by mutual written agreement in advance of expiration of the established time limit.

ARTICLE 38

DISCIPLINARY ACTION PROCEDURE

1. Definition of Disciplinary Action

A "Disciplinary Action" is any suspension, demotion, or discharge of regular non-probationary Unit employees taken for punitive reasons.

2. Opportunity to Respond and Appeal

An employee, within ten (10) calendar days of receipt of an intent to impose disciplinary action to be taken against him/her, shall be accorded a prompt opportunity to respond orally or in writing to the person proposing the disciplinary action and to the charges constituting the bases for the action.

3. Advisory Arbitration

a) The employee, within ten (10) calendar days of the receipt of a notice imposing a disciplinary action, may file an appeal to advisory arbitration.

b) The parties, or their designated representatives, shall agree on an arbitrator, and if they are unable to agree on an arbitrator within a reasonable time, either party may request the State Mediation and Conciliation Service to submit to them a list of seven (7) arbitrators who have had experience in the municipal sector. The parties shall select the arbitrator by alternately striking names from a list until one name remains. Such person shall then become the arbitrator.

c) The arbitrator so selected shall hold a hearing as expeditiously as possible at a time and place convenient to the parties, and shall be bound by the following:

- 1) The arbitrator shall be bound by the language of the MOU and City and department rules and regulations consistent therewith in considering any issue properly before him/her.
- 2) The arbitrator shall expressly confine himself/herself to the precise issues submitted to him/her and shall have no authority to consider any other issue not so submitted to him/her.
- 3) The arbitrator shall be bound by federal, State and local law.
- 4) The arbitrator may not recommend changes in established wages or benefits, nor recommend the payment of back wages or benefits to a date prior to ten days before the grievance was timely filed.
- 5) Upon conclusion of the hearing, the arbitrator shall submit findings and an advisory recommendation to the employee and to the City Manager.
- 6) The City Manager shall, within ten (10) business days of the receipt of the written findings and advisory recommendation, make the final determination of the disciplinary action and submit it in writing to the employee and his/her designated representative.
- 7) The cost of the arbitrator and other mutually incurred costs shall be borne equally by the parties.

ARTICLE 39

TERM OF MEMORANDUM OF UNDERSTANDING

1. Term

This MOU shall be effective January 1, 2012, and shall remain in full force and effect through December 31, 2012.

2. Supersession of Other Documents

This MOU contains all covenants, stipulations, and provisions agreed upon by the City staff and representatives of SEIU Local 721, and is intended to supersede all prior memorandums of understanding, or contrary provisions of Personnel Rules and Regulations.

3. Correction of Errors

SEIU Local 721 and the City staff shall review the contents of this MOU for the express purpose of ascertaining whether any terms, articles, sections or items that the City staff and representatives of SEIU Local 721 had agreed be included in this MOU were inadvertently omitted. If, following this review, the City staff and representatives of SEIU Local 721 agree that any terms, articles, sections, or items have been erroneously omitted, then the City staff shall recommend to the City Council and SEIU Local 721 shall recommend to its members that this MOU be modified or revised to include such terms, articles, sections, or items.

4. Revisions to Personnel Rules and Regulations

If City proposes revisions to its Personnel Rules and Regulations, with respect to any such proposed revisions that fall within the required scope of meeting and conferring, City shall promptly, upon the request of SEIU Local 721, meet and confer on such subjects.

5. No Meet and Confer Requirement

Except as expressly provided in this MOU, City or SEIU Local 721 shall not be required to meet and confer during its term. Nothing in this MOU shall release the City from the meet and confer process required by State law on issues not addressed in the MOU.

6. Complete Agreement

This MOU constitutes the total and entire agreement between City staff and representatives of SEIU Local 721 and no verbal statement shall supersede any of the MOU's provisions.

7. Successor Memorandum of Understanding

During the period between September 1, 2012 and September 21, 2012, SEIU Local 721 will notify the City, in writing, of its desire to negotiate a successor memorandum of understanding. On or about October 1, 2012, the City Manager shall contact SEIU Local 721, in writing, to schedule negotiations meetings for the successor memorandum of understanding. Both parties agree 'writing' includes email communication. City staff and representatives of SEIU Local 721 shall then meet and confer concerning those modifications, additions or deletions proposed by the parties as are within the statutory scope of meeting and conferring in accordance with State law and the Oxnard City Code.

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ARTICLE 40

LABOR/MANAGEMENT COMMITTEE

The City agrees to establish a Labor/Management Committee to discuss issues of mutual concern. The specific details of the committee will be developed by the City and SEIU Local 721 by January 31, 2008.

Further, the parties agree that during meetings of the Labor/Management Committee, the parties will endeavor to develop pilot apprenticeship programs for Unit employees with the intent to have a structure in place on or before December 31, 2012. The parties agree to make every effort to create this plan on or before December 31, 2012 but agree that if creation does not occur by said date that they will continue to work to achieve a structure for the pilot apprenticeship programs.

ARTICLE 41

MERIT INCREASE PROCESS

The City and SEIU Local 721 representatives will schedule at least three meetings during the term of this MOU to discuss the process for merit increases to Unit employees.

ARTICLE 42

SAVINGS CLAUSE

In the event that the implementation of any article or section of this MOU shall be frustrated on account of the operation of law or by any tribunal of competent jurisdiction, or if compliance with any article or section would be frustrated or restrained by such law or tribunal, City staff and representatives of SEIU Local 721 shall, if possible, meet and confer for the purpose of endeavoring to agree on a replacement for such article or section.

-XXX-

Dated this _____ day of _____, 2012.

CITY OF OXNARD

SEIU LOCAL 721

Karen R. Burnham

Danny Carrillo

Michelle H. Téllez

Rhea Voll

Armida Galvan – Monares

Jim Nelson

Martin Vasquez



APPENDIX A * As adjusted by across-the-board increase ^{RU}

CLASSIFICATIONS AND SALARY RANGES "A" SCHEDULE (SEIU EMPLOYEES)

Effective 8/1/06	CLASS	SALARY	HOURLY			BI WEEKLY			MONTHLY		
			BOTTOM	CONTROL POINT	TOP	BOTTOM	CONTROL POINT	TOP	BOTTOM	CONTROL POINT	TOP
Classification Title	CODE	RANGE									
Programmer Analyst	3115	A86	27.4743	36.6322	38.4638	2197.94	2930.58	3077.10	4762.20	6349.59	6667.06
Property & Evidence Technician	14201	A68	23.3419	31.1224	32.6786	1867.35	2489.79	2614.28	4045.93	5394.54	5664.28
Purchasing Clerk	8303	A20	15.0675	20.0898	21.0942	1205.40	1607.19	1687.54	2611.70	3482.24	3656.33
Recreation/Human Services Coordinator	15120	A42	19.6564	26.2086	27.5190	1572.51	2096.69	2201.52	3407.10	4542.83	4769.97
Recreation/Human Services Leader II	15111	A01	8.3962	11.1948	11.7546	671.70	895.59	940.37	1455.34	1940.44	2037.46
Recreation/Human Services Leader III	15114	A21	15.1779	20.2370	21.2490	1214.23	1618.96	1699.92	2630.83	3507.75	3683.15
Rehabilitation Loan Assistant	9116	A33	17.6659	23.5545	24.7323	1413.27	1884.36	1978.58	3062.09	4082.77	4286.93
Rehabilitation Loan Specialist	9117	A74	24.2905	32.3875	34.0068	1943.24	2591.00	2720.54	4210.36	5613.83	5894.51
Resident Services Assistant	9301	A59	22.0824	29.4432	30.9153	1766.59	2355.46	2473.22	3827.61	5103.49	5358.65
Resident Services Coordinator	9304	A74	24.2905	32.3875	34.0068	1943.24	2591.00	2720.54	4210.36	5613.83	5894.51
Revenue Collection Technician	7310	A45	19.9335	26.5782	27.9072	1594.68	2126.26	2232.57	3455.14	4606.89	4837.24
Sr. Administrative Secretary	11165	A35	17.6829	23.5772	24.7560	1414.63	1886.18	1980.48	3065.03	4086.72	4291.04
Sr. Chemist	19159	A90	28.4460	37.9281	39.8244	2275.68	3034.25	3185.96	4930.65	6574.20	6902.90
Sr. Civil Engineer	5135	A99	38.2384	50.9844	54.7318	3059.07	4078.76	4378.54	6627.98	8837.30	9486.84
Sr. Customer Service Representative	7151	A27	16.5408	22.0545	23.1572	1323.27	1764.36	1852.58	2867.08	3822.78	4013.91
Sr. Engineering Technician	5122	A76	24.6091	32.8121	34.4527	1968.73	2624.97	2756.22	4265.58	5687.43	5971.81
Sr. Engineering Technician/Survey Chief	5222	A76	24.6091	32.8121	34.4527	1968.73	2624.97	2756.22	4265.58	5687.43	5971.81
Sr. Housing Specialist	9111	A74	24.2905	32.3875	34.0068	1943.24	2591.00	2720.54	4210.36	5613.83	5894.51
Sr. Plans Examiner	5123	A87	27.9383	37.2514	39.1139	2235.07	2980.11	3129.11	4842.64	6456.90	6779.73
Sr. Project Coordinator	18125	A91	28.5594	38.0791	39.9831	2284.76	3046.33	3198.64	4950.30	6600.38	6930.40
Sr. Traffic Service Assistant	14157	A16	16.2932	21.7242	22.8105	1303.45	1737.94	1824.84	2824.15	3765.53	3953.82
Sex Registrant Specialist	14124	A34	17.6763	23.5683	24.7469	1414.10	1885.46	1979.75	3063.89	4085.17	4289.45
Traffic Service Assistant I	14154	A13	12.8800	17.1733	18.0320	1030.40	1373.86	1442.56	2232.53	2976.71	3125.55
Traffic Service Assistant II	14155	A18	14.1680	18.8906	19.8352	1133.44	1511.25	1586.82	2455.79	3274.37	3438.10
Victim Services Specialist	2105	A59	22.0824	29.4432	30.9153	1766.59	2355.46	2473.22	3827.61	5103.49	5358.65
Word Processor I	11129	A23	15.4725	20.6302	21.6615	1237.80	1650.41	1732.92	2681.91	3575.89	3754.67
Word Processor II	11132	A30	16.9460	22.5947	23.7246	1355.68	1807.58	1897.97	2937.30	3916.42	4112.26
Word Processor III	11134	A38	18.4197	24.5596	25.7876	1473.58	1964.77	2063.01	3192.75	4257.00	4469.84
There are no job classifications for Limited Benefit Employees (LBEs). All LBE's are paid living wage; City's living wage policy attached. A few LBEs are paid at a rate of pay higher than living wage.											

Geographic Info Systems Technician I	5111	A50	20.5962	21.4639	22.0372	1847.85	2197.11	2306.98	3570.35	4760.40	4986.45
Geographics Info Systems Technician II	5118	A70	23.4904	31.3207	32.8867	1879.23	2505.66	2630.93	4071.66	5428.93	5700.36
Grants Specialist I	7124	A63	22.4253	29.9004	31.3955	1794.02	2382.03	2511.64	3887.05	5182.73	5441.89
Grants Specialist II	7125	A80	24.9170	33.2227	34.8839	1993.36	2657.81	2790.71	4318.95	5758.60	6046.54
Housing Contract Administrator	9112	A61	22.3719	29.8292	31.3207	1789.75	2386.33	2505.66	3877.80	5170.39	5428.93
Housing Engineer	5127	A89	28.2999	37.7329	39.6197	2263.99	3018.64	3169.57	4905.32	6540.38	6867.41
Housing Specialist I	9105	A44	19.8740	26.4988	27.8237	1589.92	2119.90	2225.89	3444.83	4593.12	4822.77
Housing Specialist II	9108	A59	22.0824	29.4432	30.9153	1766.59	2355.46	2473.22	3827.61	5103.49	5358.65
Housing Specialist Trainee	9102	A33	17.6659	23.5545	24.7323	1413.27	1884.36	1978.58	3062.09	4082.77	4286.93
Junior Civil Engineer	5126	A85	26.8339	35.7786	37.5675	2146.72	2862.28	3005.40	4651.22	6201.62	6511.70
Junior Planner	13102	A52	20.7704	27.6940	29.0787	1661.63	2215.52	2326.30	3600.20	4800.30	5040.31
Junior Traffic Design Engineer	18114	A85	26.8339	35.7786	37.5675	2146.72	2862.28	3005.40	4651.22	6201.62	6511.70
Laboratory Assistant	20128	A40	19.4976	25.9967	27.2966	1559.80	2079.74	2183.72	3379.58	4506.10	4731.40
Laboratory Technician	20129	A56	21.6502	28.8670	30.3103	1732.02	2309.36	2424.83	3752.70	5003.62	5253.79
Landscape Architect	15226	A89	28.2999	37.7329	39.6197	2263.99	3018.64	3169.57	4905.32	6540.38	6867.41
Librarian I	10120	A47	20.1537	26.8715	28.2150	1612.30	2149.72	2257.20	3493.31	4657.73	4890.59
Librarian II	10123	A62	22.3929	29.8572	31.3501	1791.43	2388.57	2508.01	3881.44	5175.24	5434.02
Librarian III	10125	A79	24.6321	32.8429	34.4849	1970.57	2627.43	2758.79	4269.56	5692.77	5977.39
Library Aide I	10108	A15	13.7042	18.2722	19.1859	1096.34	1461.78	1534.87	2375.40	3167.18	3325.56
Library Aide II	10111	A21	15.1779	20.2370	21.2490	1214.23	1618.96	1699.92	2630.83	3507.75	3683.15
Library Aide III	10114	A28	16.6514	22.2019	23.3118	1332.11	1776.15	1864.95	2886.24	3848.33	4040.72
Literacy Coordinator	10118	A47	20.1537	26.8715	28.2150	1612.30	2149.72	2257.20	3493.31	4657.73	4890.59
Mail Clerk	11105	A15	13.7042	18.2722	19.1859	1096.34	1461.78	1534.87	2375.40	3167.18	3325.56
Missing Persons Specialist	14122	A34	17.6763	23.5683	24.7469	1414.10	1885.46	1979.75	3063.89	4085.17	4289.45
Neighborhood Services Coordinator	2110	A61	22.3719	29.8292	31.3207	1789.75	2386.33	2505.66	3877.80	5170.39	5428.93
Office Assistant I	11117	A10	12.2306	16.3075	17.1229	978.45	1304.60	1369.83	2119.97	2826.64	2967.97
Office Assistant II	11120	A15	13.7042	18.2722	19.1859	1096.34	1461.78	1534.87	2375.40	3167.18	3325.56
Outreach/Education Specialist	16124	A61	22.3719	29.8292	31.3207	1789.75	2386.33	2505.66	3877.80	5170.39	5428.93
Permit Technician	5107	A55	21.5888	28.7851	30.2244	1727.11	2302.81	2417.95	3742.07	4989.41	5238.90
Plan Check Engineer	13246	A97	33.5423	44.7232	46.9592	2683.38	3577.85	3756.74	5814.00	7752.02	8139.60
Plans Examiner I	5124	A66	22.8588	30.4783	32.0023	1828.70	2438.26	2560.18	3962.18	5282.90	5547.06
Plans Examiner II	5121	A81	25.3987	33.8649	35.5581	2031.90	2709.19	2844.64	4402.44	5869.91	6163.40
Police Records Technician I	14108	A11	12.8571	17.1427	17.9997	1028.57	1371.41	1439.97	2228.56	2971.39	3119.95
Police Records Technician II	14111	A17	14.3306	19.1074	20.0628	1146.45	1528.59	1605.02	2483.97	3311.95	3477.54
Police Records Technician III	14114	A24	15.8040	21.0720	22.1255	1264.32	1685.76	1770.04	2739.36	3652.48	3835.09
Police Word Processor I	14171	A23	15.4725	20.6302	21.6615	1237.80	1650.41	1732.92	2681.91	3575.89	3754.67
Police Word Processor II	14173	A30	16.9460	22.5947	23.7246	1355.68	1807.58	1897.97	2937.30	3916.42	4112.26
Police Word Processor III	14175	A38	18.4197	24.5596	25.7876	1473.58	1964.77	2063.01	3192.75	4257.00	4469.84

Accounting Technician	7114	A45	19.9335	26.5782	27.9072	1594.68	2126.26	2232.57	3455.14	4606.89	4837.24
Administrative Assistant	1535	A61	22.3719	29.8292	31.3207	1789.75	2386.33	2505.66	3877.80	5170.39	5428.93
Administrative Secretary I	11138	A12	13.2623	17.6828	18.5670	1060.98	1414.62	1485.36	2298.80	3065.02	3218.28
Administrative Secretary II	11144	A19	14.7358	19.6477	20.6302	1178.87	1571.81	1650.41	2554.21	3405.60	3575.89
Administrative Secretary III	11150	A26	16.3731	21.8308	22.9222	1309.85	1746.47	1833.78	2838.01	3784.01	3973.19
Administrative Services Assistant	14119	A61	22.3719	29.8292	31.3207	1789.75	2386.33	2505.66	3877.80	5170.39	5428.93
Administrative Technician	1533	A36	17.8975	23.8633	25.0565	1431.80	1909.06	2004.52	3102.24	4136.30	4343.13
Assistant Civil Engineer	5129	A93	30.1881	40.2508	42.2633	2415.05	3220.06	3381.06	5232.61	6976.80	7325.63
Assistant Planner	13105	A69	23.3668	31.1557	32.7135	1869.34	2492.46	2617.08	4050.24	5400.32	5670.34
Assistant Traffic Design Engineer	18111	A93	30.1881	40.2508	42.2633	2415.05	3220.06	3381.06	5232.61	6976.80	7325.63
Assistant Traffic Engineer	18112	A93	30.1881	40.2508	42.2633	2415.05	3220.06	3381.06	5232.61	6976.80	7325.63
Associate Planner	13108	A83	25.9632	34.6175	36.3483	2077.05	2769.40	2907.86	4500.28	6000.37	6300.37
Associate Traffic Design Engineer	18123	A97	33.5423	44.7232	46.9592	2683.38	3577.85	3756.74	5814.00	7752.02	8139.60
Buyer	8311	A40	19.4976	25.9967	27.2966	1559.80	2079.74	2183.72	3379.58	4506.10	4731.40
Chemist	19158	A72	24.0558	32.0744	33.6782	1924.46	2565.95	2694.26	4169.67	5559.57	5837.56
Civil Engineer	5132	A97	33.5423	44.7232	46.9592	2683.38	3577.85	3756.74	5814.00	7752.02	8139.60
Community Service Officer	14200	A34	17.6763	23.5683	24.7469	1414.10	1885.46	1979.75	3063.89	4085.17	4289.45
Computer Network Engineer I	3119	A32	17.4363	23.2483	24.4108	1394.90	1859.86	1952.86	3022.29	4029.70	4231.20
Computer Network Engineer II	3118	A49	20.5133	27.3510	28.7210	1641.06	2188.08	2297.68	3555.64	4740.84	4978.31
Computer Network Engineer III	3117	A78	24.6159	32.8210	34.4622	1969.28	2625.68	2756.97	4266.76	5688.97	5973.44
Computer Operator	3121	A49	20.5133	27.3510	28.7210	1641.06	2188.08	2297.68	3555.64	4740.84	4978.31
Construction Project Coordinator	13226	A61	22.3719	29.8292	31.3207	1789.75	2386.33	2505.66	3877.80	5170.39	5428.93
Crime Analysis Data Technician	14121	A34	17.6763	23.5683	24.7469	1414.10	1885.46	1979.75	3063.89	4085.17	4289.45
Crime Analyst I	14120	A48	20.3958	27.1944	28.5541	1631.66	2175.55	2284.33	3535.27	4713.69	4949.38
Crime Analyst II	14123	A64	22.6621	30.2159	31.7268	1812.97	2417.27	2538.14	3928.09	5237.43	5499.31
Criminalist	14125	A91	28.5594	38.0791	39.9831	2284.76	3046.33	3198.64	4950.30	6600.38	6930.40
Crossing Guard	14102	A00	8.3131	11.0842	11.6383	665.05	886.73	931.07	1440.94	1921.25	2017.31
Customer Service Accounting Technician	7153	A45	19.9335	26.5782	27.9072	1594.68	2126.26	2232.57	3455.14	4606.89	4837.24
Customer Service Representative I	7138	A14	13.5937	18.1249	19.0312	1087.49	1449.99	1522.49	2356.24	3141.66	3298.74
Customer Service Representative II	7139	A20	15.0675	20.0898	21.0942	1205.40	1607.19	1687.54	2611.70	3482.24	3656.33
Data Entry Operator I	11111	A14	13.5937	18.1249	19.0312	1087.49	1449.99	1522.49	2356.24	3141.66	3298.74
Data Entry Operator II	11114	A20	15.0675	20.0898	21.0942	1205.40	1607.19	1687.54	2611.70	3482.24	3656.33
Drafting/Graphics Technician I	5111	A41	19.5139	26.0185	27.3194	1561.11	2081.48	2185.55	3382.41	4509.86	4735.37
Drafting/Graphics Technician II	5114	A57	21.6821	28.9094	30.3550	1734.57	2312.75	2428.40	3758.23	5010.96	5261.54
Engineering Technician I	5115	A41	19.5139	26.0185	27.3194	1561.11	2081.48	2185.55	3382.41	4509.86	4735.37
Engineering Technician I/Survey Crew	5116	A41	19.5139	26.0185	27.3194	1561.11	2081.48	2185.55	3382.41	4509.86	4735.37
Engineering Technician II	5120	A57	21.6821	28.9094	30.3550	1734.57	2312.75	2428.40	3758.23	5010.96	5261.54
Engineering Technician II/Survey Crew	5119	A57	21.6821	28.9094	30.3550	1734.57	2312.75	2428.40	3758.23	5010.96	5261.54

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LIVING WAGE POLICY

The Living Wage Policy of the City of Oxnard is hereby adopted by the City Council on July 9, 2002 to be effective October 1, 2002.

1. Pursuant to this Living Wage Policy, a service contractor shall pay those employees who provide services to the City under contract:
 - (a) Effective October 1, 2002, at least \$9.00 an hour for the time during which the employee is providing services to the City;
 - (b) Effective July 1, 2003, at least \$9.25 an hour for the time during which the employee is providing services to the City and 32 hours of paid leave per every calendar year in which an employee provides services to the City;
 - (c) Effective July 1, 2004, at least \$10.59 an hour for the time during which the employee is providing services to the City and 64 hours of paid leave per every calendar year in which an employee provides services to the City; and
 - (d) Effective July 1, 2005, at least \$12.22 an hour for the time during which the employee is providing services to the City and 96 hours of paid leave per every calendar year in which an employee provides services to the City.
2. The hourly rates established in Section 1 shall be adjusted July 1, 2006 and, each July 1 thereafter, according to the percentage change since July 1, 2005 in the Consumer Price Index prepared by the Bureau of Labor Statistics for the Los Angeles, Anaheim, Riverside area relating to all urban consumers.
3. A service contractor executing a service contract with the City for which the City will pay the contractor \$25,000 or more during the contract term shall be subject to the Living Wage Policy.
4. A service contractor executing more than one service contract with the City, and the combined monetary total of the payments by the City pursuant to such contracts is \$25,000 or more for the combined contract terms shall be subject to the Living Wage Policy.
5. This Living Wage Policy shall not govern the following types of contracts for: (a) the purchase, rental or lease of goods, products, equipment, supplies or other personal property; (b) public works projects as defined in State or local law; and (c) professional services.
6. This Living Wage Policy shall not govern the following service contractors: (a) nonprofit entities organized under IRS Code section 501(c)(3); (b) public entities such as cities, counties, special districts, states and the federal government; and (c) businesses employing fewer than five persons.

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7. The City Attorney is directed to include in all standard trade services contracts and all contracts involving unique trade services, the language set forth in Exhibit A attached hereto and incorporated herein by this reference.
8. If a service contractor fails to comply with this Living Wage Policy, the City Manager is directed to terminate the subject service contract immediately and to impose appropriate fines and penalties as set forth in the service contract.
9. The City Manager and the City Attorney are responsible for the administration and enforcement, respectively, of the Living Wage Policy. If an employee of a service contractor governed by the Living Wage Policy concludes that he/she has been retaliated against for the exercise of rights under the Living Wage Policy, the employee should contact the City Manager at 385-7430.
10. The City Manager shall reasonably cooperate with representatives of the Ventura County Living Wage Coalition to ensure the effective administration and enforcement of the Living Wage Policy.
11. This Living Wage Policy may be changed only by City Council and only after a duly noticed public hearing.
12. The City Manager is directed to ensure that the City Council will review the Living Wage Policy as part of the FY 2003-2004/05 budget process.

STIPULATION

SEIU Local 721 Proposed Unit to which the City of Oxnard will not Object for Purposes of a Card Count.

City of Oxnard and SEIU Local 721:

1. A list of employees, described generally in paragraph 3 below, will be produced by the City to the Disinterested Neutral Joseph Gentile to compare to the original cards presented to Mr. Gentile earlier by SEIU. That list is attached here to as Exhibit A.
2. If Mr. Gentile determines that SEIU has produced sufficient signatures consistent with its City Code and Govt. Code § 3507.1(c), the City will recognize SEIU Local 721 as the bargaining representative of those employees and will accrete those employees that still work for the City into the existing unit of regular employees represented by SEIU.
3. Description of those Employees to be counted and possibly added.

Included:

- a) All temporary employees who worked more than one thousand (1000) hours in calendar year 2008 and who were employed by the City during the quarter immediately preceding the date the Petition for Recognition was perfected, i.e. November 10, 2008.
- b) Some employees who averaged four (4) hours per week during the quarter prior to the perfection date of the Petition for Recognition, which was the date the cards were delivered to Mr. Gentile, will be included in the card count and will be included in the unit if they still work for the City.

Excluded:

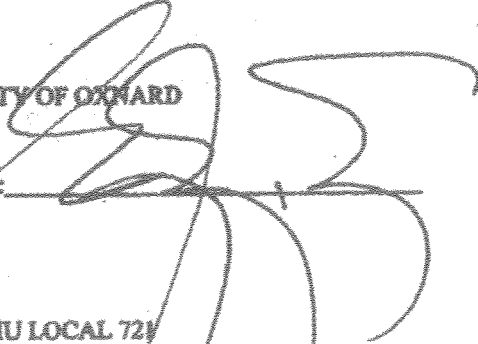
- a) True seasonal employees will not be part of the card count and will not be eligible for inclusion in any unit in the future.
- b) Temporary employees who averaged fewer than 4 hours per week per quarter during the quarter immediately before the date the Petition for Recognition was perfected will not be part of the card count and will not be eligible for inclusion in the unit in the future.

4. For purposes of the card count for the list mentioned in paragraph 1, above, the parties will use the date on which the originally signed cards were delivered to Mr. Gentile as the perfection date of the Petition for Recognition.
5. During the card verification process, if there is a question about the genuineness of any signature on an authorization card, it will be put to the side by Mr. Gentile. If it makes a difference in the outcome of the card count, no card will be rejected without Mr. Gentile making reasonable efforts to check personally with that temporary employee to ascertain whether he or she did in fact sign the card and whether it was signed on the date indicated.
6. This document is intended to include only those temporary employees of the City that mirror the positions of regular employees already represented by SEIU Local 721, and not blue collar employees represented by the International Union of Operating Engineers Local 501.

SO STIPULATED:

Dated: 12 March 09

CITY OF OXNARD

By: 

Dated: 03/15/09

SEIU LOCAL 721

By: 



Meeting Date: 07/10/12

ACTION	TYPE OF ITEM
☐ Approved Recommendation	☒ Info/Consent
☐ Ord. No(s). _____	☐ Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☐ Other _____

Prepared By: Richard Arias *RA* Agenda Item No. **I-7**Reviewed By: City Manager *JRB* City Attorney *BA* Finance *JL* Other (Specify) _____**DATE:** June 29, 2012**TO:** City Council**FROM:** Richard Arias, Recreation Supervisor *RA*
Senior Services**SUBJECT:** Acceptance of Senior Nutrition Grant Funds from the Ventura County Area Agency on Aging ("VCAAA") for FY 2012-2013.**RECOMMENDATION**

That City Council:

1. Adopts a resolution approving and authorizing the Mayor to execute a twelve-month (July 1, 2012 to June 30, 2013) agreement (A-7513) between the City of Oxnard and the Ventura County Area Agency on Aging ("VCAAA") for FY 2012-2013.
2. Approves a special budget appropriation to recognize grant award and program donations as matching funds to the FY 2012-2013 Senior Nutrition Program.

DISCUSSION

The VCAAA has awarded grant funds in the amount of \$80,731 to the City of Oxnard Senior Nutrition Program for FY 2012-2013. The Senior Nutrition Program provides congregate and home-delivered meals to Oxnard area seniors, 60 years of age and older. The City's Senior Services currently serves approximately 11,000 congregate meals and 28,000 home-delivered meals, in partnership with FOOD Share, to home-bound seniors yearly.

The City's Senior Services Program provides the administrative oversight and management of the program, space to serve, prepare and distribute the meals, along with volunteers to assist in the day-to-day operation of the program. The program also collects an estimated \$20,000 in donations as a matching contribution.

FINANCIAL IMPACT

Grant revenue in amount of \$80,731 and program donations in amount of \$20,000 will be appropriated to FY12-13 Senior Nutrition Program (Project No. 775355).

RA:gdb

Attachment #1 – VCAAA Contract for FY 2012-2013
Attachment #2 – Resolution Contracting with the VCAAA
Attachment #3 – Special Budget Appropriation

**Ventura County Area Agency on Aging
Agreement and Assurances of Older Americans Act
Grant Award for Services**

ISSUED TO: City of Oxnard
(Name of Contractor)

350 North "C" Street
(Address)

Oxnard CA 93030
(City) (State) (Zip Code)

=====

FOR VCAAA USE ONLY

The funds provided under this contract are State and Federal Funds passed through from the California Department of Aging to the County of Ventura under contract AP-1213-18. Applicable CFDA Number for Federal Funds indicated herein is required and must be reported under the Single Audit Act.

Fiscal Year Funds:	2012-13
Contract Number:	3C-007-071212
Funding Agency Name (State / Federal):	Ventura County Area Agency on Aging (California Department of Aging/Administration on Aging)
CFDA No.:	93.045
Program Name:	Senior Nutrition Program
State Fund Amount:	\$0
Federal Fund Amount	\$80,731.00
Match (10% cash or in kind):	\$8,073.10
TOTAL AMOUNT:	\$88,804.10

**Ventura County Area Agency on Aging
Agreement and Assurances of Older Americans Act
Grant Award for Services**

This agreement is made and entered into on July 1, 2012, by and between the **County of Ventura**, which includes among its component parts the **Ventura County Area Agency on Aging** (hereinafter called Area Agency) and the **City of Oxnard** (hereinafter called Contractor) for services specific in **Exhibit A** attached hereto and incorporated herein by reference ("Service Requirements").

Article I: Scope of Service and Performance Standards

Section 1

The performance of this contract is subject to the contingencies identified in **Exhibit C** attached hereto and incorporated herein by reference ("Contingencies"). Area Agency shall not be obligated to perform any obligation pursuant to this agreement unless and until each and every one of the Contingencies occurs to the satisfaction of the Area Agency. The Area Agency will notify Contractor, in writing, if and when Contractor has satisfied the Contingencies.

The provision of services under the terms of this contract by Contractor prior to receiving written notification of the satisfaction of Contingencies from the Area Agency is at Contractor's sole risk. Contractor understands and agrees that unless agreed otherwise in writing by VCAAA, Contractor will abide by the terms of its grant application and by the terms of the VCAAA Contractors' Manual.

Section 2

Contractor shall provide, in a satisfactory and proper manner as determined by the Area Agency's representative, the necessary personnel, equipment and materials required to carry out the services and/or activities and/or construction or acquisition as detailed in the grant application incorporated herein by reference and specifications attached as **Exhibit B** and incorporated herein. Contractor agrees to provide the services and/or activities and/or construction or acquisition in accordance with all applicable local, state, and federal designation and program standards, regulations and laws.

Contractor shall provide services provided for in this agreement in accordance with, and to comply with all terms of, the contract (AP-1213-18, HI-1213-18 or TV-1213-18) between the California Department of Aging (CDA) and the Area Agency ("the CDA Contract"), and will require any subcontractors to administer their subcontracts in accordance with this agreement and the CDA Contract, and with all applicable local, state, and federal laws and regulations including, but not limited to: those regarding discrimination, wages, and hours of employment; occupational safety; and, to fire, safety, health and sanitation regulations, directives, guidelines and/or manuals related to this agreement and resolve all issues using good administrative practices and sound

judgment. A copy of the CDA Contract is on file with the Area Agency and is available upon request.

Section 3

If performance under this contract for any quarter falls below 90 percent of the contracted level of units of service, or exceeds the contracted level by more than 15 percent for the quarter, or fails to meet the quality performance standards specified in this agreement, the service provider shall submit a corrective action plan for approval by the Area Agency. The plan shall specify the specific actions to be taken to correct the problem and a timetable for each action.

If the corrective action plan is not submitted within 10 days of the end of the quarter, or if it is not implemented in accordance with the approved corrective action plan, appropriate sanctions may be imposed as described in the Area Agency's sanction policy which is incorporated herein by reference. Failure to implement the approved corrective action plan may result in termination of the contract.

At its sole discretion, the Area Agency may waive the requirement of a corrective action plan if exceptional circumstances account for performance below the contracted level. Exceptional circumstances are those circumstances which are beyond the service provider's control, such as natural disasters, inflationary increases beyond anticipated levels, and/or shortages of materials or supplies due to labor disputes or other reasons.

The Area Agency may request corrective action or impose sanctions at any time it is deemed necessary to uphold Area Agency, state, and federal policies and regulations.

All services provided pursuant to this agreement must be fully implemented and operational within 120 days of commencement of this agreement if this is a one-year grant, or upon the effective date of this contract if this is a one-time-only grant contract.

Section 4

The Contractor agrees that the performance of work and services pursuant to the requirements of this Agreement shall conform to accepted professional standards.

The Contractor agrees that during the terms of this agreement that they are of sound financial status. Any Contractor that is a private corporation, Joint Powers Agreement (JPA) or private non-profit must be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement. Failure to maintain good standing shall result in suspension or termination of this Agreement with the Area Agency on Aging until satisfactory status is restored.

Section 5

Under the terms of this contract, the following definitions apply:

"In-kind Contributions" mean the value of non-cash contributions donated to support the project or program (e.g., property, service, etc.).

"Non-Matching Contributions" mean local funding that does not qualify as matching contributions and/or is not being budgeted as matching contributions. (e.g., federal funds, overmatch, etc.).

"Program Income" means revenue generated by the Contractor or subcontractor from contract-supported activities. Program income is:

- a) Voluntary contributions received from a participant or responsible party as a result of services.
- b) Income from usage or rental fees of real or personal property acquired with grant funds or funds provided under this Agreement.
- c) Royalties received on patents and copyrights from contract-supported activities.
- d) Proceeds from sale of items fabricated under a contract agreement.

"Indirect Costs" means costs incurred for a common or joint purpose benefiting more than one cost objective and not readily assignable to the cost objective specifically benefited, without effort disproportionate to the results achieved.

"Contractor" means the legal entity that receives funds from the Area Agency on Aging to provide direct services identified in this Agreement.

Article II: Period of Performance

Except as otherwise provided, the term of this agreement shall commence on July 1, 2012, and terminate on June 30, 2013.

Article III: Program Budget and Payment Schedule

Section 1

The total compensation to be paid to Contractor shall not, in any event, exceed **\$80,731** (the "Grant Amount"). Such reimbursed compensation shall be paid in monthly increments upon receipt of a monthly request for advance of funds submitted by Contractor to the Area Agency and on the basis of an evaluation of Contractor's cash requirements, cash-on-hand as documented on the request form, and the Area Agency's approval of performance to-date.

No expenditure shall be made or obligation incurred in excess of the Grant Amount, this agreement, or not in accordance with the Authorized Total Budget, as defined herein. The total budget authorized by the Area Agency shall be provided with the written notification of satisfaction of contingencies ("Authorized Total Budget"). Any expenditure of funds that is not in compliance with the Authorized Total Budget or this agreement, or not within the costs set forth in the Authorized Total Budget, or in accordance with applicable federal and state rules and regulations, shall not be

chargeable to the Area Agency. Any unauthorized expenditures shall be borne by Contractor. The contractor is required to submit a request for reimbursement no later than thirty (30) days from the end of the service month. For contractors requesting reimbursement requests quarterly, the request is to be submitted within thirty (30) days following the end of the quarter.

Any reimbursement for authorized travel and per diem under the terms of this agreement shall be at rates not to exceed those amounts paid by the State in accordance with Department of Personnel Administration's rules and regulations.

- Mileage -<http://www.dpa.ca.gov/personnel-policies/personal-vehicle-mileage-reimbursement.htm>
- Per Diem (meals and incidentals) - <http://www.dpa.ca.gov/personnel-policies/travel/meals-and-incidentals.htm>,
- Lodging -<http://www.dpa.ca.gov/personnel-policies/travel/short-term-travel.htm>

This is not to be construed as limiting the Contractor from paying any differences in costs, from funds other than those provided by the Area Agency on Aging, between the Department of Personnel Administration rates and any rates the Contractor is obligated to pay under other contractual agreements. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the Area Agency on Aging. (CCR, Title 2 Section 599.615 et seq.)

Section 2

All payments shall be made in accordance with the provisions of this agreement and the Authorized Total Budget. The funds to be paid by the Area Agency to Contractor are solely federal and state funds and shall be spent in accordance with the Authorized Total Budget. Contractor must obtain prior approval in writing from Area Agency's representative for any budget modifications.

Section 3

The Area Agency may, at its discretion, reallocate to other projects that portion of Contractor's Older Americans Act award which (during the mid-year or other budget review) is projected to become unexpended grant funds.

Section 4

Contractor shall maintain accounting records (including payroll records, bills, invoices and receipts) for all funds received pursuant to this agreement separate from any other funds administered by Contractor. This shall include project income and all matching funds indicated in the grant application. Contractor shall expend the same solely for the purpose of the project, and shall refund to the Area Agency any unencumbered amounts upon termination or completion of the subject project. Contractor shall also account for all other non-cash items reflected in the budget of the grant application.

Section 5

In the event Contractor receives payment for a service to which reimbursement is disallowed by the Area Agency or to the Area Agency by the California Department of Aging or the Federal Administration on Aging, Contractor shall promptly refund the disallowed amount to the Area Agency on request.

Section 6

Funds made available under this Agreement shall supplement, and not supplant, any federal, State, or local funds expended by a State or unit of general purpose local government to provide Title III (excluding III E), or Title VII Programs.

Funds made available under Title III E shall supplement and not supplant other services that may directly or indirectly support informal caregiving, such as Medicaid waiver programs (e.g., MSSP, etc.), or other caregiver services such as those provided through Caregiver Resource Centers, Linkages, Alzheimer's Day Care Resource Centers, Respite Purchase of Service, and other Title III funded providers.

Section 7

Costs incurred by the Contractor or subcontractor must be verifiable from the records of the Contractor or subcontractor and must be allowable as outlined in Office of Management and Budget (OMB) circulars and may be cash or in-kind contributions.

Section 8

The maximum reimbursement amount allowable for indirect costs is 8% of Contractors direct costs, excluding in-kind contributions and nonexpendable equipment.

Article IV: Reporting and Evaluation

Section 1

Contractor shall submit status reports to the Area Agency on a monthly basis in a form to be determined by the Area Agency. All program reports are due on or before the fifteenth of each month following the month being reported and shall contain the information requested by the Area Agency.

Section 2

Area Agency may, at its discretion, conduct periodic evaluations or audits of the Program. Contractor shall cooperate with the Area Agency in evaluations of the Program as scheduled by the Area Agency. Contractor will collect and make available all pertinent project information as needed and/or requested, and participate in any project site visits made by the Area Agency. No request for payment of funds shall be approved by the Area Agency's representative until such reports have been timely filed.

Article V: Information Integrity and Security

Contractor shall protect from unauthorized disclosure the names and other identifying information concerning persons receiving services pursuant to this agreement, except for statistical information not identifying any participant. This provision shall remain in force even after termination of the contract. Contractor shall not use such identifying information for any other purpose than carrying out Contractor's obligations under this agreement. Identifying information shall include, but not be limited to, name, identifying number, social security number, state driver's license or state identification number, financial account numbers, symbol or other identifying characteristic assigned to the individual, such as finger or voice print or a photograph.

Contractor will not, except as otherwise specifically authorized or required by this agreement or court order, disclose any identifying information obtained under the terms of this agreement to anyone other than the Area Agency and/or the California Department of Aging without prior written authorization from the Area Agency and/or the California Department of Aging. Contractor may be authorized, in writing, by a participant to disclose identifying information specific to the authorizing participant.

Contractor may allow participants to authorize the release of information to specific entities, but shall not request or encourage any participant to give blanket authorization to sign a blank release, nor shall Contractor accept such from any participant.

Contractor is required to encrypt (or use an equally effective measure), any data collected under this Agreement that is confidential, sensitive, and/or personal including data stored on portable computing devices (including but not limited to, laptops, personal digital assistants, and notebook computers) and/or portable electronic storage media (including but not limited to, discs and thumb/flash drives, portable hard drives). The Contractor shall ensure that personal, sensitive and confidential information is protected from inappropriate or unauthorized access or disclosure in accordance with applicable laws, regulations and State policies. The requirement to protect information shall remain in force until superseded by laws, regulations or policies.

Contractor agrees to comply with the privacy and security requirements of the Health Insurance Portability and Accountability Act (HIPAA) to the extent applicable and to make all reasonable efforts to implement HIPAA requirements.

Article VI: State Licensure Requirements

Contractor represents or warrants that it possesses or will possess all necessary licenses, permits, notices and certificates required to provide the services which are the subject of this agreement prior to the commencement date of the agreement.

Article VII: Contributions for Social Services

Contractor shall provide older persons receiving services the opportunity to contribute to all or part of the costs of the social services provided. Contractor will consult with the project consumer participation body regarding proposed contributions. Each individual recipient will determine what he or she is able to contribute toward the cost of the social service. No older person will be denied a social service because of his or her failure to contribute.

Means tests shall not be used by any Contractor for any Title III or Title VII services nor shall services be denied to any Title III or Title VII client that does not contribute toward the cost of the services received. Methods used to solicit voluntary contributions for Title III and Title VII services shall be non-coercive. Donation letters sent to clients for Title III and Title VII services shall stipulate that contributions are voluntary and not required to receive service.

In the event that Contractor generates program income from a program funded by this agreement, this income must be reported and expended under the same terms and conditions as the program funds from which it is generated. Program income must be used to expand services and be used to pay for current allowable costs of the program in the same fiscal year that the income was earned. For programs funded by Title III B, Title III C, Title III D, Title III E, Title VII Ombudsman and Title VII Elder Abuse Prevention programs, program income must be spent before contract funds and may reduce the total amount of contract funds payable to Contractor. Program income may not be used to meet the matching requirements of this contract.

Article VIII: Non-Discrimination

Contractor shall comply with all federal and state statutes relating to non-discrimination, including those contained in the Contractor Certification Clauses (CCC1005) which is hereby incorporated by reference. These include, but are not limited to: (a) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et. seq.), as amended by the Equal Opportunity Act of March 24, 1972 (Public Law 92-261); (b) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color, or national origin; (c) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (d) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicap; (e) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (f) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to non-discrimination on the basis of drug abuse; (g) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to non-discrimination on the basis of alcohol abuse or alcoholism; (h) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3) as amended, relating to confidentiality of alcohol and drug abuse patient records; (i) Government Code sections 11135-11139.5, and Section 98000 et seq. of Title 22 of the California Code of

Regulations, which prohibits recipients of state financial assistance from discriminating against persons based on race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability (22 CCR 98323)(Chapter 182, Stats. 2006), Title VII of the Civil Rights Act of 1968 (42 U.S.C. §§ 43601 et seq.) as amended, relating to nondiscrimination in the sale, rental or refinancing of housing; (J) any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; and, (k) the requirements of any other nondiscrimination statute(s) which may apply to this agreement.

Contractor shall comply with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. §§ 12101 et seq.)

Article IX: Training

Contractor agrees to participate in staff training and development programs provided by the Area Agency, the California Department of Aging, the Administration on Aging, or any of their agents. Contractor shall make budget provisions to pay for the travel, per diem, and tuition costs of such efforts as required or necessary.

Article X: Lobbying Certification

Contractor certifies to the best of its knowledge and belief that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of a federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, or an officer or employee of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions. The form is available upon request from the Area Agency.
3. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Article XI: Subcontracts and Assignments

In the event any subcontractor or assignment is utilized by Contractor for any portion of the project, Contractor retains the prime responsibility for carrying out all of the terms of this agreement, including, but not limited to, the responsibility for preserving the State's copyrights and rights in data, for handling property in accordance with Article XVIII of this agreement, and the responsibility for ensuring the availability and retention of records of subcontractors and assignments in accordance hereto. No subcontract or assignment utilizing funds from this agreement shall be entered into which has a term extending beyond the ending date of this agreement as set forth in Article II hereto. Any subcontracts to provide program services under this agreement shall be approved in writing by an Area Agency designated representative and shall have no force or effect until so approved and will be subject to the provision of this agreement. Purchase of items such as standard commercial supplies, office space, or printing services do not require a subcontract and do not require prior Area Agency approval. A copy of any executed subcontract or assignment must be forwarded to the Area Agency within thirty (30) days after the beginning of the subcontract or assignment. Contractor will be responsible for monitoring the insurance requirements of its subcontractors in accordance with Article XVI of this contract.

Article XII: Recordkeeping

Contractor shall maintain complete records (which shall include, but not be limited to: accounting records; contracts; agreements; reconciliation of the "Financial Closeout Report" to the audited financial statements; a summary worksheet of results from the audit resolutions performed for all subcontractors with supporting documentation; letters of agreement; insurance documentation in accordance with this contract; Memorandums and/or letters of understanding; patient or client records; and, electronic files) of its activities and expenditures hereunder in a form satisfactory to the Area Agency and the California Department of Aging in compliance with the laws and regulations of the State of California and the Department of Health and Human Services. The financial records of Contractor as they pertain to this grant are subject to audit by the Area Agency. Contractor shall allow the California Department of Aging, the Controller General of the United States, or duly authorized representatives of any of those entities, to inspect Contractor books and records at any time during the grant period, and for a period of four (4) years after the expiration of the grant. Contractor will maintain responsibility for such records, both during the grant period and the ensuing four (4) year period following the last transaction related to the grant. Records for non-expendable property must be retained for four (4) years subsequent to the final disposition of this property.

If any unauthorized expenditures, unallowable expenditures, or irregularities are discovered, Contractor is responsible for making any necessary reparation to the Area Agency. If an audit is commenced or discovers any unallowable expenditures or irregularities, the records must be kept by Contractor as long as necessary until the issue is satisfactorily resolved. After the authorized period has expired, confidential records shall be shredded and disposed of in a manner that will maintain confidentiality.

Article XIII: Unexpended Funds

Contractor understands and agrees that there is no provision for carryover of unexpended grant funds at the end of the contract period. Unexpended grant funds will be returned to the Area Agency.

Article XIV: Audit and Close-out Requirements

Section 1

Contractor shall provide to Area Agency a copy of any audit performed of Contractor within thirty (30) days of its completion.

Section 2

Within thirty days (30) days after the close of the project period or when requested by the Area Agency (whichever comes earlier), Contractor shall provide the Area Agency with an ending Close-out Financial Report signed by Contractor's representative. The Area Agency shall provide Contractor the form on which to complete the Close-out Financial Report and the Close-out Financial Report shall contain all the information required by the Area Agency.

Section 3

A specific grant-funded program audit will be performed and shall be provided to the Area Agency within ninety (90) days after the close of any contract when requested by the Area Agency. The auditors shall comply with all applicable audit requirements.

Contractors expending less than \$500,000 in total federal funds are exempt from federal audit requirements but their records must be available for review. Area Agency reserves the right to determine whether Contractor expended the funds provided under this agreement in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of Contractor (financial statements including working papers and accounting records) or through other means (e.g., monitoring reviews) if Contractor has not been audited. Accounting records must contain receipts and/or other documentation enumerated in Article III Section 4 of this contract, to support all claims.

Contractors that expend \$500,000 or more in Federal Awards (not necessarily from the Area Agency) shall arrange for an audit to be performed as required by the Single Audit Act of 1984, Public Law 98-502, Single Audit Act Amendments of 1996, Public Law 104-156, and Office of Management and Budget (OMB) Circular A-133. Contractor shall permit independent auditors to have access to the records and financial statements as necessary for Contractor to comply with OMB Circular A-133.

The Contractor shall ensure that Federal-Funded expenditures are displayed discretely in the single audit report's "Schedule of Expenditures of Federal Awards" (SEFA) under

the appropriate Catalog of Federal Domestic Assistance (CFDA) number along with the related State-Funded expenditures. The Contractor shall ensure that the State-funded expenditures are discretely identified in the SEFA by the appropriate program name, identifying grant/contract number, and as passed-through the Area Agency on Aging.

The following closely related programs identified by CFDA number are to be considered as an "Other Cluster" for purposes of determining major programs or whether a program specific audit may be elected. The Contractor shall identify the CFDA titles and numbers to the independent auditor conducting the organization's single audit. The funding source (Federal Grantor) for the following programs is the U.S. Department of Health and Human Services.

- 93.041 - Special Programs for the Aging-Title VII, Chapter 3- Programs for Prevention of Elder Abuse, Neglect, and Exploitation (Title VII-B)
- 93.042 - Special Programs for the Aging-Title VII, Chapter 2- Long Term Care Ombudsman services for Older Individuals (Title VII-A)
- 93.043 - Special Programs for the Aging-Title III, Part D- Disease Prevention and Health Promotion Services (Title III-D)
- 93.044 - Special Programs for the Aging-Title III, Part B – Grants for Supportive Services and Senior Centers (Title III-B)
- 93.045 - Special Programs for the Aging-Title III, Part C – Nutrition Services (Title III-C)
- 93.052 - National Family Caregiver Support-Title III, Part E
- 93.053 - Nutrition Services Incentive Program (NSIP)

Any money obligated under the grant (even if in the possession of Contractor) but not needed to meet incurred obligations will be returned with the Closeout Financial Report to the Area Agency.

The California Department of Aging shall have access to all audit reports of Contractor and has the option to perform audits and/or additional work, as needed.

It is understood that the costs of audits requested by the Area Agency shall be at the expense of Contractor. Unless prohibited by law, the cost of audits made in accordance with the provisions of the Single Audit Act Amendments of 1996, are allowable charges to Federal Awards. The costs may be considered a direct cost, or an allocated indirect cost, as determined in accordance with provisions of applicable OMB cost principal circulars. Contractor may not charge to Federal Awards the cost of any audits under the Single Audit Act Amendments of 1996, not conducted in accordance with the Act.

Contractor will ensure that appropriate corrective action has been taken to correct instances of non-compliance with federal laws and regulations. Corrective action shall be taken within six months after the Area Agency receives Contractor's audit report.

Article XV: Indemnity

1. All activities and/or work covered by this Agreement shall be at the risk of Contractor alone. Contractor agrees to defend (at Area Agency's request), indemnify, and hold

harmless the Area Agency and the County of Ventura, including all of its boards, districts, agencies, departments, officers, employees, agents and volunteers, against any and all claims and losses, lawsuits, judgments, debts, demands and liability, injuries or death of persons and/or damages to property arising directly or indirectly out of the obligations herein described or undertaken, or out of operations conducted or subsidized in whole or in part by Contractor, save and except claims or litigation arising through the sole negligence or wrongdoing and/or sole willful misconduct of the Area Agency and the County of Ventura.

Contractor further agrees to indemnify, defend, and hold harmless the Area Agency, the County of Ventura and the California Department of Aging, their officers, agents, and employees from any and all liability, claims and losses, damages or expenses, including reasonable attorneys fees arising from all acts or omissions to act of contractor or its officers, agents or employees in rendering services under this contract; excluding, however, such liability, claims, losses, damages or expenses arising from Agency's sole negligence or willful acts accruing to or resulting from any subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with any activities performed for which funds from this agreement were used and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by Contractor in the performance of this agreement.

2. Contamination and Pollution. Contractor, solely at its own cost and expense, will provide clean up of any premises, property, or natural resources contaminated or polluted due to Contractor activities. Any fines, penalties, punitive or exemplary damages assigned due to contamination or polluting activities of Contractor will be borne entirely by Contractor. Any Contractor receiving more than \$100,000 in funding shall comply with all orders or requirements issued under the following laws: Clean Air Act, as amended (42 U.S.C. 1857); Clean Water Act, as amended (33 U.S.C. 1368); Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.); Environmental Protection Agency Regulations (40 CFR, Part 15 and Executive Order 11738), and Public Contract Code Section 10295.3.
3. Contractor, and the agents and employees of Contractor, in the performance of this Agreement, duties, and obligations, and in the exercise of the rights granted under this Agreement shall act in an independent capacity and not as officers or employees or agents of the Area Agency, the County of Ventura or the State of California.
4. If, in the performance of this Agreement, Contractor chooses to associate, subcontract with, or employ any third person in carrying out its responsibilities under this Agreement, any such third person shall be entirely and exclusively under the direction, supervision, and control of Contractor. All terms of association, subcontract or employment, including hours, wages, working conditions, discipline, hiring and discharging, or any other terms of association, subcontract or employment or requirements of law, shall be determined by Contractor, and the Area Agency shall have no right or authority over such persons or the terms of their association,

subcontract or employment, except as provided in this Agreement. Neither Contractor nor any such person shall have any claim under this Agreement or otherwise against the Area Agency for sick leave, vacation pay, retirement benefits, social security benefits, workers' compensation, disability, unemployment insurance benefits, or employee benefits of any kind.

5. Contractor is an independent contractor and shall hold the Area Agency and the County of Ventura harmless from any and all claims that may be made against the Area Agency or the County of Ventura based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement. The Area Agency is not required to make any deductions from the compensation payable to Contractor under the provisions of this Agreement. Contractor shall be solely responsible for self-employment social security taxes, income taxes and any other taxes levied against it. Contractor does not assign such obligation to the Area Agency for collection or administration except as may be required by federal and state statutes.

Contractor further agrees to hold the Area Agency harmless from, and to compensate the Area Agency for, any claims against the Area Agency for payment of state or federal income or other tax obligations relating to Contractor's compensation under the terms of this Agreement.

Article XVI: Insurance

Contractor, at its sole cost and expense, shall obtain and maintain in full force during the term of this agreement, adequate liability insurance to cover all activities of Contractor necessary to fulfill Contractor's obligations under this Agreement. It is understood and agreed that the Area Agency reserves the right to determine the type and extent of insurance that may be required:

1. Prior to commencement of any work under this Agreement Contractor shall maintain the following insurance:
 - (a) **General liability** "occurrence" coverage in the minimum amount of \$1,000,000 combined single limit (CSL) bodily injury & property damage each occurrence, and \$2,000,000 aggregate (\$3,000,000 million for Senior Nutrition and Brown Bag contractors), including personal injury, broad form property damage, products/completed operations and broad form blanket contractual and \$100,000 fire legal liability. The Area Agency will accept a statement of self-insurance which provides the required coverage.
 - (b) **Workers' Compensation Insurance** coverage, in full compliance with California statutory requirements, for all employees of Contractor and Employer's Liability in the minimum amount of \$1,000,000.

(c) **Professional liability and/or medical malpractice** as it appropriately relates to services being rendered. Coverage in the minimum amount of \$1,000,000 each occurrence and \$3,000,000 aggregate.

(d) **Automobile liability** including owned, non-owned, and hired auto liability, for not less than \$1,000,000 for volunteers and paid employees providing services supported by the contractual agreement.

2. All insurance required shall be primary coverage in respect to the Area Agency and the County of Ventura, and any insurance or self-insurance maintained by the Area Agency and the County of Ventura shall be in excess of Contractor's insurance coverage and shall not contribute to it.
3. The County of Ventura and the Ventura County Area Agency on Aging are to be named as Additional Insured with respect to work done by Contractor under the terms of this Agreement on all policies required (except Workers' Compensation).
4. Contractor agrees to waive all rights of subrogation against the County of Ventura and the Ventura County Area Agency on Aging for losses arising directly or indirectly from the activities and/or work performed by Contractor under the terms of this agreement (applies only to Commercial General Liability and Workers' Compensation).
5. The Area Agency is to be notified immediately if any aggregate insurance limit is not met. Additional coverage must be purchased to meet requirements.
6. Policies will not be canceled, non-renewed, or reduced in scope of coverage at any time that said policies are required by this agreement until after 30 days' written notice has been given to the Area Agency and approved in writing by the Area Agency. If the reason for cancellation is non-payment of the insurance premium, 10 days' written notice is acceptable.
7. Contractor agrees to provide the Area Agency with the following insurance documents on or before the effective date of this contract:
 - (a) Certificates of Insurance for all required coverages. The Area Agency shall be named the certificate holder and the address must be listed on the certificate.
 - (b) Additional Insured endorsements naming the Area Agency and the County of Ventura and authorized with a signature by the insurance carrier.
 - (c) Waiver of Subrogation endorsement (A.K.A.: Waiver of Transfer Rights of Recovery Against Others, Waiver of Our Right to Recover from Others).
8. If Contractor fails to maintain insurance as required, Area Agency shall have the right, but not the duty, to purchase any such required insurance on Contractor's behalf (a) utilizing grant funds and/or (b) with Contractor obligated to reimburse Area

Agency promptly for all such costs not paid by Area Agency directly out of grant funds. Failure to maintain adequate insurance and/or bonds pursuant to Article XVI(a) hereof shall constitute a material breach for which the Area Agency may terminate this Agreement effectively by giving written notice to Contractor, or as other indicated in said notice. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve Contractor from liability in excess of such coverage, nor shall it preclude Area Agency from taking such other actions as are available to it under any other provisions of this Agreement or otherwise by law.

9. If the Professional Liability coverage is "claims made", Contractor must, for a period of three (3) years after the date when contract is terminated, completed or non-renewed, maintain insurance with a retroactive date that is on or before the start date of this agreement OR Contractor must purchase an extended reporting period endorsement (tail coverage). The Area Agency may withhold final payments due until satisfactory evidence of the tail coverage is provided by Contractor to the Area Agency.

Article XVII: Grant Modifications

Any revision, waiver, or modification of this agreement must be approved in writing by the Area Agency by amendment to this agreement. Only a grant modification that changes a single approved budget line item that is less than 10 percent may be made without prior written approval by the Area Agency.

Article XVIII: Equipment and Property (per State Contract Manual – Section 3.17.2)

1. Unless otherwise provided for in this Article, property refers to all assets, capitalized or non-capitalized, used in operation of this Agreement. Property includes land, buildings, improvements, machinery, vehicles, furniture, tools, and intangibles, etc. Property does not include consumable office supplies such as paper, pencils, typing ribbons, file folders, etc.
2. Property meeting all of the following criteria is subject to the capitalization requirement. Such property must:
 - (a) Have a normal useful life of at least 1 year;
 - (b) Have a unit acquisition cost of at least \$5,000 (e.g., four identical assets which cost \$3,000 each, for a \$12,000 total would not meet this capitalization requirement); and,
 - (c) Be used to conduct business under this Agreement.
3. Non-capitalized property includes those items which do not meet all three requirements in this Article, Section B above.
4. Additions, improvements, and betterments to assets meeting all of the conditions in Section 2(b) above must be capitalized. Additions typically involve physical extensions of existing units. Improvements and betterments typically do not increase the physical size of the asset. Instead, improvements and betterments

enhance the condition of an asset (e.g., extend life, increase service capacity, and lower operating costs). Examples of assets that might be improved and bettered include roads, bridges, curbs and gutters, tunnels, parking lots, streets and sidewalks, drainage, and lighting systems.

5. Intangibles are property which lack physical substance but give valuable rights to the owner and can be capitalized or non-capitalized. Examples of intangible property include patents, copyrights, leases, and computer software. By contrast, hardware consists of tangible equipment (e.g., computer printer, terminal, etc.).

Costs include all amounts incurred to acquire and to ready the intangible asset for its intended use. Typical intangible property costs include the purchase price, legal fees, and other costs incurred to obtain title to the asset.

6. Equipment purchased shall be subject to applicable state and federal procurement procedures.
7. Any equipment purchased under Older Americans Act programs will be subject to review over the life of the equipment and, if not used, underused or misused, may be claimed by the Area Agency.
8. The State shall retain title to all equipment purchased wholly or in part with federal and state funds and described as "Equipment" in the budget set forth in the grant application incorporated herein by reference to the extent permitted under federal and state regulations.
9. Contractor is required to keep records of the following information when property is purchased with Grant funds. This information should include the date acquired, property description (including model number), property identification number, serial number, rate of depreciation (or depreciation schedule) if applicable, and cost. This information is to be provided to the Area Agency.

Contractor shall keep track of all property purchased with Grant funds, whether capitalized or not. Contractor shall submit to the Area Agency annually, with the Close-out Financial Report, a current inventory of property furnished or purchased by Contractor with funds awarded under the terms of this Agreement or any predecessor agreement for the same purpose.

10. Prior to the disposal of any non-expendable property purchased with grant funds. Contractor must obtain permission from the Area Agency regardless of the acquisition value. Disposition, which includes sale, trade-in, discarding, or transfer to another agency, may not occur until approval is received from the Area Agency.
11. Contractor shall inform Area Agency within three days in the event of the loss, destruction, or theft of grant-purchased non-expendable property.

12. Contractor shall exercise due care in the use, maintenance, protection and preservation of such property during the period of the project, and shall assume responsibility for replacement or repair of such property during the period of the project, until Contractor has complied with all written instructions from the Area Agency regarding final disposition of the property.
13. Contractor shall use the property for the purpose for which it was intended under this agreement. When no longer needed for that use, Contractor shall use it if needed, and with written approval of the Area Agency, for other purposes in this order:
 - (a) another California Department of Aging program providing the same or similar service; or,
 - (b) another California Department of Aging funded program; or,
 - (c) another state or federally funded program.

Contractor shall not use equipment or supplies acquired under this agreement with federal and/or state monies for personal gain or to usurp the competitive advantage of a privately owned business entity.

Article XIX: Planning Efforts

Contractor shall cooperate fully with the Area Agency in any efforts toward developing a comprehensive and coordinated system of services for the elderly. Contractor shall participate in joint planning efforts and service which may include the shared use of grant-funded equipment, service coordination, and other activities as may be determined by the Area Agency to attain this goal.

Article XX: Personnel

Contractor shall maintain adequate staffing levels to perform at the contracted level as stipulated in the grant application submitted to the Area Agency. Contractor shall actively seek qualified older persons for paid positions on the project and make provisions for volunteer opportunities for older persons.

Article XXI: Debarment, Suspension, and other Responsibility Matters

Contractor certifies to the best of its knowledge and belief, that it or its agents:

1. are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
2. have not, within a three-year period preceding this Agreement, been convicted of, or had a civil judgment rendered against them, for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlements, theft, forgery,

bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3. are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and,
4. have not, within a three-year period preceding this Agreement, had one or more public transactions (federal, state, or local) terminated for cause or default.

Contractor shall report immediately to the Area Agency in writing any incidents of alleged fraud or abuse. Contractor will maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by the Area Agency on Aging.

Article XXII: Living Wage Ordinance

This contract is subject to the County of Ventura Living Wage Ordinance ("Ordinance"). The Ordinance requires the payment of a living wage and accompanying paid time off to all covered employees engaged in providing services pursuant to a service contract as defined in Sec.4952 (f). Misrepresentation during the procurement or contracting process in order to secure the contract will disqualify a bidder or contractor from further consideration in the procurement or contracting process. Failure to comply once a contract has been awarded will constitute a material breach of the contract and may result, among other things, in the suspension or termination of the affected contract and debarment from future County contracting opportunities for a period not to exceed three years. 501 (c)(3) nonprofit organizations are exempt from the Ordinance.

Article XXIII: Termination of Grant

Section 1

Older Americans Act funds awarded under this grant may be terminated by the Area Agency at any time for non-compliance with any of the terms and conditions of this grant provided that at least thirty (30) days written notice is given to Contractor.

Section 2

The Contractor (applies to all grants except for the Ombudsman) may terminate this grant at any time, for reasons of its own choosing, provided that at least one hundred and twenty (120) days written notice is given to the Area Agency. The Ombudsman Contractor shall carry out the federal and state mandates and responsibilities without any break in the provision of ombudsman services. Contractor shall promptly notify the Area Agency of any intention to terminate responsibility for ombudsman services. Except as provided elsewhere in this agreement, Contractor shall continue the program without any break in service until another contractor can take over responsibility for operation of the program.

Section 3

Contractor shall promptly notify the Area Agency of any intention to terminate responsibility for providing the specified grant funded services.

Section 4

This contract may be terminated on twenty-four (24) hours notice in the event the allocation to the Area Agency of Older Americans Act and/or state funds are reduced, suspended, or terminated for any reason. Contractor hereby expressly waives any and all claims against the Area Agency for damages arising from the reduction, suspension, or termination of the federal and/or state funds provided to the Area Agency, under which this agreement is made, or to the portion thereof delegated by this agreement.

Section 5

In the event that Contractor dissolves or terminates this contract, Contractor shall provide a final property inventory to the Area Agency. The Area Agency and the California Department of Aging reserve the right to require Contractor to transfer such property to another agency, the Area Agency, or the California Department of Aging.

To exercise the above right, no later than 120 days after the termination of the Agreement or notification of Contractor's dissolution, the Area Agency will issue specific written disposition instructions to Contractor.

Article XXIV: Access

Contractor shall provide access to the federal or state agency, Bureau of State Audits, the Controller General of the United States and the Area Agency, or any of their duly authorized federal or state representatives, to any books, documents, papers, records, and electronic files of Contractor which are directly pertinent to this specific Agreement for the purpose of audit, examination, excerpts, and transcriptions.

Article XXV: Monitoring

1. Authorized State representatives and Area Agency representatives shall have the right to monitor, assess, and evaluate Contractor's performance pursuant to this Agreement. Said monitoring, assessment, and evaluation may include, but is not limited to: audits, inspections of project premises, inspection of food preparation sites and interviews of project staff and participants.
2. Contractor shall cooperate with the State and the Area Agency in the monitoring, assessment and evaluation processes, which include making any administrative program and fiscal staff available during any scheduled process.

Article XXVI: Grievance

Section 1

Contractor is required to establish a written grievance procedure for reviewing and attempting to resolve complaints of older individuals (California Code of Regulations Section 7400(a)(2)). At a minimum the process shall all of the following:

- (a) Time frames within which a complaint will be acted upon.
- (b) Written notification to the complainant of the results of the review, including a statement that the complainant may appeal to the Area Agency if dissatisfied with the results of the Contractors review.
- (c) Confidentiality provisions to protect the complainant's rights to privacy. Only information relevant to the complaint may be released to the responding party without the older individual's consent.

Section 2

Contractor is required to notify all older individuals of the grievance process through their organization as well as the Area Agency. Contractor may notify older individuals by the following methods:

- (a) Posting notification of the process in visible and accessible areas, such as the bulletin boards in senior centers. For areas in which a substantial number of older individuals are non-English speaking, the notification shall also be posted in the primary language of a significant number of older individuals. The term "substantial number" and "significant number" shall be determined by the Area Agency.
- (b) Advising homebound older individuals of the process either orally or in writing upon the service providers' contact with the individuals.

Section 3

Complaints may involve, but not be limited to, any or all of the following: amount or duration of a service, denial or discontinuance of a service or dissatisfaction with the service being provided or with the service provider, complaints regarding an issue of professional conduct that is under the jurisdiction of another entity, such as the California Medical Board or the State Bar Association, or failure of the Contractor to comply with the terms of this contract. Sections 9102 and 9105, Welfare and Institutions Code. Reference 42 U.S.C. 3026(a) (6) (P) and 3027 (a) (43).

Article XXVII: Contract for Responsibility and Notification

Section 1

The Director of the Ventura County Area Agency on Aging, or designee, shall be the Area Agency's representative for purposes of administering this agreement. Greg Barnes and Beth Vo shall represent Contractor. *If the Contractor's representative changes, Contractor agrees to immediately notify the Area Agency's Grants Manager.*

Section 2

Any notice or notices required or permitted to be given pursuant to this agreement may be personally served on the other party by the party giving such notice, or may be served by certified mail, return receipt requested, to the following address:

AREA AGENCY:

Ventura County Area Agency on Aging
L#4450
646 County Square Drive, Suite 100
Ventura, CA 93003-9086

CONTRACTOR:

At address shown on Page 1 of
this Agreement.

IN WITNESS THEREOF, the Area Agency and Contractor have executed this Agreement as of the date first written above.

COUNTY OF VENTURA
Area Agency on Aging

CITY OF OXNARD

Dr. Thomas E. Holden, Mayor

By: _____
Authorized Purchasing Agent
GSA Procurement
County of Ventura

ATTEST:

Date

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Alan Holmberg, City Attorney

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING THE CONTRACT WITH THE COUNTY OF VENTURA TO ASSUME DAY-TO-DAY SITE OPERATIONS FOR THE CITY OF OXNARD SENIOR NUTRITION PROGRAM.

WHEREAS, the Ventura County Area Agency on Aging ("VCAAA") currently receives Older Americans Act Funds in order to provide county-wide senior nutrition program services in Ventura County, including the Wilson, Colonia and South Oxnard Senior Center programs; and

WHEREAS, VCAAA is planning a continuation of the county-wide senior nutrition program effective July 1, 2012; and

WHEREAS, the continued county-wide senior nutrition program will result in the VCAAA arranging for the purchase and periodic delivery of frozen meals to the senior centers; and

WHEREAS, the VCAAA has agreed to allow the City to collect and retain program revenues and voluntary donations and has further agreed to provide federal grant funding to offset the cost of the City providing day-to-day management of the Oxnard Senior Nutrition Program at the senior centers; and

NOW, THEREFORE, the City Council of the City of Oxnard does resolve as follows:

SECTION 1: The Mayor is authorized to execute an agreement for the Fiscal Year 2012-2013 Senior Nutrition Program, in the amount of \$80,371 with the VCAAA.

SECTION 2: The City will enter into a twelve-month (July 1, 2012 to June 30, 2013) agreement with the County of Ventura and the City of Oxnard for the operation of the Senior Nutrition Program.

SECTION 3: The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the Office of the City Clerk.

PASSED AND ADOPTED this 10th day of July, 2012 by the following vote:

AYES:

NOES:

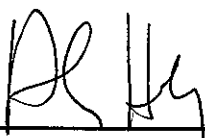
ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Alan Holmberg, City Attorney

REQUEST FOR SPECIAL BUDGET APPROPRIATION

Department: Recreation
Project/Program
Manager: Richard Arias

Date: July 3, 2012

Phone: 7990

Reason for Appropriation:

To recognize FY12-13 Senior Nutrition grant from Ventura County Area Agency Aging and program donation as matching contribution

Accounts and Descriptions

AMOUNT

Fund: FEDERAL TERM GRANTS FUND (261)

Revenues

SENIOR NUTRITION PROGRAM FY13 (Project 775355)

261-5307-581-75-33	MISC. REVENUES / FEDERAL PASS-THRU.	80,731
261-5390-581-75-08	MISC. REVENUES / DONATION	20,000

Sub-total Revenues

100,731

Expenditures

SENIOR NUTRITION PROGRAM FY13 (Project 775355)

261-5307-805-8001	DIRECT LABOR	51,500
261-5307-805-8109	SUPPLIES OTHERS	3,410
261-5307-805-8209	SRV PROF' CONTRACT	25,821
261-5390-805-8001	DIRECT LABOR	20,000

Sub-total Expenditures

100,731

Net Change to Fund Balance

(100,731)

Approvals

Department Director

Chief Financial Officer

City Manager

James Cameron

ATTACHMENT

PAGE 1 OF 1



ACTION	TYPE OF ITEM
☐ Approved Recommendation	☐ Info/Consent
☐ Ord. No(s). _____	☐ Report
☐ Res. No(s). _____	☒ Public Hearing
☐ Other _____	☐ Other _____

Prepared By: Brian Foote, AICP, Associate Planner *B-F* Agenda Item No. L-1

Reviewed By: City Manager *MMH* City Attorney *SMT* Finance *JC* Other (Specify) _____

DATE: June 12, 2012

TO: City Council

FROM: Susan L. Martin, AICP, Planning Manager *SM*
Development Services Department

SUBJECT: Planning & Zoning Permit No. 11-570-02 Requesting a Zone Change to General Commercial Planned Development (C-2-PD), and Appeal of Planning Commission's Denial of Planning & Zoning Permit No. 11-510-09 Requesting a Type 20 ABC License for a Proposed 7-Eleven Store. Located at 1001 and 1051 East Channel Islands Blvd. Filed by Designated Agent Lucy Dinneen, Cadence Capital Investments LLC, on Behalf of Property Owner Channel Islands Inn LP.

RECOMMENDATION

That City Council adopt a resolution denying Planning & Zoning Permit No. 11-570-02 and denying the appeal and upholding the Planning Commission's denial of Planning & Zoning Permit No. 11-510-09.

DISCUSSION

On May 17, 2012, the Planning Commission considered an application for a special use permit requesting a Type 20 (Off-Sale Beer & Wine) Alcoholic Beverage Control license for a proposed 7-Eleven convenience store. The Commission followed standard protocol by opening and closing a public hearing, heard testimony, and considered the facts and circumstances of the proposed project. A motion to approve the request failed to pass with voting results being 3 ayes and 4 nays; therefore, pursuant to Commission bylaws, this failure constitutes denial or recommendation for denial of the application. As a result of the vote, no findings were made and no resolution was adopted.

Similarly, the motion before the Planning Commission to recommend City Council approval of the request to change the zone of the subject property from C-M-PD to C-2-PD failed. Under the Commission's bylaws, the failed motion resulted in a recommendation of denial. At its meeting of June 7, 2012, the Planning Commission adopted a resolution documenting the failed motions and the resulting denial of the special use permit and recommendation for denial of the zone change (Attachment #5).

The Planning Commission approved two other permits requested by the applicant: 1) a major modification (PZ No. 12-550-01) to allow the existing restaurant building to be enlarged and divided into up to three suites (see Attachment #6); and 2) a special use permit (PZ No. 11-510-10) to allow the sale of alcohol for on-site consumption in conjunction with the restaurant use, upon issuance of a Type 41 ABC license for On-Sale Beer & Wine for a Bona Fide Eating Place (see Attachment #7).

On June 1, 2012, the City Clerk received timely notice appealing the Commission's action. The appellant's consultant, Lucy Dinneen of Cadence Capital Investments LLC, prepared a letter (Attachment #8) that states that the Commission's action was arbitrary and capricious, contradicted the evidence, and was inconsistent with the Commission's approval of the Type 41 (On-Sale Beer & Wine) ABC license for the restaurant use. Pursuant to section 16-548 of the City Code, the Council's review of an appeal from a Commission decision may be heard de novo, and the Council is not restricted to considering the grounds specified in the notice of appeal.

The appellant requests approval of PZ No. 11-510-09 allowing the Type 20 ABC license in conjunction with a 7-Eleven convenience store. The appellant also requests approval of PZ No. 11-570-02 (Zone Change) to General Commercial Planned Development (C-2-PD) in order to permit the convenience store. The current zoning of Commercial & Light Manufacturing (C-M-PD) does not permit convenience stores; therefore, the zone change to C-2-PD is necessary in order to permit a 7-Eleven store to operate and sell beer and wine to its customers.

The record of proceedings indicates that the Commission considered and deliberated substantial evidence, and the decision was not arbitrary and capricious. The record shows that the evidence included the following: the Planning Commission staff report; Police Department report; testimony from the applicant and Police staff provided during the public hearing; five public speakers; and the Commissioner's observations from site visits. Public speakers discussed pedestrian crosswalks, proximity to schools, the Type 20 off-sale license and need for a convenience store. One member of the public spoke in favor of the convenience store. The Commission reviewed a substantial amount of evidence prior to voting, and asked several questions of the applicant and Police staff.

In summary, the Commission's deliberation and action was consistent with the provisions of City Code Section 16-531 (Requirements for Granting). The Commission deliberated, based on substantial evidence, and exercised independent judgment prior to making a decision. The motion to approve the project was made and seconded, and subsequently failed to receive the required number of votes to pass. Consistent with the established rules and procedures pertaining to conduct of the Planning Commission, staff recommends that Council uphold the Planning Commission's action and deny the appeal.

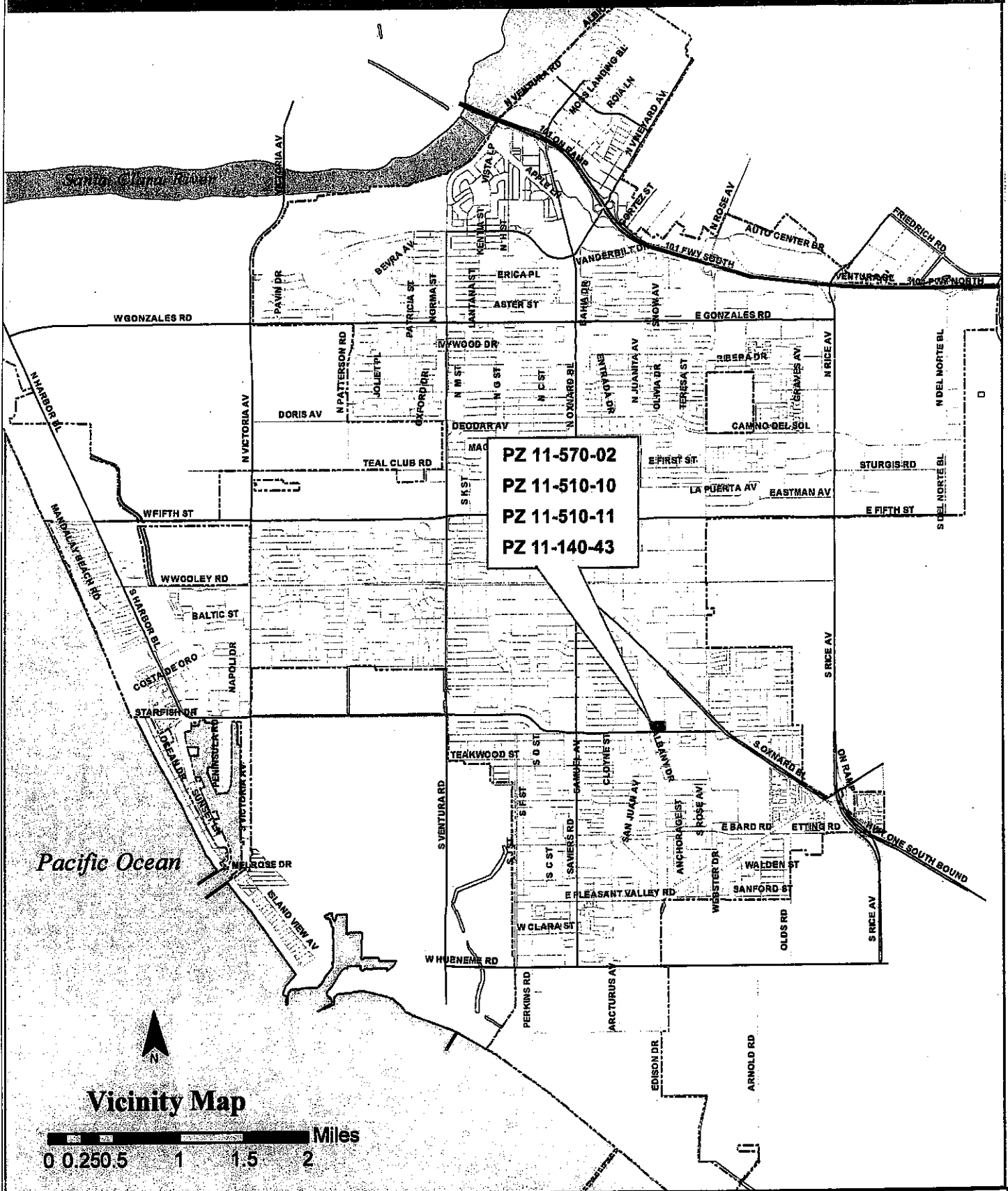
FINANCIAL IMPACT

None. The appellant paid the applicable filing fee.

Appeal / PZ 11-510-09 & 11-570-2
June 26, 2012
Page 3

Attachment #1 – Vicinity Map
#2 – City Council Resolution
#3 – Planning Commission Staff Report
#4 – Planning Commission Meeting Minutes
#5 – Planning Commission Resolution No. 2012-12
#6 – Planning Commission Resolution No. 2012-10
#7 – Planning Commission Resolution No. 2012-11
#8 – Notice of Appeal
#9 – Floor Plan

Vicinity Map



Oxnard Planning
November 22, 2011

PZ 11-570-02, 11-510-10, 11-510-11, 11-140-43
 Location: 1051 E. Channel Is. Bl.
 APN: 220022013, 220022012
 Cadence Capital

140

ATTACHMENT 1
 PAGE 1 OF 1

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S DENIAL OF PLANNING AND ZONING PERMIT NO. 11-510-09 (SPECIAL USE PERMIT – ALCOHOL) REQUESTING A TYPE 20 ALCOHOL LICENSE (OFF-SALE BEER & WINE) FOR A PROPOSED 7-ELEVEN STORE, AND DENYING PLANNING AND ZONING PERMIT NO. 11-570-02 (ZONE CHANGE), LOCATED AT 1051 EAST CHANNEL ISLANDS BOULEVARD. FILED BY DESIGNATED AGENT CADENCE CAPITAL INVESTMENTS L.L.C., 8480 E. ORCHARD RD., SUITE 2400, GREENWOOD VILLAGE, COLORADO 80111.

WHEREAS, the application for Planning & Zoning Permit Nos. 11-510-09 (Special Use Permit – Alcohol) and 11-570-02 (Zone Change), filed by Terri Dickerhoff of Cadence Capital Investments on behalf of property owner Channel Islands Inn L.P., failed to receive the number of votes required for approval by the Planning Commission, thereby resulting in a denial of said application pursuant to subsection III.D of the Planning Commission Rules and Procedures; and

WHEREAS, the Planning Commission's action was appealed to the City Council; and

WHEREAS, the City Council has carefully reviewed the application, staff report, minutes of testimony, and record of proceedings at the Planning Commission public hearing; and

WHEREAS, on June 26, 2012, the City Council conducted a public hearing and received evidence in favor of and opposed to the application for a special use permit requesting a Type 20 ABC license at the property located at 1051 East Channel Islands Boulevard; and

WHEREAS, on June 26, 2012, the City Council conducted a public hearing and received evidence in favor of and opposed to the application for a zone change requesting the General Commercial Planned Development (C-2-PD) zone designation for the properties located at 1001 and 1051 East Channel Islands Boulevard; and

WHEREAS, Section 15301 of Title 14 of the California Code of Regulations exempts the project from the requirement for the preparation of environmental documents imposed by the California Environmental Quality Act; and

WHEREAS, after due study, deliberation and public hearing, and based on the record of proceedings in this matter, the City Council finds that the following circumstances exist:

1. The denial of the proposed special use permit and zone change will not affect the preservation and enjoyment of substantial property rights of the applicant.
2. The proposed use is likely to create or significantly aggravate police problems within 1000 feet of the location for which the special use permit is applied. The City Council finds that the preponderance of the evidence indicates that area's crime rate is 12% higher than the

citywide average crime rate, and the proposed Type 20 ABC license if approved may exacerbate the crime rate.

3. The proposed use will result in or add to an undue concentration of establishments selling alcoholic beverages for off-site consumption within 1000 feet of the subject location. There is one establishment with the same Type 20 ABC license that exists within 350 feet of the proposed location, and therefore, there is a presumption that an undue concentration will result or be added to. The City Council finds that an undue concentration of alcohol uses currently exists, and that the presumption of undue concentration was not rebutted by a preponderance of evidence in the record of proceedings.

4. The proposed use would adversely affect and be materially detrimental to adjacent uses, buildings and structures, and to the public health, safety and general welfare. Of particular concern is the proximity of the proposed use to schools and its location along the pedestrian routes used by students.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oxnard, based on the findings set forth herein, hereby denies the appeal and upholds the Planning Commission's action on Planning and Zoning Permit No. 11-510-09, and approves the Planning Commission's recommendation to deny Planning and Zoning Permit No. 11-570-02.

PASSED AND ADOPTED this day of , 2012, by the following vote:

AYES:

NOES:

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Alan Holmberg, City Attorney

MINUTES

DRAFT

OXNARD PLANNING COMMISSION
REGULAR MEETING
May 17, 2012

A. ROLL CALL

At 7:00 p.m., the regular meeting of the Oxnard Planning Commission convened in the Council Chambers. Commissioners Stephen Huber, Patrick Mullin, Anthony Murguia, Gilbert Guevara, Saul Medina, Vincent Stewart, and Steven Nash were present. Chairman Murguia presided and called the meeting to order. Staff members present were: Susan Martin, Planning Manager, Jason Samonte, Traffic Engineer; Stephen Fischer, Assistant City Attorney; Cliff Waer, Senior Police Officer; Michael O'Malia, Interim Fire Chief, Juan Martinez, Associate Planner; Brian Foote, Associate Planner, and Lori Maxfield, Recording Secretary.

B. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES

Commissioner Mullin led the pledge of allegiance.

C. PUBLIC COMMENTS

D. READING OF AGENDA

Planning Manager Martin reviewed the agenda including that Interim Fire Chief O'Malia will make a verbal presentation on their strategic plan and operations.

E. CONSENT AGENDA

1. APPROVAL OF MINUTES – May 3, 2012

MOTION Commissioner Nash moved and Commissioner Stewart seconded a motion to approve the minutes of May 3, 2012 as presented. The question was called and the motion carried 6-0-0-1, Commissioner Medina abstaining.

F. REPORTS; STUDY SESSION

Interim Fire Chief O'Malia gave an overview of the 2005 Strategic Plan; operations; existing and proposed stations; response activity and times; five divisions and staffing; turnout time; funding for new stations, staff, and equipment; joint station with the County of Ventura at RiverPark; Station 8 to be funded through Measure O; mutual aid agreements with partner agencies; demand for service; current equipment and replacement plan.

G. CONTINUED PUBLIC HEARINGS

H. NEW PUBLIC HEARINGS

1. PLANNING AND ZONING PERMIT NO. 12-550-1 (Major Modification), 11-510-09 & 11-510-10 (Special Use Permit – Alcohol), and 11-570-2 (Zone Change) – A request for approval of: a major modification to construct a 1,200 square-foot addition if needed to accommodate a future retail or restaurant tenant (to be determined); a zone change to General Commercial (C-2-PD) in order to allow a convenience store and sales of alcoholic beverages; and special use permits to sell beer and wine for off-site consumption for a future convenience store (7-Eleven), and sell beer and wine for on-site consumption for a future restaurant. The project site is located at 1051 East Channel Islands Boulevard. The project is exempt from environmental review pursuant to Section 15301 of the California Environmental Quality Act (CEQA) Guidelines. Filed by Terri Dickerhoff, Cadence Capital Investments LLC, 1120 Manzanita Street, Los Angeles CA 90029.
PROJECT PLANNER: Brian Foote

Associate Planner Foote presented the staff report including surrounding uses; rezoning is for consistency; Police reports for both the 7-Eleven and the restaurant; crime rate was 12 percent higher than citywide average; not considered a policing problem; close proximity to Channel Islands High School; undue concentration; single serving bottles prohibited; hotel has their own alcohol license for hotel guests only and banquets. He also displayed site photo; aerial, location, General Plan, and zoning maps; existing and proposed site plans; floor plans; elevations; and aerial depicting the proximity to schools.

Senior Officer Waer stated that the previous restaurants didn't serve alcohol; the conditions would be the same as Fresh & Easy; Police did not consider it a problem; Fresh & Easy hasn't had any alcohol related issues; there haven't been any problems with any of the 7-Elevens in the City; the new model 7-Elevens have a safe, clean environment; and explained the process for determining saturation.

Chairman Murguia opened the public testimony.

Ms. Lucy Dineen, representing the applicant, gave a brief presentation including background on why they chose this location; retail development is their focus; building in phases; want to take existing building and adapt it; willing to work with nearby schools to minimize any potential issues; have made themselves available to the neighborhood; possibility and benefits of expansion; reuse; 7-Eleven security; and no alcohol sales between midnight and six (6:00 a.m.).

Mr. Scott Swenson spoke in opposition, referencing his 30 years experience with the Oxnard Police Department with half his career including the area of the project site; spoke with both superintendents of Oxnard and Hueneme School Districts who have concerns with the request; stated that 7-Eleven would be a magnet for children, which will increase calls for service; and expressed his concern with having a hotel adjacent to a market.

Ms. Shirley Godwin spoke in opposition to the request for a 7-Eleven indicating that the Saviers Design Group discussed the project at their recent meeting; Community Workshop was not attended as it was held just before Christmas; signs didn't indicate that the request included a 7-Eleven; and stated that the restaurant was a good idea, but not to include a convenience store next to the hotel.

Mr. Dennis Holloway expressed concern about increased pedestrian traffic that would be created; and asked if the City contracts to have red light cameras at the two intersections near the project.

Ms. Pat Brown indicated that the Radisson in San Francisco at Fisherman's Wharf had a 7-Eleven just around the corner that was convenient and worked well.

Mr. Larry Godwin stated that the previous restaurant failed because it was poorly run; concerned that the Planning Commission is being asked to approve a Type 20 alcohol permit without having a site plan; and indicated that there was currently an adult male alcohol/drug facility within approximately 500 feet of the site.

Chairman Murguia closed the public testimony.

Planning Commission discussed that it's the only hotel in the City with adjacent parking for big trucks; busy intersection; no four way pedestrian crossing; wrong location due to the close proximity to schools; the close proximity of similar existing off-site alcohol licenses, such as Amar Ranch, Fresh & Easy, and ARCO convenience store; lighting concerns; want to see a site plan; and the restaurant expansion is a good idea, but not the 7-Eleven.

MOTION Commissioner Huber moved and Commissioner Mullin seconded a motion to adopt a resolution recommending City Council approval of PZ 11-570-02, a Zone Change to change the zone district to General Commercial Planned Development, located at 1051 East Channel Islands Boulevard, subject to certain findings and conditions. The question was called and the motion failed 3-4, Commissioners Guevara, Stewart, Medina, and Murguia voting no.

MOTION Commissioner Medina moved and Commissioner Mullin seconded a motion to adopt a resolution granting PZ 12-550-01, a Major Modification to Special Use Permit 1091 to allow a 1,200 square foot addition to an existing restaurant, and creation of up to three suites for retail and restaurant uses consistent with the C-2-PD zone, located at 1051 East channel Islands Boulevard, subject to certain findings and conditions. The question was called and the motion carried 4-3, Commissioners Guevara, Medina, and Stewart voting no.

MOTION Commissioner Nash moved and Commissioner Mullin seconded a motion to adopt a resolution granting PZ 11-510-10, a Special Use Permit to allow a Type 41 alcoholic beverage control license for a proposed non-fast food restaurant, located at 1051 East Channel Islands Boulevard, subject to certain findings and conditions. The question was called and the motion carried 6-1, Commissioner Medina voting no.

MOTION Commissioner Huber moved and Commissioner Nash seconded a motion to adopt a resolution granting PZ 11-510-09, a Special Use Permit to allow a Type 20 alcoholic beverage control license for a proposed convenience store, located at 1051 East Channel Islands Boulevard, subject to certain findings and conditions. The question was called and the motion failed 2-5, Commissioners Nash, Guevara, Stewart, Medina, Murguia voting no.

Commissioner Mullin stated for the record: Many of you indicated that you were troubled regarding the high school students traveling down there, and having a convenience store next to a hotel. I have to say I certainly would have supported the program, one because of the

environmental impact of making this area a much better place on that corner, probably even challenge the Amar Ranch store to be a little bit more beautiful and active there. 7-Eleven did a lot of work and with their marketing research, they would not have considered this had they not thought it was a viable position, and that's why I would certainly support them. I also support it because of Officer Waer's comments regarding what they've done at the Gonzales Road and Oxnard Boulevard store with the prerequisites that they're living by including the way they've set up their store to the Police and Alcohol Beverage concerns that makes it a safe area. I'm sure the kids are going there, probably more than not. There was a statement by someone who said there was \$1,000 paid to Channel Islands High School. Of course that does not effect the Planning Commission's decision. I never knew that when I voted on it. So, I think that's a mute point. The thing that gets me is the store has a major alcohol beverage sale item with the wine and spirits, and I didn't hear it was any problem, from the Police report. I'm trying to weigh that. The kids are still going passed that store, and they're crossing the street, and these things just don't make sense to me.

I. PLANNING COMMISSION BUSINESS

Commissioner Nash requested that the Planning Commission continue receiving the subscription to the Planning Commissioners Journal.

Commissioner Huber asked if the Water Division would be making a presentation before the Planning Commission.

Commissioner Murguia stated that the annual Strawberry Festival would be held on Saturday, May 19, and Sunday, May 20, 2012.

J. PLANNING MANAGER COMMENTS

Planning Manager Martin updated the Planning Commission on recent actions, as well as upcoming items of the City Council. She also previewed the upcoming items tentatively scheduled for the next meeting on June 7, 2012.

K. ADJOURNMENT

At 10:48 p.m., the Planning Commission concurred to adjourn.

Anthony R. Murguia, Chairman

ATTEST: _____
Susan L. Martin, Secretary

RESOLUTION NO. 2012 – 12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD RECOMMENDING DENIAL OF PLANNING AND ZONING PERMIT NO. 11-570-02 (ZONE CHANGE), AND DENYING PLANNING AND ZONING PERMIT NO. 11-510-09 (SPECIAL USE PERMIT) PURSUANT TO PLANNING COMMISSION BYLAWS SECTION III(B) CONCERNING MOTIONS TO APPROVE THAT FAIL TO RECEIVE THE REQUIRED NUMBER OF AFFIRMATIVE VOTES TO PASS, FOR A REQUEST TO CHANGE THE ZONE DISTRICT TO GENERAL COMMERCIAL PLANNED DEVELOPMENT (C-2-PD) AND TO ALLOW A TYPE 20 ALCOHOLIC BEVERAGE CONTROL LICENSE FOR 1001 AND 1051 EAST CHANNEL ISLANDS BOULEVARD (A.P.N.'S 220-0-220-125 AND 220-0-220-135). FILED BY CADENCE CAPITAL INVESTMENTS L.L.C., 1120 MANZANITA STREET, LOS ANGELES, CA 90029.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. 11-570-02, filed by Terri Dickerhoff of Cadence Capital Investments LLC on behalf of property owner Channel Islands Inn LP, to amend the zoning of 1001 and 1051 East Channel Islands Boulevard (APN's 220-0-220-125 and 220-0-220-135) from Commercial and Light Manufacturing Planned Development (C-M-PD) to General Commercial Planned Development (C-2-PD); and

WHEREAS, the Planning Commission conducted a public hearing on May 17, 2012, and received and reviewed written and oral comments related to proposed Planning and Zoning Permit No. 11-570-02; and

WHEREAS, during the public hearing conducted on May 17, 2012, the Commissioners discussed and deliberated the following:

1. The relationship between the Zone Change and the proposed convenience store, insofar as the zoning change to General Commercial (C-2-PD) is required for a convenience store use at the subject property.
2. The amount of exterior advertising and in-store displays for alcoholic beverages and tobacco products in the proposed convenience store.
3. The numbers of students and minors walking on Channel Islands Boulevard in the afternoon, and pedestrian traffic patterns to existing off-sale alcohol retailers in the vicinity.
4. The proximity of off-site alcohol licenses similar to the requested Type 20 (Off-Sale Beer and Wine) that exist in the vicinity, specifically the Amar Ranch Market, Fresh & Easy Market, and the ARCO convenience store.
5. The past and current management practices of existing 7-Eleven stores in the City of Oxnard, the experience of the Police Department in terms of nuisances and calls for

service at the 7-Eleven stores, and the record of compliance with Police conditions of approval.

6. The potential for collisions between motor vehicles and minors crossing Channel Islands Boulevard, and the absence of a crosswalk immediately in front of the proposed 7-Eleven store.
7. The proximity of the proposed 7-Eleven store to the high school, elementary school, and nearby residences.
8. The potential for crime to occur in the vicinity of a convenience store with an off-sale beer and wine retail alcohol license.
9. The relationship between the Zone Change and the proposed alcohol licenses, insofar as the zoning change to General Commercial (C-2-PD) is required for any alcohol-related use at the subject property.
10. The extent to which the proposed zone change to General Commercial (C-2-PD) would be consistent with the existing retail uses on the subject property, and would make the property consistent with the existing General Plan designation of Commercial General (CG).
11. The extent to which the proposed zone change to General Commercial (C-2-PD) would allow a greater variety of land uses that could be permitted on the subject property.

WHEREAS, the Planning Commission approved PZ No. 12-550-01 (Major Modification), and approved PZ No. 11-510-10 (Special Use Permit – Alcohol) for a Type 41 ABC license for On-Sale Beer and Wine for Bona Fide Eating Place.

WHEREAS, the Planning Commission denied PZ No. 11-510-09 (Special Use Permit – Alcohol) for a Type 20 ABC license for Off-Sale Beer and Wine.

WHEREAS, after due study, deliberation and public hearing, Commissioner Huber made a motion to approve Planning and Zoning Permit No. 11-570-02, and Commissioner Mullin seconded the motion.

WHEREAS, Commissioners Huber, Mullin, and Nash voted in favor of approval; and Commissioners Guevara, Medina, Murguia, and Stewart voted against approval.

WHEREAS, the Planning Commission during the public hearing on May 17, 2012, voted 4 noes and 3 ayes on a motion to approve Planning and Zoning Permit No. 11-570-02, and pursuant to Section III(B) of the Planning Commission bylaws, such failure to approve the motion constitutes a recommendation for denial to the City Council.

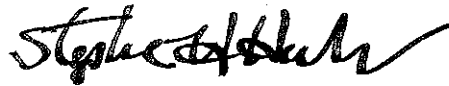
NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard recommended denial of Planning and Zoning Permit No. 11-570-02, a request to amend the City's official Zoning Map to change the zoning designation of said parcels as shown in Exhibit "A", attached hereto and incorporated herein by reference and denied Planning and Zoning Permit No. 11-510-09, a request for a special use permit to allow the issuance of a Type 20 ABC license for Off-Sale Beer and Wine.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 7th day of June, 2011, by the following vote:

AYES: Commissioners: Mullin, Stewart, Guevara, Medina, Nash, Huber

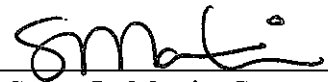
NOES: Commissioners: None

ABSENT: Commissioners: Murguia



Stephen H. Huber, Chair

ATTEST:



Susan L. Martin, Secretary

EXHIBIT A

All that certain real property situated in the County of Ventura, State of California, described as follows:

Assessor's Parcel No. 220-0-220-125

All of Parcel 1, in the City of Oxnard, County of Ventura, State of California, as shown on a map recorded in Book 68, Page 9 of Parcel Maps, in the Office of the County Recorder of said Ventura County.

Except all oil, gas or other hydrocarbon substances in or under said land but without any right to use the surface of said land nor the subsurface thereof for a depth vertically of 500 feet from the surface, in any manner or for any purposes connected with the exploration for, drilling for or production of oil, gas or other hydrocarbon substances, as reserved by Paul Donlon, et al, in deed recorded October 2, 1957 in Book 1554, Page 205 of Official Records.

Assessor's Parcel No. 220-0-220-135

All of Parcel 2, in the City of Oxnard, County of Ventura, State of California, as shown on a map recorded in Book 68, Page 9 of Parcel Maps, in the Office of the County Recorder of said Ventura County.

Except all oil, gas or other hydrocarbon substances in or under said land but without any right to use the surface of said land nor the subsurface thereof for a depth vertically of 500 feet from the surface, in any manner or for any purposes connected with the exploration for, drilling for or production of oil, gas or other hydrocarbon substances, as reserved by Paul Donlon, et al, in deed recorded October 2, 1957 in Book 1554, Page 205 of Official Records.

End of Exhibit A

RESOLUTION NO. 2012 – 10

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING A MAJOR MODIFICATION TO A SPECIAL USE PERMIT (U-1091) TO ALLOW A 1,200 SQUARE-FOOT ADDITION TO AN EXISTING RESTAURANT, AND CREATION OF UP TO THREE SUITES FOR RETAIL AND RESTAURANT USES CONSISTENT WITH THE C-2-PD ZONE. THE SUBJECT PROPERTY IS LOCATED AT 1051 EAST CHANNEL ISLANDS BOULEVARD (APN: 220-0-220-135). FILED BY CADENCE CAPITAL INVESTMENTS L.L.C., 1120 MANZANITA STREET, LOS ANGELES CA 90029.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for PZ No. 12-550-01 (Major Modification) filed by Terri Dickerhoff of Cadence Capital Investments LLC on behalf of property owner Channel Islands Inn LP, in accordance with Section 16-561 of the Oxnard City Code; and

WHEREAS, CEQA provides a statutory exemption from the Environmental Quality Act (CEQA) pursuant to CEQA section 15301 for existing facilities, and all findings for this exemption can be made; and

WHEREAS, the Planning Commission finds, after due study, deliberation and public hearing that the following circumstances exist:

1. The proposed major modification is in conformance with the Findings of Fact previously adopted by Planning Commission Resolution No. 6763.
2. The proposed major modification is permitted by Section 16-561 of the Oxnard City Code.

WHEREAS, the Planning Commission finds that the applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work, visit or live in this development in particular.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard hereby approves Planning & Zoning Permit No. 12-550-01 (Major Modification) subject to the following conditions. Except as modified by this Resolution, the conditions of approval imposed on Use Permit No. 1091 shall remain in full force and effect. The decision of the Planning Commission is final unless appealed in accordance with the provisions of Section 16-545 of the Oxnard City Code.

STANDARD CONDITIONS OF APPROVAL FOR LAND USE PERMITS

Note: The abbreviations below identify the City department or division responsible for determining compliance with these standard conditions. The first department or division listed has responsibility for compliance at plan check, the second during inspection and the third at final inspection, prior to issuance of a certificate of occupancy, or at a later date, as specified in the condition. If more than one department or division is listed, the first will check the plans or inspect the project before the second confirms compliance with the condition. The italicized code at the end of each condition provides internal information on the source of each condition: Some are standard permit conditions (e.g. *G-1*) while some are taken from environmental documents (e.g. *MND-S2*).

DEPARTMENTS AND DIVISIONS			
CA	City Attorney	PL	Planning Division
DS	Dev Services/Eng Dev/Inspectors	TR	Traffic Division
PD	Police Department	B	Building Plan Checker
SC	Source Control	FD	Fire Department
PK	Public Works, Landscape Design	CE	Code Compliance

GENERAL PROJECT CONDITIONS

1. This permit is granted for the property described in the application on file with the Planning Division, and may not be transferred from one property to another. (PL, *G-1*).
2. This permit is granted for the plans dated April 23, 2012 ("the plans") on file with the Planning Division. The project shall conform to the plans, except as otherwise specified in these conditions, or unless a minor modification to the plans is approved by the Planning and Environmental Services Manager ("Planning Manager") or a major modification to the plans is approved by the Planning Commission. A minor modification may be granted for minimal changes or increases in the extent of use or size of structures or of the design, materials or colors of structures or masonry walls. A major modification shall be required for substantial changes or increases in such items. (PL, *G-2*)
3. This permit shall automatically become null and void 36 months from the date of its issuance, unless Developer has diligently developed the proposed project, as shown by the issuance of a grading, foundation, or building permit and the construction of substantial improvements. (PL, *G-3*)
4. All required off-site and on-site improvements for the project, including structures, paving, and landscaping, shall be completed prior to occupancy unless the Development Services Manager allows Developer to provide security or an executed agreement approved by the City Attorney to ensure completion of such improvements. (DS, *G-4*)

5. By commencing any activity related to the project or using any structure authorized by this permit, Developer accepts all of the conditions and obligations imposed by this permit and waives any challenge to the validity of the conditions and obligations stated therein. (CA, G-5)
6. Developer agrees, as a condition of adoption of this resolution, at Developer's own expense, to indemnify, defend and hold harmless the City and its agents, officers and employees from and against any claim, action or proceeding to attack, review, set aside, void or annul the approval of the resolution or any condition attached thereto or any proceedings, acts or determinations taken, done or made prior to the approval of such resolution that were part of the approval process. Developer's commencement of construction or operations pursuant to the resolution shall be deemed to be an acceptance of all conditions thereof. (CA, G-6)
7. Developer shall complete the "Notice of Land Use Restrictions and Conditions" form, using the form provided by the City, for recording with the Ventura County Recorder. Before the City issues building permits, Developer shall submit the original completed, signed and notarized document, together with the required fees to the Planning Manager. (PL, G-8)
8. Developer shall provide off-street parking for the project, including the number of spaces, stall size, paving, striping, location, and access, as required by the City Code. (PL/B, G-9)
9. Developer shall obtain a building permit for any new construction or modifications to structures, including interior modifications, authorized by this permit. (B, G-11)
10. Developer shall not permit any combustible refuse or other flammable materials to be burned on the project property. (FD, G-12)
11. Developer shall not permit any materials classified as flammable, combustible, radioactive, carcinogenic or otherwise potentially hazardous to human health to be handled, stored or used on the project property, except as provided in a permit issued by the Fire Chief. (FD, G-13)
12. If Developer, owner or tenant fails to comply with any of the conditions of this permit, the Developer, owner or tenant shall be subject to a civil fine pursuant to the City Code. (CA, G-14)
13. Prior to issuance of building permits, Developer shall correct all violations of the City Code existing on the project property. (PL, G-15).

PLANNING DIVISION STANDARD CONDITIONS

14. Any application for a minor modification to the project shall be accompanied by four copies of plans reflecting the requested modification, together with applicable processing fees. (PL, *PL-2*)
15. Before the City issues building permits, Developer shall include a reproduction of all conditions of this permit as adopted by resolution of the Planning Commission and/or the City Council in all sets of construction documents and specifications for the project. (PL, *PL-3*)
16. Developer may not modify any use approved by this permit unless the Planning Division Manager determines that Developer has provided the parking required by the City Code for the modified use. (PL, *PL-7*)
17. Prior to issuance of building permits, Developer shall pay a document imaging fee for the planning files in an amount calculated by planning staff at the time of building permit review based on fees then in effect. (PL/B, *PL-16*).

PLANNING DIVISION SPECIAL CONDITIONS

18. Developer shall submit an application for building permits for Phase II (or "Option B") of the project no later than 36 months after the date of adoption of this resolution. If Developer does not submit such application by such time, Developer shall be required to obtain a major modification to the approved special use permit to construct the additional structures on the subject property. (PL)
19. All conditions adopted with Planning Commission Resolution No. 6763 (for Use Permit No. 1091) shall remain applicable to the project, except as modified with this approval.(PL)
20. Hours for receiving deliveries for the businesses (loading zone adjacent to the hotel) shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. daily, with no parking or idling on the subject property or on adjacent streets outside of these specified hours. (PL)
21. Developer shall install all roof and building drainpipes and downspouts inside building elements. These items shall not be visible on any exterior building elevations. (Option "B") (PL, *PL-42*)
22. For any exterior utility meter panels, Developer shall paint such panels to match the structure upon which it is located. Such panels shall be located to take advantage of screening (e.g. landscaping or other building elements) from public right-of-ways, to the maximum extent feasible. (PL, *PL-43*)

23. Prior to issuance of a certificate of occupancy, Developer shall remove all construction materials and vehicles from the subject property. (PL/B, PL-47)
24. Developer shall install toilets that have automatic flush sensors in all public restrooms. Such toilets shall be included on the plans submitted for a building permit and shall be maintained and in working order at all times. (PL)
25. Developer shall install individual mirrors above each sink in a public restroom to the satisfaction of the Planning Division Manager. The details of such mirrors shall be approved prior to issuance of a building permit. Developer shall remove graffiti from the mirrors or replace the mirrors within 24 hours of graffiti appearance. (PL)
26. Developer shall remove any and all graffiti from the project premises, including but not limited to graffiti within the building, such as in restrooms or fitting rooms, within 24 hours of its appearance. The surface of such affected areas shall be matched to blend in with the underlying colors and/or design, and shall not look like a paint patch. (PL)

FIRE DEPARTMENT STANDARD CONDITIONS

All listed items shall be included on the plan check notes detailing Fire Department requirements. Listed items applicable to Option "B" only shall have (Option "B") noted immediately afterwards.

27. Developer shall construct all vehicle access driveways on the project property to be at least 26 feet wide. Developer shall mark curbs adjacent to designated fire lanes in parking lots to prohibit stopping and parking in the fire lanes. Developer shall mark all designated fire lanes in accordance with the California Vehicle Code. (FD/B, F-1)
28. All roof covering materials on the project property shall be of non-combustible or fire retardant materials approved by the Fire Chief and in compliance with the City Code. (FD, F-2)
29. Before the City issues building permits, Developer shall obtain the Fire Chief's approval of a plan to ensure fire equipment access and the availability of water for fire combat operations to all areas of the project property. The Fire Chief shall determine whether or not the plan provides adequate fire protection. (FD/DS, F-3)
30. All structures on the project property shall conform to the minimum standards prescribed in Title 19 of the California Code of Regulations. (FD, F-5)
31. The project shall meet the minimum requirements of the "Fire Protection Planning Guide" published by the Fire Department. (FD, F-6)

32. Developer shall identify all hydrants and fire protection equipment on the project property as required by the Fire Chief. (FD, F-8)
33. Developer shall provide central station monitoring of the fire sprinkler system and all control valves. (Option "B") (FD)
34. The turning radius of all project property driveways and turnaround areas used for emergency access shall be approved by the City Traffic Engineering Department. (FD, F-11)
35. Developer shall provide automatic fire sprinklers as required by the City Code and shall contact the Fire Chief to ascertain the location of all connections. (Option "B") (FD)
36. Developer shall install in each structure in the project an alarm system with a central station monitor that will automatically notify the Fire Department in the event of a fire in the structure. The alarm system shall include a UL or State Fire Marshal approved device, which shall not exceed design specifications, that reports the location of the fire and allows the central station monitor to inform the Fire Department. (Option "B") (FD)
37. Developer shall comply with Certified Unified Program Agency (CUPA) requirements regarding the storage, handling and generation of hazardous materials or waste. Prior to the issuance of building permits, Developer shall contact the CUPA division of the Fire Department to ensure that such requirements are followed. (FD, F-16)

FIRE DEPARTMENT SPECIAL CONDITIONS

38. Before the city issues a certificate of occupancy, the developer shall install a Knox key vault at a location to be determined by the Fire Department. (FD)
39. Developer shall ensure Fire Department access through man-gates, either by Knox lock devices or other Fire Department approved means. (FD)

LANDSCAPE STANDARD CONDITIONS

40. Before the City issues building permits or the proposed use is initiated, Developer shall submit two copies of landscape and irrigation plans, along with the appropriate permit application and fees, to the Development Services Division and obtain approval of such plans. (PK/DS, PK-2)
41. Before the City issues a certificate of occupancy, Developer shall install landscape and automatic irrigation systems that have been approved by Parks and Facilities Superintendent. (PK, PK-3)

42. Developer shall maintain landscape planting and all irrigation systems as required by the City Code and as specified by this permit. Failure of Developer to do so will result in the revocation of this permit and initiation of legal proceedings against Developer. (PK, PK-4)
43. Before the City issues a certificate of occupancy, Developer shall provide a watering schedule to the building owner or manager and to the Parks and Facilities Superintendent. The irrigation system shall include automatic rain shut-off devices, or instructions on how to override the irrigation system during rainy periods. (PK, PK-5)
44. All trees planted or placed on the project property by Developer shall be at least 24-inch-box size. All shrubs and vines shall be at least five-gallon size, except as otherwise specified by this permit. (PK, PK-6)
45. Developer shall install an irrigation system that includes a water sensor shut off device as a water conservation measure. (PK, PK-22)

LANDSCAPE SPECIAL CONDITIONS

46. Developer's Landscape Architect or Architect shall provide the City with written confirmation that they have reviewed the civil engineering construction drawings and that the NPDES requirements are not in conflict with meeting the City's landscape requirements. (PK)
47. All landscaping and irrigation shall comply with Ordinance No. 2822, which adopted the City of Oxnard Landscape Water Conservation Standards. (PK)

The following Special Conditions apply to Phase 1 (option "A") of the plans:

48. The new proposed pedestrian ramp from Statham Blvd. appears to be in conflict with an existing tree location (based on aerial photographs). If the pedestrian ramp cannot be relocated, then an Arborist's Tree Report is required for the removal of any trees. The Arborist's Tree Report is required for the health and economic appraisal value of any existing trees to be removed or displaced from the site due to construction. City staff will have final review approval on selection of an arborist. The Arborist's Tree Report shall be prepared by a certified arborist and shall follow the format as outlined in *Valuation of Landscape Trees, Shrubs, and Other Plants: A Guide to the Methods and Procedures for Appraising Amenity Plants.*, latest edition as published by the International Society of Arboriculture. The Tree Report shall include text, photos and a site plan that clearly labels all trees to be saved, removed or transplanted. The methodology for the tree appraisal value shall be based on the "Trunk Formula" method, with calculation work sheets included. The economic appraisal value of the trees removed shall be put back into new tree sizes for the project and shall be in addition to meeting the City's minimum tree size of 24" box.

49. The proposed landscape finger planter northeast of the existing building removes a portion of the existing landscape finger planter and an existing tree. An Arborist's Tree Report is required for the health and economic appraisal value of any existing trees to be removed or displaced from the site due to construction. City staff will have final review approval on selection of an arborist. The Arborist's Tree Report shall be prepared by a certified arborist and shall follow the format as outlined in *Valuation of Landscape Trees, Shrubs, and Other Plants: A Guide to the Methods and Procedures for Appraising Amenity Plants.*, latest edition as published by the International Society of Arboriculture. The Tree Report shall include text, photos and a site plan that clearly labels all trees to be saved, removed or transplanted. The methodology for the tree appraisal value shall be based on the "Trunk Formula" method, with calculation work sheets included. The economic appraisal value of the trees removed shall be put back into new tree sizes for the project and shall be in addition to meeting the City's minimum tree size of 24" box.
50. The proposed bicycle pad and rack located in the landscape finger planter at the southeast corner of the existing building may be encroaching into the existing mature tree root system. If the bicycle pad and rack cannot be reconfigured or relocated to avoid the tree, then an Arborist's Tree Report is required for the removal of the tree root system. An Arborist's Tree Report is required for the health and economic appraisal value of any existing trees to be removed or displaced from the site due to construction. City staff will have final review approval on selection of an arborist. The Arborist's Tree Report shall be prepared by a certified arborist and shall follow the format as outlined in *Valuation of Landscape Trees, Shrubs, and Other Plants: A Guide to the Methods and Procedures for Appraising Amenity Plants.*, latest edition as published by the International Society of Arboriculture. The Tree Report shall include text, photos and a site plan that clearly labels all trees to be saved, removed or transplanted. The methodology for the tree appraisal value shall be based on the "Trunk Formula" method, with calculation work sheets included. The economic appraisal value of the trees removed shall be put back into new tree sizes for the project and shall be in addition to meeting the City's minimum tree size of 24" box.
51. If trees are anticipated to be removed from the site, then at the time of Plan Check submittal, the landscape plans shall contain an exhibit titled "Tree Tabulation Chart". The Tree Tabulation Chart shall contain a listing of all existing trees on site and shall refer to them by number as identified in the Arborist's Report. The Tree Tabulation Chart shall clearly list all trees to remain, be removed or transplanted. The Chart shall contain the Arborist's economic appraisal value of each tree(s) removed as well as computations and calculations showing how the value of the removed tree(s) was put back into new tree sizes for the project that are in addition to meeting the City's minimum tree size of 24" box.
52. Much of the required existing 36" high parking lot visual shrub screen plant material is missing from Statham Blvd. and Channel Islands Blvd. Uniformly replace all the missing 36" high shrub screen plant materials with new.

The following Special Conditions apply to Phase 2 (option "B") of the plans:

53. All Special Conditions outlined in Phase 1 (option "A") are incorporated into Special Conditions for Phase 2 (option "B").
54. Numerous site modifications will impact the existing trees on the site. An Arborist's Tree Report is required for the health and economic appraisal value of any existing trees to be removed or displaced from the site due to construction. City staff will have final review approval on selection of an arborist. The Arborist's Tree Report shall be prepared by a certified arborist and shall follow the format as outlined in *Valuation of Landscape Trees, Shrubs, and Other Plants: A Guide to the Methods and Procedures for Appraising Amenity Plants.*, latest edition as published by the International Society of Arboriculture. The Tree Report shall include text, photos and a site plan that clearly labels all trees to be saved, removed or transplanted. The methodology for the tree appraisal value shall be based on the "Trunk Formula" method, with calculation work sheets included. The economic appraisal value of the trees removed shall be put back into new tree sizes for the project and shall be in addition to meeting the City's minimum tree size of 24" box.
55. If trees are anticipated to be removed from the site, then at the time of Plan Check submittal, the landscape plans shall contain an exhibit titled "Tree Tabulation Chart". The Tree Tabulation Chart shall contain a listing of all existing trees on site and shall refer to them by number as identified in the Arborist's Report. The Tree Tabulation Chart shall clearly list all trees to remain, be removed or transplanted. The Chart shall contain the Arborist's economic appraisal value of each tree(s) removed as well as computations and calculations showing how the value of the removed tree(s) was put back into new tree sizes for the project that are in addition to meeting the City's minimum tree size of 24" box.
56. The new parking lot landscape finger planters shall be landscaped per the City's Landscape Standards.
57. The trash enclosure shall have evergreen self clinging vines (minimum 5-gallon size) attached to exterior walls.
58. Any existing landscaping which is dead, failing, or missing shall be replaced with new.

DEVELOPMENT SERVICES STANDARD CONDITIONS

The following Standard Conditions apply to Phase 2 (option "B") of the plans:

59. Developer shall pay plan check and processing fees in effect at the time of construction plan submittal and shall pay development fees, encroachment permit fees, and other applicable fees in effect at the time the City issues building permits. (DS-1)

60. Developer's Engineer shall design parking lot structural sections based on an analysis of the soils R-value and a traffic index (T.I.) approved by the City Engineer. The minimum structural section for parking lots is two inches of asphalt on four inches of base material. Developer shall show the proposed structural section on the site improvement plans. (DS-2)
61. Developer shall have the site improvement plans prepared on standard Development Services Division mylars by a civil engineer licensed in the State of California. The plans shall incorporate recommendations from soil engineering and geology reports. Prior to issuance of a grading permit, improvement plans must be approved by the City Engineer and the original ink-on-mylar plans filed with the Development Services Division. (DS-3)
62. Developer shall submit improvement plans and drainage calculations that demonstrate that storm drainage from the project property and all upstream areas will be safely conveyed to an approved drainage facility. The design and conveyance route shall be compatible with the City's Master Plan of Drainage and shall be approved by the City Engineer prior to approval of improvement plans. (DS-4)
63. Developer shall protect building pads from inundation during a 100-year storm. (DS-5)
64. Developer shall remove and replace all improvements that are damaged during construction. (DS-6)
65. Where a separate loop or terminal line is required for water mains, fire hydrants or fire sprinkler systems, Developer's site improvement plans shall include an on-site water plan. (DS-11)
66. Developer shall install on-site and off-site utility services underground in accordance with City ordinances in effect at the time City issues the building permit. Services shall be installed underground to the nearest suitable riser pole as determined by the appropriate utility service provider. (DS-12)
67. A civil engineer licensed in the State of California shall prepare the public improvement plans and documents for this project in accordance with City standards and shall submit all such plans to the City Engineer. Such plans and documents shall include, but not be limited to, grading, street, drainage, sewer, water and other appurtenant improvement plans; a master utility plan showing the layout and location of all on-site and off-site utility improvements that serve the project; construction cost estimates, soils reports, and all pertinent engineering design calculations. City will not accept an application for the final map or parcel map for the project or issue a grading, site improvement or building permit until the City Engineer has approved all improvement plans. (DS-15)
68. Prior to issuance of a site improvement permit, Developer shall provide to the Development Services Division a compact Disc (CD) containing digital copies of the final

subdivision map, address map, and civil improvements drawings in DWG format. Prior to improvement bond release, Developer shall provide an updated CD containing all changes that occur during construction. (DS-16)

69. Developer shall remove graffiti from the project, including graffiti on offsite public infrastructure under construction by Developer, within 24 hours of its appearance. If Developer fails to remove graffiti in accordance with this condition, the City may at the discretion of the Development Services Manager issue a stop work order until such time as the graffiti is removed. (DS-20)
70. The conditions of this resolution shall prevail over all omissions, conflicting notations, specifications, dimensions, typical sections, and the like, that may or may not be shown on the improvement plans. (DS-21)
71. Developer shall pay the cost of all inspections of on-site and off-site improvements. (DS-22)
72. Developer shall be responsible for all project-related actions of Developer's employees, contractors, subcontractors, and agents until City accepts the improvements. (DS-23)
73. Prior to beginning construction, Developer shall designate in writing an authorized agent who shall have complete authority to represent and to act for Developer. The authorized agent shall be present at the work site whenever work is in progress. Developer or the authorized agent shall make arrangements acceptable to City for any emergency work. When City gives orders to the authorized agent to do work required for the convenience and safety of the general public because of inclement weather or any other cause, and the orders are not immediately acted upon by the authorized agent, City may do or have such work done by others at Developer's expense. (DS-24)
74. "Standard Specifications for Public Works Construction," latest edition, and any modifications thereto by City, and City of Oxnard Standard Land Development Specifications and all applicable City Standard Plans, shall be the project specifications, except as noted otherwise on the approved improvement plans. City reserves the right to upgrade, add to, or revise these specifications and plans and all other City ordinances, policies, and standards. If the improvements required of this project are not completed within 12 months from the date of City's approval of the improvement plans, Developer shall comply with and conform to any and all upgraded, additional or revised specifications, plans, ordinances, policies and standards. (DS-27)
75. Developer shall retain a Civil Engineer licensed in the State of California to ensure that the construction work conforms to the approved improvement plans and specifications and to provide certified "as-built" plans after project completion. Developer's submittal of the certified "as-built" plans is a condition of City's final acceptance of the project. (DS-29)

76. All grading shall conform to City's grading ordinance and any recommendations of Developer's soils engineer that have been approved by the City Engineer. Developer shall conform to all applicable notes specified on the site improvement/grading plan cover sheet and grading permit. (DS-30)
77. Each lot shall drain into a street, alley, or approved drain so that there will be no undrained depressions. (DS-35)
78. Prior to issuance of a site improvement permit, Developer shall provide to the City Engineer easements or written consents from all affected landowners for any diversion of historical flows or change in drainage conditions caused by the project, as evidence that such landowners accept any additional water flowing over their property. (DS-36)
79. Developer shall dispose of sewage and solid waste from the project by City's wastewater and solid waste systems in a manner approved by the City Engineer. (DS-38)
80. Prior to issuance of building permits, Developer shall present to the City Engineer a "Proof of Payment - Authorization for Building Permits" form issued by the Calleguas Municipal Water District. (DS-44)
81. Developer shall install City approved backflow prevention devices for water connections if so ordered by the City Engineer. (DS-45)
82. Developer shall be responsible for and bear the cost of replacement of all existing survey monumentation (e.g., property corners) disturbed or destroyed during construction, and shall file appropriate records with the Ventura County Surveyor's Office. (DS-64)
83. Developer shall provide adequate vehicle sight distance as specified by CalTrans specifications at all driveways and intersections. (TR-71)
84. Developer shall install bike racks in accordance with City standards at locations approved by City Traffic Engineer. (TR-73)
85. Developer shall design parking lot and other drive areas to minimize degradation of stormwater quality. Using Best Management Practices (BMPs), such as oil and water separators, sand filters, landscaped areas for infiltration, basins or approved equals, Developer shall intercept and effectively prevent pollutants from discharging to the storm drain system. The stormwater quality system design shall be approved by the City Engineer prior to the issuance of a site improvement permit. (DS-81)
86. Using forms provided by the Development Services Division, Developer shall submit a stormwater quality control measures maintenance program ("the Program") for this project.

If the BMPs implemented with this project include proprietary products that require regular replacement and/or cleaning, Developer shall provide proof of a contract with an entity qualified to provide such periodic maintenance. The property owner is responsible for the long-term maintenance and operation of all BMPs included in the project design. Upon request by City, property owner shall provide written proof of ongoing BMP maintenance operations. No grading or building permit shall be issued until the Development Services Manager approves the Program and Developer provides an executed copy for recordation. (DS-82)

87. Developer shall maintain parking lots free of litter and debris. Developer shall sweep sidewalks, drive aisles, and parking lots regularly to prevent the accumulation of litter and debris. When swept or cleaned, debris must be trapped and collected to prevent entry into the storm drain system. Developer may not discharge any cleaning agent into the storm drain system. (DS-84)
88. Prior to issuance of a certificate of occupancy, on-site storm drain inlets shall be labeled "Don't Dump - Drains to Ocean" in accordance with City standards. Before City issues a site improvement permit, the requirement to label storm drain inlets shall be shown on the civil engineering plans. (DS-85)
89. Prior to issuance of a grading permit or commencement of any clearing, grading or excavation, Developer shall prepare a Stormwater Pollution Control Plan ("SWPCP") on the form provided by City. The SWPCP shall be developed and implemented in accordance with requirements of the Ventura Countywide Stormwater Quality Management Program, National Pollutant Discharge Elimination System Permit. The SWPCP shall identify potential pollutant sources that may affect the quality of discharges to stormwater and shall include the design and placement of recommended Best Management Practices (BMPs) to effectively prohibit pollutants from the construction site entering the storm drain system. The SWPCP shall be reviewed and approved by the City Engineer prior to issuance of a site improvement/grading permit. Developer shall keep the SWPCP updated to reflect current site conditions at all times and shall keep a copy of the SWPCP on the site and make it available for City or designated representative to review upon request. (DS-87)

DEVELOPMENT SERVICES SPECIAL CONDITIONS

The following Special Conditions apply to Phase 1 (option "A") of the plans:

90. Developer shall provide an ADA compliant pedestrian path from the public sidewalk to the main entrance of the building. (DS)
91. Restaurant uses are required to have a separate water service (meter) from other tenants in accordance with City Code. (DS)

The following Special Conditions apply to Phase 2 (option "B") of the plans:

92. Developer shall provide an ADA compliant pedestrian path from the public sidewalk to the main entrance of the building. (DS)
93. Developer shall construct a concrete apron along the length of the trash enclosure opening that extends a minimum of 15 feet from the face of the enclosure. (DS)
94. Developer shall provide a written analysis to determine if this project meets the definition of "Redevelopment" as defined in the current MS4 permit and associated 2011 Technical Guidance Manual for Stormwater Quality Control Measures ("2011 TGM"). If it is determined by the Development Services Manager that the project meets the definition of "Redevelopment", Developer shall provide stormwater mitigations (including stormwater infiltration) as required by the MS4 permit and 2011 TGM. (DS)
95. Developer shall provide site specific analysis and recommendations from a geotechnical engineer, and if applicable, a landscape architect for design and implementation of stormwater infiltration devices. Geotechnical Engineering analysis and recommendations shall include, but not be limited to, determination of site soil infiltration rates, depth to permeable soil layers, methods to reach permeable soil layers, appropriate compaction rates, recommendations to enhance infiltration, methods (e.g. Pre-treatment) to minimize long-term occlusion of soil porosity, and other requirements of the 2011 TGM. Landscape architectural recommendations shall include, but not be limited to, suggestions regarding appropriate vegetation and soil amendments for vegetated infiltration devices. Design plans shall implement approved design recommendations. Grading plans shall implement temporary fencing or other similar barriers to prevent compaction of the soil in the infiltration devices during construction. (DS)
96. Developer shall shorten proposed new or significantly altered parking stalls to 17 feet deep where shortening results in an additional 2 feet of pervious landscaping. Final determination shall be made by the Development Services Manager. (DS)
97. Developer shall provide and maintain an area within the tenant space of any restaurant or food preparation tenant for the washing/steam cleaning of equipment, floor mats and accessories. This area shall be self-contained and connected to the project grease interceptor. (DS)
98. Developer shall construct double-bin trash enclosure (one bin for recycle use) with a solid non-combustible roof (8-foot minimum clearance) that prevents stormwater from entering the refuse bins. Developer shall provide a traffic rated drain centered in the enclosure to catch all wash water from the trash enclosure. This drain shall connect to the sanitary sewer system via a grease interceptor. Developer shall construct all other components of the trash enclosure in accordance with the approved City Standard Plan on file with the

Development Services Division. Developer shall finish the trash enclosure to match the major design elements of the main structure. The finish and roof appearance shall be indicated on the building plans and are subject to approval by the Planning Division. The location and configuration of trash enclosures shall be reviewed and approved by the Environmental Resources Division. All refuse bins on the site shall be stored in an approved trash enclosure. No objects other than refuse bins may be stored in the trash enclosure without the written permission of the Environmental Resources Division. (DS-80)

99. Restaurant uses are required to have a separate water service (meter) from other tenants in accordance with City Code. (DS)

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 17th day of May, 2012, by the following vote:

AYES: Commissioners: Huber, Nash, Mullin, Murguia

NOES: Commissioners: Guevara, Medina, Stewart

ABSENT: Commissioners: None

Anthony R. Murguia, Chair

ATTEST: _____


Susan L. Martin, Secretary

RESOLUTION NO. 2012 – 11

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING A SPECIAL USE PERMIT (PLANNING & ZONING PERMIT NO. 11-510-10) TO ALLOW A TYPE 41 (ON-SALE BEER & WINE FOR BONA FIDE PUBLIC EATING PLACE) ALCOHOLIC BEVERAGE CONTROL LICENSE FOR A PROPOSED NON-FAST-FOOD RESTAURANT. THE SUBJECT PROPERTY IS LOCATED AT 1051 EAST CHANNEL ISLANDS BOULEVARD (APN: 220-0-220-135). FILED BY CADENCE CAPITAL INVESTMENTS L.L.C., 1120 MANZANITA STREET, LOS ANGELES CA 90029.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for PZ No. 11-510-10 (Special Use Permit – Alcohol) filed by Terri Dickerhoff of Cadence Capital Investments LLC on behalf of property owner Channel Islands Inn LP, in accordance with Sections 16-530 through 16-553 of the Oxnard City Code; and

WHEREAS, CEQA provides a statutory exemption from the Environmental Quality Act (CEQA) pursuant to CEQA section 15301 for existing facilities, and all findings for this exemption can be made; and

WHEREAS, on May 17, 2012, the Planning Commission conducted a public hearing, and received and reviewed written and oral comments related to proposed Special Use Permit No. 11-510-10; and

WHEREAS, the Planning Commission finds, after due study, deliberation and public hearing that the following circumstances exist:

1. The proposed use is in conformance with the General Plan and other adopted policies of the City of Oxnard.
2. The proposed use will not adversely affect or be materially detrimental to the adjacent uses, buildings or structures or to the public health, safety or general welfare.
3. The site for the proposed use is adequate in size and shape to accommodate the setbacks, parking, landscaping, and other City standards except as may be specifically excepted by the special findings and conditions of this resolution.
4. The site for the proposed use will be served by streets and highways adequate in width and structure to carry the kind and quantity of traffic such use will generate.
5. The site for the proposed use will be provided with adequate sewerage, water, fire protection and storm drainage facilities.

6. The presumption of undue concentration has been refuted by a preponderance of evidence in the record, which shows that the establishment will not result in an undue concentration of retail alcohol outlets.
7. The proposed use is not likely to create or significantly aggravate police problems within 1,000 feet of the location for which the special use permit is applied.

WHEREAS, the Planning Commission finds that the applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work, visit or live in this development in particular.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard hereby approves Planning & Zoning Permit No. 11-510-10 (Special Use Permit – Alcohol) subject to the following conditions. Except as modified by this Resolution, the conditions of approval imposed on Use Permit No. 1091 shall remain in full force and effect. The decision of the Planning Commission is final unless appealed in accordance with the provisions of Section 16-545 of the Oxnard City Code.

STANDARD CONDITIONS OF APPROVAL FOR LAND USE PERMITS

Note: The abbreviations below identify the City department or division responsible for determining compliance with these standard conditions. The first department or division listed has responsibility for compliance at plan check, the second during inspection and the third at final inspection, prior to issuance of a certificate of occupancy, or at a later date, as specified in the condition. If more than one department or division is listed, the first will check the plans or inspect the project before the second confirms compliance with the condition. The italicized code at the end of each condition provides internal information on the source of each condition: Some are standard permit conditions (e.g. *G-1*) while some are taken from environmental documents (e.g. *MND-S2*).

DEPARTMENTS AND DIVISIONS			
CA	City Attorney	PL	Planning Division
DS	Dev Services/Eng Dev/Inspectors	TR	Traffic Division
PD	Police Department	B	Building Plan Checker
SC	Source Control	FD	Fire Department
PK	Public Works, Landscape Design	CE	Code Compliance

GENERAL PROJECT CONDITIONS

1. This permit is granted for the property described in the application on file with the Planning Division, and may not be transferred from one property to another. (PL, G-1).
2. This permit is granted for the plans dated April 23, 2012 (“the plans”) on file with the Planning Division. The project shall conform to the plans, except as otherwise specified in these conditions, or unless a minor modification to the plans is approved by the Planning and Environmental Services Manager (“Planning Manager”) or a major modification to the plans is approved by the Planning Commission. A minor modification may be granted for minimal changes or increases in the extent of use or size of structures or of the design, materials or colors of structures or masonry walls. A major modification shall be required for substantial changes or increases in such items. (PL, G-2)
3. This permit shall automatically become null and void 24 months from the date of its issuance, unless Developer has diligently developed the proposed project, as shown by the issuance of a grading, foundation, or building permit and the construction of substantial improvements. (PL, G-3)
4. All required off-site and on-site improvements for the project, including structures, paving, and landscaping, shall be completed prior to occupancy unless the Development Services Manager allows Developer to provide security or an executed agreement approved by the City Attorney to ensure completion of such improvements. (DS, G-4)
5. By commencing any activity related to the project or using any structure authorized by this permit, Developer accepts all of the conditions and obligations imposed by this permit and waives any challenge to the validity of the conditions and obligations stated therein. (CA, G-5)
6. Developer agrees, as a condition of adoption of this resolution, at Developer’s own expense, to indemnify, defend and hold harmless the City and its agents, officers and employees from and against any claim, action or proceeding to attack, review, set aside, void or annul the approval of the resolution or any condition attached thereto or any proceedings, acts or determinations taken, done or made prior to the approval of such resolution that were part of the approval process. Developer’s commencement of construction or operations pursuant to the resolution shall be deemed to be an acceptance of all conditions thereof. (CA, G-6)
7. Developer shall complete the “Notice of Land Use Restrictions and Conditions” form, using the form provided by the City, for recording with the Ventura County Recorder. Before the City issues building permits, Developer shall submit the original completed, signed and notarized document, together with the required fees to the Planning Manager. (PL, G-8)

8. If Developer, owner or tenant fails to comply with any of the conditions of this permit, the Developer, owner or tenant shall be subject to a civil fine pursuant to the City Code. (CA, G-14)
9. Prior to issuance of building permits, Developer shall correct all violations of the City Code existing on the project property. (PL, G-15).

PLANNING DIVISION STANDARD CONDITIONS

10. Any application for a minor modification to the project shall be accompanied by four copies of plans reflecting the requested modification; together with applicable processing fees. (PL, PL-2)

PLANNING DIVISION SPECIAL CONDITIONS

11. All conditions adopted with Planning Commission Resolution No. 6763 (Use Permit No. 1091) shall remain applicable to the project, except as modified with this approval. (PL)

POLICE DEPARTMENT STANDARD CONDITIONS

12. Permittee and all sellers or servers shall complete a course in Responsible Beverage Service (RBS) within sixty days of license granting and/or date of employment. Applicant can contact the Alcohol Compliance Officer at the Oxnard Police Department to make arrangements (PL/PD)
13. Permittee and all general managers, managers or policy makers shall complete a course in the Responsible Alcohol Policy Program (available through the Oxnard Police Department) within 12 months of license granting and/or date of employment. (PD)
14. Sales of alcoholic beverages shall be incidental to the sale of food. It shall not be considered a violation of this condition if customers are served alcoholic beverages in any lounge, bar or staging area and who are waiting to be seated for the service of food. Employees shall make a good faith effort to ensure that all customers being served alcoholic beverages are also on the premises for the purpose of consuming food items. (PD)
15. When security personnel are present or required per Oxnard City Code, Permittee shall maintain accurate records of all security personnel on the premise at any given time and make those available to the police upon demand. These records shall, at a minimum, provide the name, date of birth, copies of security guard credentials or license and any other permits or certifications related to security work. This would include copies of permits for weapons or other tools the guard may be authorized to carry. Security personnel shall remain in compliance with updated training related to their work as set forth by any existing or future state and/or local regulations. (PD)

16. The Police Chief or designee may immediately suspend operation of the uses approved by this permit pending a hearing on the revocation of this permit if the Chief finds that there have been significant violations of the use permit conditions and/or ABC permit, or there is a single serious violent crime or single significant incident to which multiple police units or multiple police jurisdictions respond associated with the operation of this use, which the Chief determines is detrimental to the public safety or health. The Chief shall immediately inform the Planning and Environmental Services Manager of the suspension and the manager shall schedule a hearing on the revocation of the permit by the Planning Commission to be held no more than 30 days after the suspension begins. (PD)
17. The premises shall be equipped with an adequate number of seats to accommodate all customers. There shall be no service area that is designed or used as a standing area only or as a combined standing and seating area. (PD)
18. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. Permittee shall at all times maintain records which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department upon demand. (PL/PD)
19. Permittee shall comply with the provisions of Section 23038 of the Business and Professions Code and acknowledges that incidental, sporadic, or infrequent sales of meals or a mere offering of meals without actual sales shall not be deemed sufficient to consider the premises in compliance with the aforementioned section.(PL/PD)
20. The premises shall be equipped and maintained in good faith as a bonafide restaurant and shall possess, in operative condition, such conveniences for cooking and storage of foods such as stoves, ovens, broilers, refrigeration or other devices, as well as pots, pans or containers which can be used for cooking or heating foods on the type heating device employed. (PL/PD)
21. The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)
22. The use of any amplifying system or device shall not be audible outside the premise nor shall it be disruptive to neighboring uses. (PD)
23. There shall be no advertising of alcoholic beverages visible from the outside of the establishment, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. (PL/PD)
24. The sale of alcoholic beverages for consumption off the premises is strictly prohibited. (PD)

25. Sales of alcohol shall not occur between the hours of 12:00 midnight and 6:00 a.m. (PL/PD)
26. Alcoholic beverages shall not be offered at significantly reduced prices (typically more than 25% reduction) that are meant to encourage greater consumption of alcohol such as during “happy hour” type promotions. Permittee shall not develop any other promotional activity that is designed to encourage excessive drinking of alcoholic beverages. *Promoting a “happy hour” or other event that offers reduced prices on food or other items shall not be considered a violation of this condition and are actually encouraged.* (PD)
27. Alcoholic beverages shall be served in standard sizes that are consistent with the industry and shall not be served by the pitcher, “bucket” or similar high capacity amounts exceeding 36oz total. (PD)
28. In the areas surrounding the business, not otherwise licensed by the Department of Alcoholic Beverage Control allowing the service of alcohol, Permittee shall post prominent, permanent signs indicating that loitering, open containers and the consumption of alcoholic beverages is prohibited. This includes the parking lot, walkways and other adjacent areas under Permittee’s reasonable control. (PD)
29. Prominent signs shall be posted stating, in effect, “No persons under 21 will be served alcoholic beverages” and “Valid ID is required to purchase alcoholic beverages”. (PD)
30. Employees involved in the sale or service of alcoholic beverages shall not be allowed to consume alcoholic beverages at any time during their shift. Employees shall not report to work with evidence of having consumed any intoxicants such as alcohol, illegal drugs or controlled substances. (PD)
31. Permittee shall not create any bar, lounge or other area in which the exclusive use would be the service of alcoholic beverages. Food shall be made available in all areas where customers are seated. An area designated for customers who are waiting to be seated at a food service table shall not be considered a violation of this condition as long as the area is not used primarily for the service of alcohol. Condition number 3, above, shall be adhered to regardless of where customers are seated. (PD)
32. The subject Alcoholic Beverage Control License shall not be exchanged for any other type of Alcoholic Beverage Control License without review and approval by the Police Chief or his designee, Planning Commission or City Council. (PD)
33. Upon any individual transfer (person-to-person) of the subject Alcoholic Beverage Control License, or if the business is ever deemed a nuisance as defined in the Oxnard City Code, Police Department may initiate Planning Commission review the existing SUP and apply or remove conditions as appropriate to mitigate existing or potential problems. (PD)

34. Any graffiti painted or marked upon the premises or on any adjacent area under the control of Permittee shall be removed or painted over within twenty-four (24) hours of being applied. (PL/PD)
35. Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)
36. The area surrounding premises under the reasonable control of Permittee (including the rear of the business) shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons in or about the area. (PL/PD)
37. No pay phone on the exterior of the premises shall be allowed within 100 feet of the front or rear doors and any pay phones installed inside shall be blocked from incoming calls. (PL/PD)
38. Permittee shall regularly police the area under Permittee's control and shall not permit the loitering of persons about the premises. (PL/PD)
39. Any rear door of the premises shall be equipped on the inside with an automatic locking device, shall be closed at all times, and shall not be used as a means of access by patrons to and from the licensed premises. Temporary use of these doors for delivery of supplies does not constitute a violation. (PD)
40. Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
41. Permittee shall install a video surveillance system that shall be maintained at a reasonable industry standard and shall, at a minimum, monitor the entrances and exits, any centralized point of sale and areas immediately surrounding the exterior of the business. (PD)
42. Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
43. Permittee shall bolt down or otherwise secure all cash registers to service counters in order to prevent the entire device from being stolen during a burglary or robbery. (PD)
44. A copy of these conditions must be maintained on the premises and made available upon the demand of any peace officer at all times. (PL/PD)

POLICE DEPARTMENT SPECIAL CONDITIONS

45. If alcoholic beverages are to be sold and consumed in any patio area, the patio must be properly licensed by the City of Oxnard Planning Division and Department of Alcoholic Beverage Control. The entire patio shall be adequately enclosed to the satisfaction of the Chief of Police or his designee. Low or excessively wide spaced fencing will not be considered sufficient. (PD)
46. Customer access to and from the patio shall be made through the interior of the business only. (PD)
47. Any exits on the patios shall not be used as a means of access or egress by patrons to and from the licensed premises and, other than during emergencies or for handicapped access per ADA guidelines, shall be kept closed at all times. The exit doors shall close automatically and be equipped with an audible sounding device to alert employees when it has been opened. Adequate signs shall be posted near the gate stating it is an emergency exit or handicapped access only and that an alarm will sound if opened. (PD)
48. There shall not be any outdoor or patio bar (portable or otherwise) where alcoholic beverages are stored or served. (PD)
49. There shall be no live entertainment or amplified sound permitted in outdoor areas (including any patio dining area). Recorded music or acoustic performances for the purposes of creating ambience that is appropriate for the proposed use is permitted but shall be subdued and at no time be disruptive to neighboring uses. (PD)

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 17th day of May, 2012, by the following vote:

AYES: Commissioners: Guevara, Huber, Mullin, Murguia, Nash, Stewart

NOES: Commissioners: Medina

ABSENT: Commissioners: None

Anthony R. Murguia, Chair

ATTEST: 

Susan L. Martin, Secretary

CITY OF OXNARD
CITY CLERK

2012 JUN -4 A 10:09

**PLEASE PROVIDE AN ORIGINAL AND 2 COPIES
A \$525 FEE MUST ACCOMPANY THIS APPEAL**

TO: Oxnard City Clerk

NOTICE OF APPEAL
(from member of the public)

I, Brian Corbell, on behalf of Channel Islands Inn L.P. and Lucy Dinneen on behalf of Channel Islands Inn L.P. and 7-Eleven, am aggrieved or directly affected by and appeal the May 17, 2012 decision from the Planning Commission regarding Project No. 11-510-09 and 11-570-2, more particularly described as follows:

Planning Commission denying 7-Eleven's Special Use Permit application for off-site beer and wine sales at a new convenience store to be located in part of 1051 E. Channel Blvd and Planning Commission's recommendation to deny the rezoning of 1051 E. Channel Blvd. and 1001 East Channel from Commercial Manufacturing (C-M-PD) to General Commercial (C-2-PD).

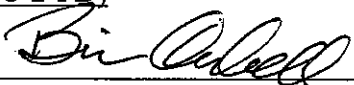
The grounds for appeal are:

The Planning Commission decision was arbitrary and capricious and not supported by substantial evidence. In addition, the denial of the rezone was contradictory to the approval by the Planning Commission of Planning and Zoning Permit No. 11-510-10 approving the Special Use Permit for Type 41 license. Substantial evidence supported the proposed Resolution of approval prepared by City Staff and attached to the Planning Commission Staff Report for this case, a copy of which is attached hereto. Additional materials in support of this appeal will be submitted prior to the City Council Hearing.

I request the following relief:

1. Reverse the Planning Commissions May 17, 2012 decision and issue a Special Use Permit authorizing 7-eleven to sell beer and wine at the store it would open at 1051 E. Channel Blvd. subject to all the conditions presented by the Police and Oxnard Staff in their recommendations.

2. City Council to disagree with the Planning Commission's May 17, 2012 recommendation to deny the rezone and for the City Council to find in favor of the rezoning of 1051 E. Channel Blvd. and 1001 E. Channel from Commercial Manufacturing (C-M-PD) to General Commercial (C-2-PD)



Date: 5/31/12

(signature) Brian Corbell, Chairman, Channel Islands Corporation, the General Partner of Channel Islands Inn. L.P.

225 Arizona Avenue, Suite 300

Santa Monica California 90401

(address)


(signature) Lucy Dinneen

174

Date: 6-1-12

ATTACHMENT 8

PAGE 1 OF 12

8480 E. Orchard Rd., Suite 2400

Greenwood Village, CO 80111

(address)

cc: City Attorney
Project Planner
Development Services Department

CADENCE DEVELOPMENT LLC

May 30, 2012

VIA E-MAIL & US Mail

Oxnard City Council
c/o City Clerk
City of Oxnard
305 West Third Street
First Floor-West Wing
Oxnard, CA 93030

Re: Appeal of Planning and Zoning Permit No. 11-570-02 for a Zone Change for 1051 East Channel Blvd and 1001 E Channel Blvd.

Dear Mayor Holden and City Council:

This letter is submitted in support of our appeal of the May 17, 2012 Planning Commission's decision to recommend the denial of the proposed rezone of the above properties. A separate letter is being issued to also appeal the denial by the Planning Commission for permit number 11-510-09 regarding a special use permit to allow a type 20 license for a new 7-Eleven planned for 1051 East Channel Blvd. The re-zoning of the property is appropriate for this specific site as it is consistent with the General Plan, meets all of the conditions required and would encourage more robust commercial activity on that corner of Channel Blvd. In addition, a rezone is necessary to make the earlier approval by Planning Commission of permit Number 12-510-10 valid.

The proposed rezoning to C-2-PD would allow the closed IHOP restaurant to be redeveloped and attract a broader range of retail commercial uses that include convenience markets and allow restaurants to serve alcohol, subject to special use permits. The rezone has the support of both the Planning Staff and Police which recommended approval as we will reflect further in the letter.

Despite Staff's and the Police's findings and recommendation for approval, as well as no clear community concerns or opposition to the rezoning, Planning Commission voted to recommend the denial of this application. This recommendation was not only capricious and seemed to be based on confusion, it was completely inconsistent with the Planning Commission's earlier approval of the Type 41 license for a restaurant. The rezoning was required in order to make the Type 41 special use permit an allowed use. Therefore, the Applicant is asking the City Council to ignore the Planning Commission's recommendation and approve the requested rezoning.

1. Introduction

The properties we are discussing - 1051 E Channel Blvd and 1001 E Channel Blvd - were built in 1985. They have been operated responsibly over the last twenty five years as a hotel and, up until 2010, as an IHOP restaurant. The hotel is called Comfort Inn and serves tourists and business travelers as well as groups which come in for sports activities such as the Oxnard Police Activity League Boxing. The property is well-managed and clean. The current owners own

multiple hotel properties and are experienced and professional. The IHOP did not renew its lease on the Restaurant as it found that it was unable to sustain a restaurant business in such a large space. As owner of the hotel and restaurant, we recognized we needed to reposition this property in order to keep the property competitive and commercially successful. In order to accomplish this, we required a change in the zoning to broaden the commercial uses to a wider array of retail options consistent with its location along a major commercial corridor. We were told that the C-2-PD designation was consistent with the General Plan and also consistent with our neighbor, the Amar market, and would make sense for this property.

As part of our effort to redevelop and revive this corner, the application that was presented to City Staff proposed:

- a) a rezoning of the property to C-2-PD to expand our universe of uses;
- b) an immediate re-tenanting of the 4200 square foot restaurant space to adapt it into a smaller restaurant and a small convenience market;
- c) two special use permits to enable the restaurant to offer some limited on site alcohol sales and the convenience market to offer a limited selection of site beer and wine for off-site consumption; and
- d) to allow a future 1200 square foot expansion of the building to take advantage of the excess land on the site and enhance the commercial activity at the corner as the market allowed.

The applicant has worked with City Staff to make this redevelopment attractive and respectful. The convenience market tenant was identified as a 7-Eleven, a national operator considered one of the leaders in this market and who has been aggressively upgrading their market stores with fresh food options, quality groceries and clean, well lit spaces with state-of-the-art security training and facilities. Without this rezone, the applicant is facing a limited set of options to re-tenant the large restaurant. *The previous IHOP building has been shuttered and closed for a year and a half. Upgrades to the property based on uses within the Commercial Manufacturing designation are not economical and the corner is at a serious risk of increasing a sense of blight to this area of town.* We do not believe any upgrade of the older Amar Market is in the works. Approval of the rezone would encourage new growth to this area of the city, increasing sales and providing new jobs.

II. The Planning Commissions Findings

In spite of Planning Staff's and Police support, the Planning Commission voted to not recommend approval of the rezone. The Planning Commission did not discuss or consider the following findings by City Staff:

A) The proposed rezone is consistent with the city's General Plan and the property's land use designation;

B) The measure of consistency was defined by three classification levels as outlined in the Staff report. Staff concluded the proposed rezone met all three classifications and would encourage positive retail commercial activity in this area;

C) The site would be in full conformance with Zoning development standards - In fact the chart presented by Staff made it evident and clear that the site met all and, in many cases, EXCEEDED these development standards;

D) The site has adequate utilities, parking and loading areas to accommodate this rezone and all the off-site road systems are adequate to accommodate the road and pedestrian traffic;

As indicated in the City Staffs findings, there is substantial evidence to support the rezone. Instead, the Planning commission justified a negative recommendation based on the arguments below in bold. The following discusses each of those findings and describes why the City Council should ignore the Planning Commission's recommendation and approve the Rezone.

1. Planning Commission indicated in the discussions that they should not approve the rezoning without a specific site plan submittal.

With all due respect, a site plan was submitted. This line of thinking was non-sensical as the Planning Commission at that juncture had already approved the special use permit for a type 41 license allowing on site beer and wine sales and they approved a major modification permit number 12-555-01, allowing for a 1200 square foot expansion of the building clearly tied to a specific site plan proposal. The sale of alcohol is a use only allowed if the rezone to C-2-PD was approved so the vote to deny the rezone was inconsistent and illogical.

We believe the Planning Commission did not really evaluate the substantial evidence supporting the rezone or fully consider Staff's findings. We believe City Council should evaluate the substantial evidence in favor of this rezone, including the significant positive effect it will have on the properties' ability to compete at this corner as a commercial retail property and find in favor of the rezone.

2. The Planning Commission appeared to vote against the rezone primarily to preclude a convenience store use. Some of the Planning Commission had concerns allowing a convenience store as a use on this corner because they felt that the pedestrian safety of the children at this corner would be compromised. The Planning Commission speculated that children would change their current walking patterns and find ways to cross the busy street outside of crosswalks. Questions were asked about the adequacy of the cross walks and controls. The traffic engineer did not have the information readily available so speculation by the Commission occurred that the infrastructure was inadequate. The Commission appeared to rely on their review of an aerial photo to reach this conclusion and did not refer back to the Staff's findings.

It is important to note that the application had been thoroughly reviewed by the Police and by Traffic and the findings and there was no substantial evidence to indicate that pedestrian safety was a concern. This was a discussion that arose in response to one public speaker who simply

asked the question to the Commission as to whether pedestrian safety was in place and were cameras installed.

The facts did not emerge at the hearing but are as follows: the findings of City Staff and Police indicated pedestrian safety was adequate. In addition, Officer Waer clearly indicated from his observations that even with the Amar Marketplace on the north side of the street today, the vast majority of school traffic stayed on the south side of the street as is consistent with where the residential neighborhoods are located. He indicated that some pedestrian traffic would increase because of the new convenience store but he did not believe this to be unmanageable.

Also, while Planning Commission speculated about the absence of crosswalks, the facts are that the site currently has a clear existing crosswalk system complete with pedestrian control buttons. Clearly marked crosswalks are located on Channel Blvd leading from the south side of Channel Blvd to the Amar Market side of Statham Blvd and there is another crosswalk going across Statham to the Hotel Property. All of these have pedestrian crosswalk lights. There is also a full crosswalk located to the west of 1001 East Channel Blvd leading to Albany Drive and the hotel. (photos are attached). There is no evidence that this intersection presents any current traffic or pedestrian crossing problems and there is no evidence that a change in use of the 4200 square foot restaurant to a blend of retail and restaurant, even with a convenience store use, would change this. The infrastructure is adequate. The findings of the Police and City Staff found no reason to believe that a small 2500 square foot convenience market would cause it to be a problem intersection.

The conclusions reached by the Planning Commission were based on a series of discussions based on imagined scenarios and not on the facts presented or on what could be confirmed about the facts of the site.

3. The Planning Commission had concerns about the proximity of a convenience store to the public high school that was 1400 feet away and a private elementary school roughly 600 feet to the southwest. Also, one Commissioner raised some concerns regarding the location of multi-family homes across the Channel Island Blvd and the effect of lighting on them.

The Planning Commission ignored both the written report and testimony of the Police that indicated they supported a convenience store in part because the Fresh and Easy located much closer to the high school has had no problems and has not reported any incidents to date. Also a new 7-11 convenience store that opened near another high school also has had no incidents. The Police felt that the conditions they required for approval and outlined in their report were sufficient to manage these concerns.

The City Staff also addressed the issue of lighting near residential, indicating that the hotel property and redeveloped retail would meet all code that relates to lighting next to residential. It was emphasized that the basic layout of the current development was not being altered.

The Planning Commission asked who we had talked to at the school. For clarification, the applicant spoke to the fact that it had held a neighborhood meeting with 2500 notices sent and that there were no concerns noted at that meeting. In addition, we volunteered that through its local consultant, Sandy Smith, we had reached out to Principal Hernandez of the High School to meet but the school chose not to meet with us. We then reached out to the superintendent, Mr.

Soumakian, who set up a meeting with Randal Winton, the Assistant Superintendent. At that meeting we described the proposed development, opened ourselves up for any further discussions and followed up with a letter. Clearly, the high school and the school district were made aware of this project. No one from this school or school district attended the neighborhood meeting or the Planning Commission hearing.

The evidence and the findings all reinforce that while a convenience store will attract some of the high school kids, similar to the Fresh and Easy on the even busier Oxnard and Channel Blvd intersection, that the conditions put in place would be adequate to manage it.

4. The Planning Commission spoke at length about a concern that the existence of a convenience market adjacent to a hotel would result in the hotel becoming a location in which vice would become the norm. They were concerned that a retail building that housed a convenience market next to a hotel was not compatible and may cause the hotel to "deteriorate". Chairman Murguia pursued a course of discussion about his own experiences regarding one hotel from the '70s and '80s" as his one point of reference.

In the course of this discussion, the Planning Commission ignored the Police Findings that none of the seven 7-Elevens in Oxnard are considered to be nuisance or problem establishments. The Police Report indicated that the crime statistics in this specific area show that general incident levels were 12% above average but that this level and the nature of the crimes, were such that the Police believed that this level of crime was not a concern and that any negative impacts of a convenience store could be mitigated through the conditions outlined in their report.

The applicant is an experienced hotel operator with many hotels under management. 7-Eleven is a national operator which was identified by Oxnard's police department as a very good operator without any stores identified as problems. The experiences presented to the Commission by the applicant were of positive synergies between hotels and convenience markets. Even Commissioner Mullin, who indicated he had experience in hotel operations through Marriott, spoke to the complimentary nature of this use. The idea that the convenience store caused or contributed to the deterioration of a hotel property was speculative and not based on any evidence whatsoever. It was a concern fueled by references to a highly dissimilar poorly operated hotel property from thirty years earlier out by the port in Hueneme. The Planning Commission continued to focus on this image versus the evidence presented by the hotel owner, the applicant representing 7-Eleven, the contrary view held by Commissioner Mullin who is in the hotel industry as a profession and by the Police report and findings.

While, the applicant understands that there are a variety of hotel types across many commercial areas and that one bad example of a poorly run hotel or poorly run convenience store could be taken out of context to prove "causality" (i.e. the convenience store led to the hotel becoming a problem hotel), the vast array of evidence indicates that the location of a convenience market near hotels provides a valued amenity for its customers. The applicant used as an example, a recent 7-Eleven they had just opened next to a new 5-star resort and indicated that the nearby hotel guests, nearby businesses and neighborhood residents are all valued customers. It is the

owner and applicant's perspective as a long standing hotel owner and operator that the hotel is more of risk of vice by having a dark closed building on its corner and being associated with blight than having a vital and robust commercial retail property next to it.

One of the speakers from the public even came up and spoke to her experience as a hotel guest in San Francisco and how valuable convenience markets are to buy a cup of coffee in the morning with a paper, or to grab a few toiletries one has forgotten. We believe the line of reasoning that influenced the Planning Commission was wholly arbitrary and capricious and ignored the state of the hotel on 1001 E Channel Blvd, its operational history and reputation with the Police Department and the experience of experts at the hearing.

5. Public Comment at the Planning Commission Hearing consisted of 5 speakers. Two of the speakers Mr. and Mrs. Goodwin spoke to wanting this to remain a restaurant and felt the only reason the restaurant closed was it was mismanaged. Mrs. Brown did not live in the neighborhood but was active with the police department in a citizen advisory role around alcohol issues and she believed that the conditions recommended by the Police had adequately addressed the alcohol concerns and she also spoke out to acknowledge that a convenient store near a hotel was a good amenity. Mr. Holloway spoke. He was from the nearby neighborhood and just asked the question of the Planning Commission if the crosswalk was adequate and if there were red light cameras as this was a concern. He did not speak for or against but rather simply inquired about the above question. The last speaker, Mr. Swanson, said he was from the Larson school district outside the noticed area. He had driven by the posted sign that morning and came to communicate his concern that he believed a 7-Eleven would attract school kids to hang out. He was the person who introduced the idea that in the 70s and 80s he knew of a seedy hotel with a convenience/liquor store that cause the police many problems.

The public concerns as indicated above, are something we respect and take seriously. However, as indicated in the Police report and the Staff findings and as thoroughly described above, we believe these concerns were addressed and could be adequately mitigated through the conditions outlined in Planning Staff's recommended approval.

We strongly encourage City Council find in favor of the re-zone. In addition to the findings by City Staff and the Police that support approval, a re-zone is consistent with the General Plan and goals of the City of Oxnard to encourage successful commercial enterprise on major commercial corridors. A rezone simply puts this property in the same general commercial zone as its neighboring property, the Amar Market, and will enable the redevelopment of what is now an obsolete restaurant space. The redevelopment of the corner building to a mixed retail building will engage the corner, providing goods and services to the neighborhood, the hotel guests and

the businesses along Statham Blvd. As City Staff and the Police pointed out in their findings, negative impacts will be mitigated through the conditions outlined in the approval while this successful redevelopment will contribute valued sales revenue and jobs to the community.

Sincerely,

A handwritten signature in black ink, appearing to be 'Lucy Dinneen', written over a long horizontal line that extends across the page.

Lucy Dinneen

Applicant

A handwritten signature in black ink, appearing to be 'Brian Corbell', written in a cursive style.

Brian Corbell

~~FOR THE~~
Owner

CADENCE DEVELOPMENT LLC

May 30, 2012

VIA E-MAIL & US Mail

Oxnard City Council
c/o City Clerk
City of Oxnard
305 West Third Street
First Floor-West Wing
Oxnard, CA 93030

Re: appeal of the denial of the permit Number 11-510-09 for a Special Use Permit for a Type 20 license for beer and wine for a new 7-Eleven Convenience Market

Dear Mayor Holden and City Council:

This letter is submitted in support of our appeal of the May 17, 2012 Planning Commission's decision to deny the special use permit for a type 20 license to a proposed 7-Eleven at 1051 E Channel Blvd.

As part of this letter we would ask that the City Council also refer to our letter addressing the appeal of the rezone as it addresses many of the related concerns regarding convenience stores.

I. Introduction

The owner of the closed 4200 square foot IHOP, which also owns the adjoining Comfort Inn hotel, would like to re-tenant the building into a smaller restaurant use and a 2500 square foot 7-Eleven. 7-Eleven would invest in upgrading the space to its newest concept of a neighborhood market. This concept includes an offering of an array of groceries, coffee, freshly made sandwiches and fruit and other incidental items like aspirin and toothbrushes. More than 2200 individual items are carried in this new 7-Eleven neighborhood market for the convenience of their customers.

As part of this product offering, 7-Eleven offers its customers a full array of their convenience items, including a limited selection of beer and wine. This enables their customers to get all of their convenience items in one place. At 1051 E Channel Blvd, where 7-Eleven would like to open a new store, they have agreed to all the conditions presented by the Oxnard City Police related to alcohol sales which include limiting the hours of alcohol sales from 6 am to midnight, eliminating any sale of singles, limiting advertising and following all the security procedures outlined by the police.

It was significant that at the hearing, Officer Waer indicated that at a new 7-Eleven recently opened near a high school in Oxnard and there have been no incidents or problems. He indicated that 7-Eleven was an exceptional operator and worked cooperatively with the police and fully honored the special use permitted conditions.

The Amar Marketplace is across the street from the site and it sells beer and wine. Because it is within 350 feet of this property, per Oxnard guidelines, the area is considered over-concentrated. However, the area is not considered over-concentrated by ABC measures.

The 7-Eleven neighborhood market would offer this area along Channel Blvd and Statham Blvd a convenience option that is not the same as Amar Market. The extended hours of a 7-Eleven and the ability to get in and out of the store quickly would provide an amenity to the residents, the hotel guests and the business population concentrated within a half a mile (7-Elevens market area when they do not serve gasoline). Many people work later in the evening or at night, or they leave early for a job and rely on the convenience of a 7-Eleven market to get their goods quickly and at odd hours. The existence of a convenience store near a large scale grocery is often complimentary as they serve different customer needs.

The ability to offer limited beer and wine is critical to the overall strategy of the 7-Eleven neighborhood market concept. Any negative impacts can be managed through the adopted conditions as indicated in the Police report findings. The 7-Eleven would provide a valuable amenity to the area. For these reasons we encourage the City Council to vote in favor of the special use permit.

II. Planning Commissions Findings

In spite of the City Staff and Police findings, the Planning Commission voted to deny the special use permit for a type 20. The Planning Commission did not discuss nor consider the following findings:

- A) Staffs findings that led them to conclude the building and site were adequate to handle this use;
 - B) the Police report that indicated that negative impacts could be managed adequately through adopting specific conditions;
 - C) the Police report on the specific experiences with this operator within the City of Oxnard - of seven existing 7-Elevens, "none are considered nuisances or problems"
 - D) The neighborhood meeting in which 2500 people were noticed and no concerns were raised;
 - E) The amenity of convenience this new retail would provide to this area, especially for people who do not own cars or for people who work or go to school at off hours;
 - F) The substantial complementary benefit it would have to the existing hotel development and nearby businesses on Statham.
1. **The Planning Commission spoke at length about their concern that the existence of a convenience market with alcohol adjacent to a hotel would result in the hotel and the hotel guests becoming a location in which vice would become the norm. The Planning Commission ignored the Police Findings and instead pursued a course of discussion about their own experience with a certain hotel they recalled from the 70s and 80s**
 2. The applicant's experience with this issue was discussed at length in the rezone letter. However, in addition to this, no discussion was made as to the fact that the Amar Market,

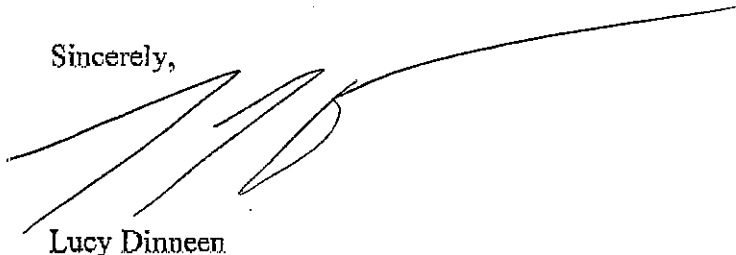
directly across the street, also offers alcohol and with many fewer conditions applied than the 7-Eleven would have. There is no evidence that this market with much more substantial alcohol offerings available contributes to vice or indecency at the hotel currently. No alcohol would be sold after midnight. No singles would be sold. The operator, 7-Eleven, has a clear track record with the city of responsible management and training.

Because the greater part of the Planning Commission's discussion related to convenience stores in general rather than the sale of alcohol specifically there was little to no discussion regarding the school children and alcohol. Thus this was not really discussed by the Planning Commission. Because of the importance of this, however, we wanted to emphasize again the Police findings:

At the Fresh and Easy which is much closer to the high school, there have been no alcohol related incidents. The new 7-Eleven on Gonzales which opened near a high school, has had no alcohol related incidents. The Police findings believe that the conditions they outline in their report adequately mitigate this concern.

The applicant appeals to City Council to review this based on the findings of its staff and the basis of evidence and to find in favor of the special use permit.

Sincerely,

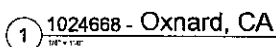


Lucy Dinneen

Applicant



Brian Corbell
FOR THE
Owner



SHEET: EF1

1051 E Channel
Islands Blvd,
Oxnard, CA

Restaurant
TBD

REVISIONS

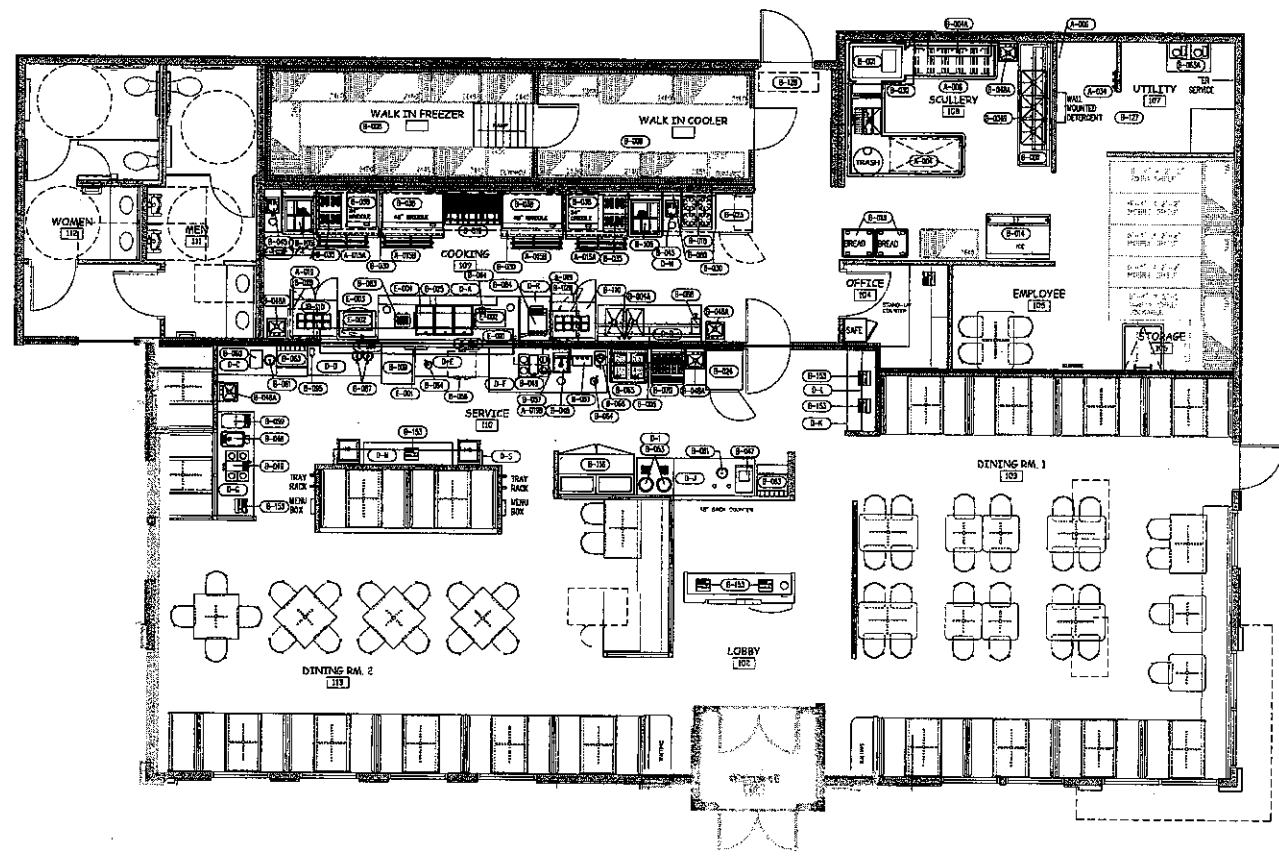
NO.	DATE

DRAWINGS ISSUED FOR:

- ☐ CLIENT REVIEW
- ☐ PERMITTING
- ☐ PERMIT REVISIONS
- ☐ BIDDING
- ☐ FINAL CONSTRUCTION

DRAWINGS ISSUE DATE:
30/09/00

DATE:
30/02/00



Restaurant Floor Plan
SCALE: 1/4" = 1'-0"
BUILDING
1

**PLANNING COMMISSION
STAFF REPORT**

TO: Planning Commission

FROM: Brian Foote, AICP, Associate Planner

DATE: May 17, 2012

SUBJECT: Planning & Zoning Permit Nos. 12-550-01 (Major Modification), 11-570-02 (Zone Change), and 11-510-09 & 11-510-10 (Special Use Permit – Alcohol).

- 1) **Recommendation:** That the Planning Commission adopt resolutions for the following actions:
 - a) Approve Planning & Zoning Permit Nos. 11-510-09 and 11-510-10 for special use permits, subject to certain findings and conditions; and
 - b) Approve Planning & Zoning Permit No. 12-550-01 for a major modification, subject to certain findings and conditions; and
 - c) Recommend approval of Planning & Zoning Permit No. 11-570-02 for a zone change.
- 2) **Project Description and Applicant:** A request for approval of: a major modification to construct a 1,200 square-foot addition if needed to accommodate a future retail or restaurant tenant (to be determined); a zone change to General Commercial (C-2-PD) in order to allow a convenience store and sales of alcoholic beverages; and special use permits to sell beer and wine for off-site consumption for a future convenience store (7-Eleven), and sell beer and wine for on-site consumption for a future restaurant. The project site is located at 1051 East Channel Islands Boulevard (see Attachment A). Filed by Terri Dickerhoff, Cadence Capital Investments LLC, 1120 Manzanita Street, Los Angeles, CA 90029.
- 3) **Existing & Surrounding Land Uses:** The site is developed with an existing commercial building for one tenant, formerly an International House of Pancakes restaurant.

LOCATION	ZONING	GENERAL PLAN	EXISTING LAND USE
Project Site	C-M-PD	Commercial: General (CG)	Former IHOP Restaurant (currently vacant)
North	M-L	Industrial Light (ILGT)	Maple Leaf Bakery (across Albany Drive)
South	R-3-PD	Residential High (RH)	Channel Island Park Apartments (across Channel Islands Blvd.)
East	C-2-PD	Commercial: General (CG)	Amar Ranch Food Warehouse (across Statham Blvd.)
West	C-M-PD	Commercial: Neighborhood (CN)	Channel Islands Inn & Suites

4) Background Information: On July 21, 1981, the City Council adopted Ordinance No. 1867 repealing the Light Manufacturing (M-1) zone and creating the Limited Manufacturing (M-L) zone, effectively changing the zoning of the subject property from M-1 to M-L. On May 16, 1985, the Planning Commission adopted Resolution No. 6763 approving a use permit (U-1091) to construct a 91-unit hotel and 4,250-sq.ft. restaurant on the subject property. On August 2, 1988, the City Council adopted Ordinance No. 2172 changing the zoning of the subject property from M-L to Commercial Manufacturing (C-M-PD). A minor modification was approved in 1989 (PZ No. 89-600-64) to add office and storage rooms to the IHOP restaurant.

5) Environmental Determination: In accordance with Section 15301 of the State CEQA Guidelines, projects involving "Existing Facilities" may be found to be exempt from the requirements of the California Environmental Quality Act (CEQA). Section 15301 exempts projects involving minor alterations to existing facilities, as well as additions not exceeding 10,000-sq.ft. Therefore, staff has determined that there is no substantial evidence that the project may have a potentially significant effect on the environment, and recommends that the Planning Commission adopt the Notice of Exemption (Attachment C).

6) Analysis:

a) General Discussion: The multiple applications are required for different elements of the proposal: the zone change request in order to allow the convenience store, as well as the sale of alcoholic beverages; the major modification in order to create multiple suites within the existing structure (Phase I or "Option A"); a potential Phase II 1,200-sq.ft. addition to the restaurant and modifications to the parking lot (Phase II or "Option B"); and the special use permits for future license issuance by the Department of Alcoholic Beverage Control. This proposal includes two phases: 1) remodel the existing structure without an addition; and a potential Phase II construction of a 1,200-sq.ft. addition if needed, within three years of the approval date. Phase I does not include any addition to the structure nor modifications to the parking lot; Phase I only creates multiple suites within the existing building shell.

The building is proposed to be divided into two separate uses. Suite 1 is proposed to be a 2,500-sq.ft. convenience store for 7-Eleven with sales of alcohol for off-site consumption, and Suite 2 is to be a non-fast-food restaurant (tenant yet to be determined) with sales of alcohol for on-site consumption. The tenant space proposed to be occupied by 7-Eleven is located on the front side of the building, with frontage on Channel Islands Boulevard. The proposed restaurant space would occupy the remainder (rear) of the structure, with frontage toward Statham Blvd., with the potential for a Phase II addition totaling 1,200-sq.ft.

According to the applicant, alcohol accounts for only 14% of total sales in 7-Eleven, but generates 30-40% of the incidental sales (i.e. customers purchasing other items concurrently with alcohol). 7-Eleven stores offer fresh fruit, fresh bakery and dairy products, pre-packaged and ready-to-eat foods, as well as sundry and grocery items. The applicant states that alcohol sales are critical to the business plan because it promotes "one-stop shopping" for the convenience of their customers. The store is proposed to operate 24 hours, 7 days per week;

Police condition #31 prohibits the sale of alcoholic beverages between the hours of 12:00 midnight to 6:00 a.m., and Police condition #43 requires the coolers with alcohol to be locked during those hours.

For the zone change request, the two subject properties located at 1051 E. Channel Islands Blvd. (project site) and 1001 E. Channel Islands Blvd. (Channel Islands Inn & Suites) have the same property owner, and the applicant has requested that both parcels be zoned General Commercial Planned Development (C-2-PD) for consistency.

- b) General Plan Consistency:** The City's 2030 General Plan land use designation for the subject site is for General Commercial (CG) uses which allows retail centers and free-standing commercial uses along major corridors. The proposed uses are retail commercial, and the project will be consistent. Approval of these requests for zone change, major modification, and alcohol special use permits have been determined to be consistent with the General Plan and the property's land use designation.

Consistency with the 2030 General Plan is defined by the relationship between 2030 General Plan policies and the proposed project. The three consistency classification levels are:

- I. Direct Applicability to a Proposed Project or Program.
- II. Related or Indirect Applicability to the Proposed Project or Program.
- III. No or Distant Applicability to the Proposed Project or Program (all policies not listed as Level I and II are assumed to be consistent).

POLICY	LEVEL	POLICY OR TITLE	EXPLANATION
CD 18.1	I	Identify and attract a range of commercial, retail and industrial businesses that are compatible with the community's business climate and not detrimental to the existing economy and environment.	The proposed project will facilitate attracting new retail and restaurant businesses to the city.
CD-18.10	II	Support, stimulate, and foster increased activity of existing businesses within the community.	The proposed project will support the existing hotel business on the adjacent property.
All others	III	All policies not listed above	No or Distant Applicability to the Proposed Project

- c) Conformance with Zoning Development Standards:** If the zone change request is approved, the proposed development will be within the General Commercial (C-2-PD) zone district. In accordance with the City Code, the proposed alcohol licenses for the 7-Eleven and restaurant may be permitted with an approved special use permit. Applicable development standards of the C-2-PD zone have been compared with the proposed Phase II portion of the project (addition and parking lot modifications), as follows:

DEVELOPMENT STANDARD	REQUIREMENT	PROPOSED	COMPLIES ?
Building Height (§16-137)	2 stories or 35 feet maximum.	1 story (E)	Yes
Front Yard Setback (16-139)	10 feet from property line;	85'0" (E)	Yes
Side Yard Setback (§16-140)	5 feet. Zero feet when property abuts another C-2 zoned lot.	10'2" (E)	Yes
Rear Yard Setback (§16-141)	None if less than 16'0" in height; 15 feet if more than 16'0" height.	105'1"	Yes
Off-Street Parking (§16-622)	Retail: 1 per 300 SF = 8 Restaurant: 1 per 75 SF = 56 <i>Minimum = 64</i> • Handicap-accessible • Motorcycle (§16-624) • Bicycle (§16-623, 16-637) • Loading (§16-644)	83 (Phase I) 72 (Phase II) 3 4 10 1	Yes Yes Yes Yes Yes Yes
Parking space size/design • Standard (16-636, 16-638) • Driveway depth (16-636) • Loading (16-644)	• 9'0" wide & 19'0" long • 40' long minimum • 12' wide, 40' long, 14' high •	9'0" x 19'0" 40'0" min. 12'0" x 40'0"	Yes Yes Yes
Parking lot landscape (§16-641) • Along streets/alleys • Parking/vehicle area • Landscape fingers	• Min. 10' wide strip. • Min. 5' wide in parking areas. • 9'W x 20'L - every 10 spaces.	10'0" min.(E) 5'0" min. Every 8 spaces	Yes Yes, with conditions Yes
Trash Enclosure	To be screened at installation.	Landscape screening	Yes
Rooftop Equipment	May not protrude above parapet.	Screened	Yes

d) Circulation and Parking: For the proposed Phase II build-out of the site with the 1,200-sq.ft. addition, modifications to the northerly parking lot would be required in order to accommodate the addition. Adequate parking is available on-site to accommodate the addition and exceeds Zoning Code requirements (64 spaces required, and 72 would be provided). Traffic Engineering and Fire Department staff has reviewed the proposal, and the project has been conditioned so that the Phase II site plan can accommodate the required truck-turn radius through the drive aisles (e.g. refuse truck and fire truck).

- e) **Building Design:** The proposed Phase I changes to the structure include a new storefront system for 7-Eleven. Double doorways and windows would be installed on the south side (facing Channel Islands Blvd.) and the easterly side (at the southeast corner of the building, facing Statham Blvd.). Sections of the existing metal railing along the walkway would be removed in front of the doorways.

The proposed architecture of the Phase II addition would match the existing architectural style in terms of massing, articulation, finish materials and colors, and windows. For the Phase II addition, the easterly façade would be modified to accommodate another storefront entrance (i.e. one for 7-Eleven; one for the restaurant; and one for the third suite with a restaurant or retail tenant). Minimal parking lot modifications would be necessary for Phase II only, and existing utilities and infrastructure are adjacent and can serve the project site.

- f) **Request for Sale of Alcoholic Beverages for On-site Consumption:** The future tenants will need to file applications with the California Department of Alcoholic Beverage Control (ABC) for a Type 20 license (Off-Sale Beer & Wine), as well as a Type 41 license (On-Sale Beer & Wine for Bona Fide Public Eating Place). The ABC licensing procedure requires the City of Oxnard's approval prior to issuance, therefore the applicant is requesting special use permits pursuant to City Code §16-136(A).
- g) **Police Department Review:** The Police Department reviewed the proposed alcohol uses as required by City Council Resolution No. 11,896 for sale of alcoholic beverages. A separate Police report was generated for each application (see Attachment F) in order to provide information regarding the number of incidents of police response, and whether there is a presumption of undue concentration of establishments selling alcoholic beverages that is likely to significantly aggravate policing problems.
- i) **Concentration of Alcohol Sales:** For the Type 20 (Off-Sale Beer & Wine) license, there is one similar Off-Sale alcohol outlet within 350 feet of the site (Amar Ranch Market) and one more within 1000 feet (Fresh & Easy Market). For the Type 41 (On-Sale Beer & Wine) license, there are no similar On-Sale alcohol outlets within 350 or 1000 feet of the site.
- ii) **Crime Statistics Review:** For comparison purposes, the Police Department calculates the average number of Part I and II crimes that occur per reporting district (grid) during a selected 12-month period. The average city-wide, per grid base number of Part I and II crimes is currently 117.

The average number of Part I and II crimes in the *applicant's* reporting district and all other districts within 1000 feet of the applicant is 131 during the same 12-month time period. This is 12% higher than the average crime rate citywide which is generally not considered to be significant. The nature and types of calls are consistent with citywide trends and those that list alcohol as a contributing factor are below citywide averages.

There are currently seven 7-Eleven stores in Oxnard, none of which are considered to be problem or nuisance establishments. The average number of disturbances at each store is 11 per year and the average number of thefts is five. Contrast that to another convenience store chain that has several outlets in Oxnard where the annual number of disturbances was 22 and the average number of thefts was 36. The Police Department only points this out to give perspective to the numbers and types of calls that are typical of similar stores and to demonstrate that other stores operating under the Applicant's corporate policies seem to be effective at minimizing problems.

- iii) *Additional Police Input:* The primary concern of the Police Department is the site's close proximity to Channel Islands High School. The school is approximately 600 feet southeast of the proposed site and the business is likely to be a popular destination for students as they commute to and from school. Numerous studies have shown that youth exposure to alcohol significantly impacts underage consumption. Increased access and exposure to alcoholic beverages are directly related to incidences of youth consumption and should be carefully considered when determining appropriate locations for new outlets. There are now many preventative conditions that can help to minimize exposure to young people and to also reduce the access to alcohol. Prohibiting alcohol advertisements, limiting the types and sizes of alcoholic beverages and positioning the alcohol displays to be separate from other, non-alcoholic products and placed where they can be easily monitored by employees should minimize the likelihood for conflicts.

Also, the Police Department's experience with other alcohol outlets in Oxnard that are near middle schools or high schools is that there is often a heavy influx of students during the commuting hours that can often overwhelm the employees. A few businesses have had to develop preventative policies such as limiting the number of students that can be present inside the store at any one time. Not allowing them to bring in backpacks or other large storage bags is another effective strategy to reduce the likelihood for theft related problems.

The Police Department has visited the proposed site several times to monitor the after school commuting patterns of Channel Islands High School students. Generally, our observations were that there are approximately 200 students who consistently walk westbound on Channel Islands past Statham and that all but a handful remains on the south side of the street. The groups of students tended to pass by the site in waves of 20 people or less with most groups being much smaller. This is in contrast to the large groups that overwhelm the shopping centers to the north of the school and crowd businesses such as Fresh & Easy and Walgreens. That being said, neither of these businesses have had any significant problems with students other than crowding and Fresh & Easy has not had any alcohol/student related problems.

There are a few other locations in Oxnard where there are alcohol outlets near schools, including two that are in very close proximity to high schools where the students are at the highest risk of exposure and access to alcohol. One of those is the Fresh & Easy Market which is literally across the street from Channel Islands High. This posed some very unique challenges when determining what the most appropriate and effective operating conditions should be to minimize the potential for conflicts. Fortunately, the preventative conditions we included with each of these sites appears to have been effective at preventing problems as there have been no alcohol/student related incidents at any one of the four businesses considered to be in close proximity to the high schools.

It is the conclusion of the Police Department that, while cautious and mindful of the potential for conflict with students, that the concerns can be effectively mitigated with the addition of comprehensive operating conditions and close oversight of the activity at both proposed businesses. For the proposed 7-Eleven store, prohibiting the sale of single servings of alcohol and limiting certain types of sweetened malt beverages or alcoholic energy drinks that are popular with young drinkers are some of the recommended conditions included in the proposed resolution. Other preventative measures for 7-Eleven include installing security cameras with feedback monitors that would give school staff the ability to review the recordings and help identify problem students should it be necessary.

- iv) *Conclusion:* The statistical analysis shows the area to have a crime rate that is slightly above the citywide average but the area is not generally considered to be a policing problem. The Police Department's experience is that the proposed license types, when properly regulated through conditions imposed by the Planning Commission, do not normally aggravate policing issues, as long as the establishments comply with these regulations and operate responsibly. The Police Department's recommended operating conditions are included in the Planning Commission resolution (Attachment D).

Type 20 ABC license (Off-Sale Beer & Wine)

There is one similar alcohol outlet within 350 feet of the site so there is a local presumption of undue concentration. The presumption of undue concentration can be rebutted by a preponderance of evidence that determines the use will not aggravate policing issues and may be appropriate for the area. The site's close proximity to Channel Islands High School is of some concern but can be effectively mitigated by including preventative operating conditions with the resolution.

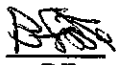
Type 41 ABC license (On-Sale Beer & Wine for Bona Fide Public Eating Place)

There are no similar alcohol outlets within 350 feet of the site so there is no local presumption of undue concentration. The site's close proximity to Channel Islands High School is of some concern but can be effectively mitigated by including preventative operating conditions with the Planning Commission resolutions.

- 7) Development Advisory Committee:** The Development Advisory Committee (DAC), as a group, did not review this project. However, the members representing Development Services, Fire Department, Traffic Engineering, Landscape, and Police Department individually reviewed the project, and the attached resolutions include the recommended conditions of approval.
- 8) Community Workshop:** The Community Workshop was conducted on December 19, 2011. On December 6, 2011, the applicant mailed notices of the Community Workshop meeting to all property owners with properties in the Cal Gisler, Blackstock North, and College Estates neighborhoods. A notice of this meeting was posted on the project site with a brief description and contact information. None of the attendees from the public signed in for this project.
- 9) Appeal Procedure:** In accordance with Section 16-545 of the City Code, the Planning Commission's action may be appealed to the City Council within 18 days after the decision date. Appeal forms may be obtained from the City Clerk and must be submitted with the appropriate fees before the end of the appeal period. The Planning Commission's action on the zone change and request is a recommendation and the matter will be considered by the City Council in a noticed public hearing at a later date.

Attachments:

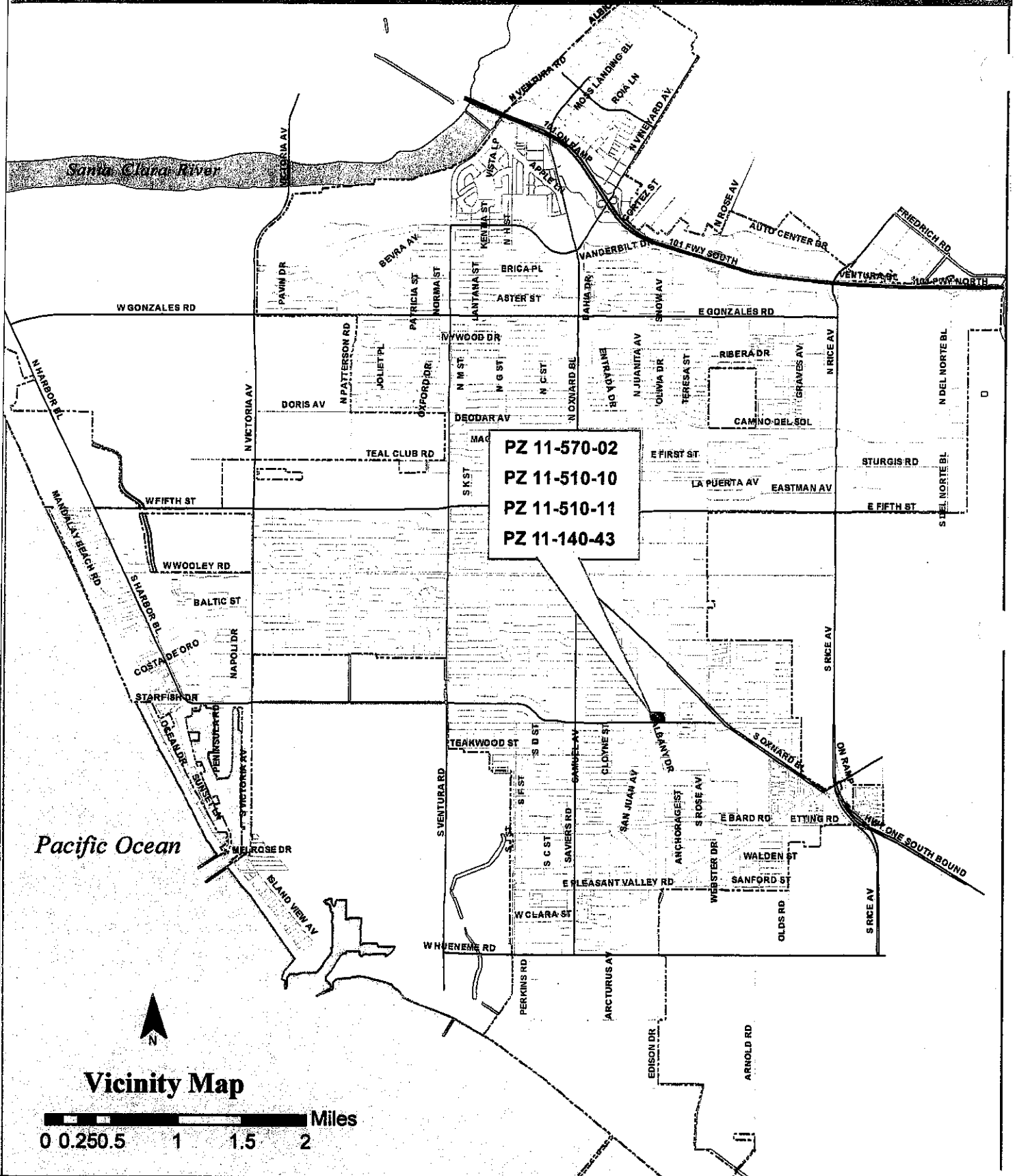
- A. Maps (Vicinity, General Plan, Zoning)
- B. Reduced Project Plans
- C. Notice of Exemption
- D. Resolutions
- E. Police Department Reports

Prepared by:	
	BF
Approved by:	
	SM

PZ Nos. 11-510-9, 11-510-10, 12-550-01, 11-570-2
Planning Commission: May 17, 2012

ATTACHMENT A

Vicinity Map



Vicinity Map

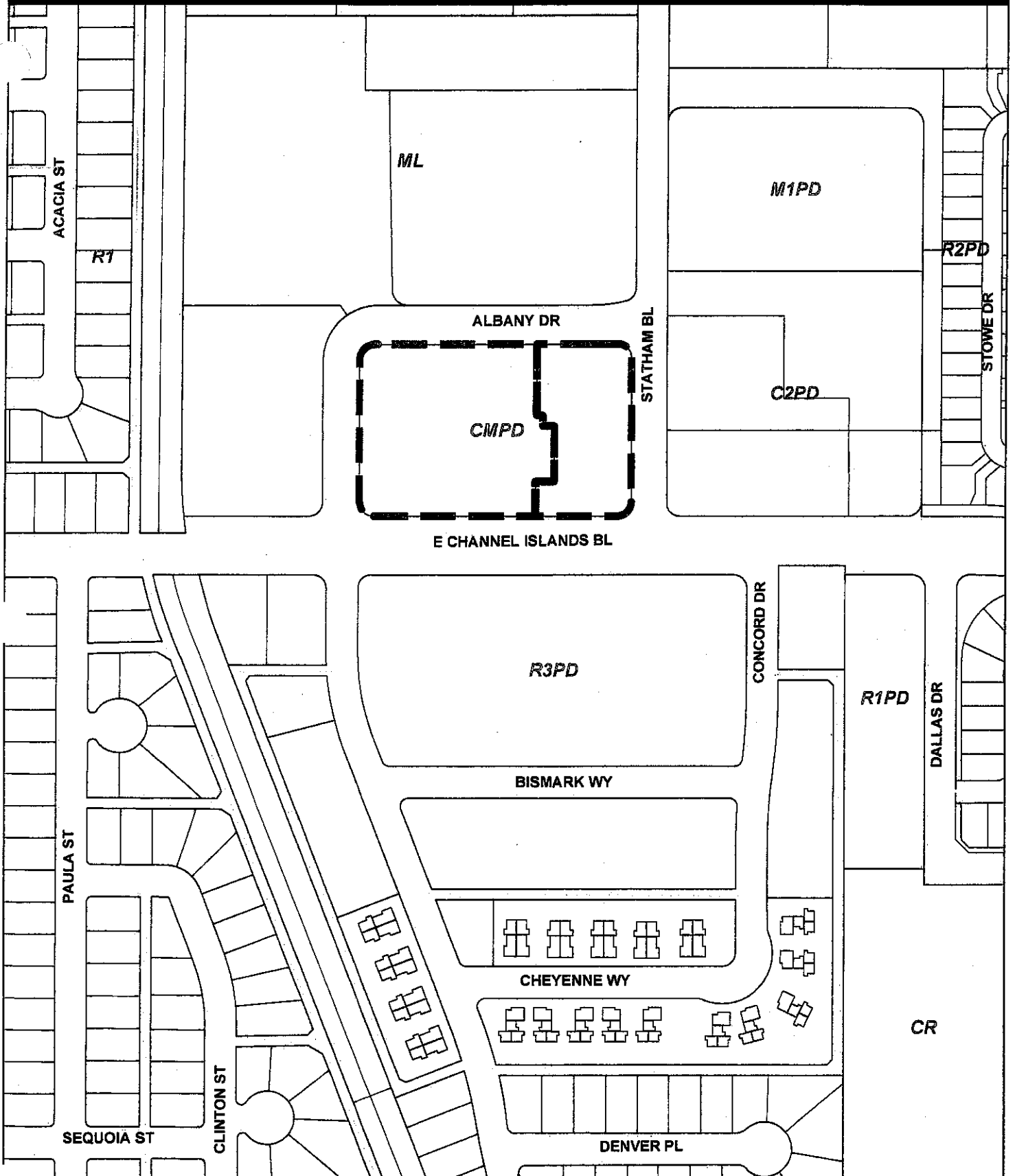
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Oxnard Planning
November 22, 2011

PZ 11-570-02, 11-510-10, 11-510-11, 11-140-43
Location: 1051 E. Channel Is. Bl.
APN: 220022013, 220022012
Cadence Capital

Zone Map



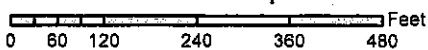
Oxnard Planning
November 22, 2011

PZ 11-570-02, 11-510-10, 11-510-11, 11-140-43

Location: 1051 E. Channel Is. Bl.

APN: 220022013, 220022012

Cadence Capital



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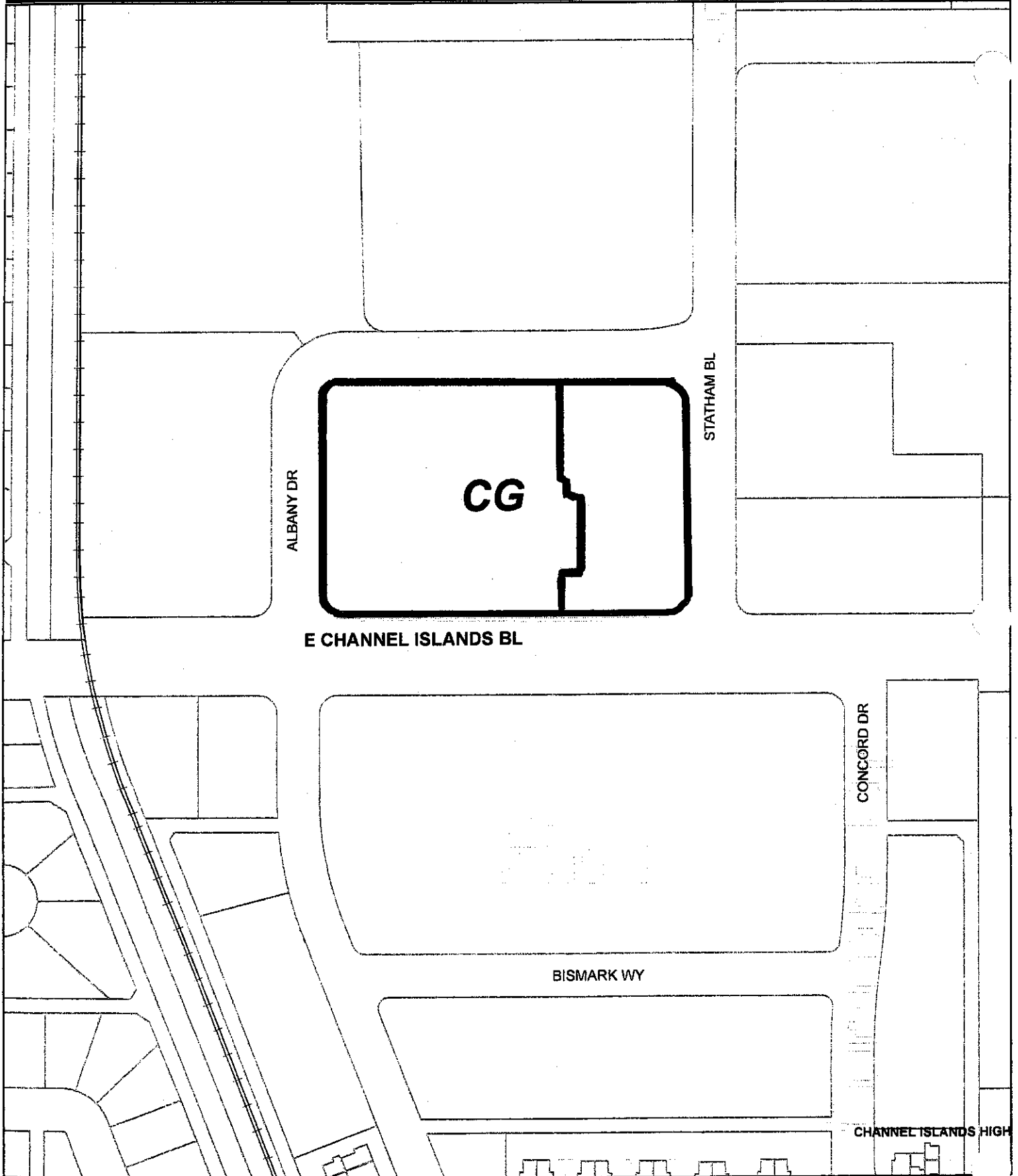
Zone Map

ATTACHMENT 3

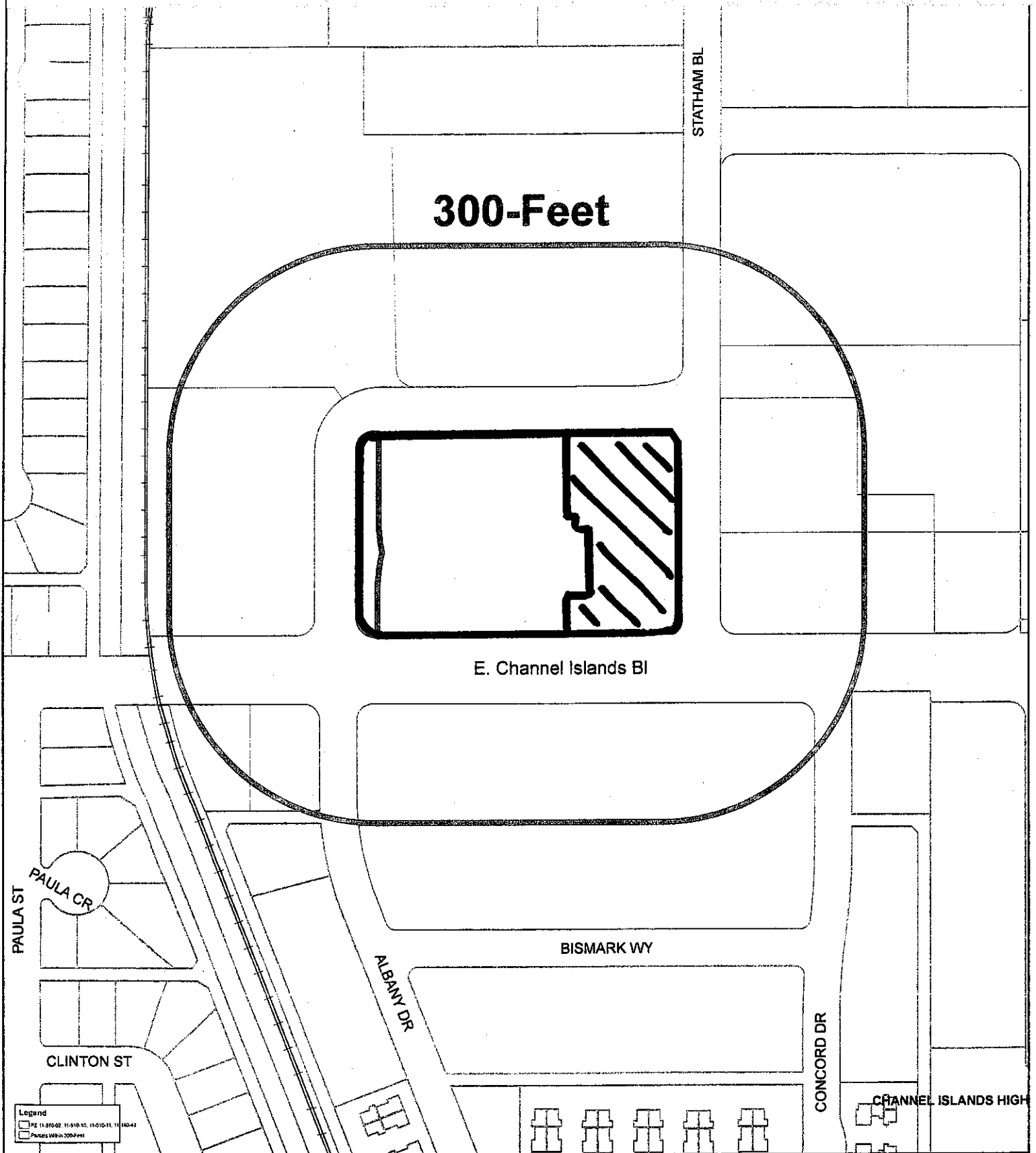
PAGE 11 OF 70



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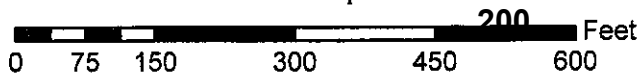


Radius Map



Oxnard Planning
November 22, 2011

PZ 11-570-02, 11-510-10, 11-510-11, 11-140-43
Location: 1051 E. Channel Is. Bl.
APN: 220022013, 220022012
Cadence Capital



Radius Map

ATTACHMENT 3
PAGE 13 OF 70

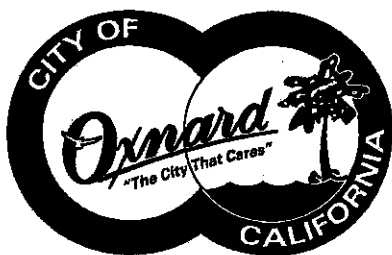


ATTACHMENT B PROJECT PLANS

[Please see attached full-size plans.]

PZ Nos. 11-510-9, 11-510-10, 12-550-01, 11-570-2
Planning Commission: May 17, 2012

ATTACHMENT C
NOTICE OF EXEMPTION



NOTICE OF EXEMPTION

Project Description:

Planning & Zoning Permit Nos. 12-550-01 (Coastal Development Permit), 11-510-09 & 11-510-10 (Special Use Permit – Alcohol), and 11-570-2 (Zone Change) – A request for approval of: a major modification to construct a 1,200 square-foot addition if needed to accommodate a future retail or restaurant tenant (phased development); a zone change to General Commercial (C-2-PD) in order to allow a convenience store and sales of alcoholic beverages; and special use permits to sell beer and wine for off-site consumption for a future convenience store (7-Eleven), and sell beer and wine for on-site consumption for a future restaurant. The project site is located at 1051 East Channel Islands Boulevard. Filed by Terri Dickerhoff, Cadence Capital Investments LLC, 1120 Manzanita Street, Los Angeles CA 90029.

Finding:

The Planning Division of the Development Services Department of the City of Oxnard has reviewed the above proposed project and found it to be exempt from the provisions of the California Environmental Quality Act (CEQA).

- ☐ Ministerial Project
- ☒ Categorical Exemption, §15301 – Existing Facilities
- ☐ Statutory Exemption
- ☐ Emergency Project
- ☐ Quick Disapproval [CEQA Guidelines §15270]
- ☐ No Possibility of Significant Effect [CEQA Guidelines §15061(b)(3)]

Supporting Reasons: In accordance with Section 15301 of the *CEQA Guidelines*, projects involving minor alterations or additions to existing facilities may be found to be exempt from environmental review. There is no substantial evidence that the project may have a potentially significant effect on the environment. Therefore, staff has determined that the project qualifies for exemption.

(Date)

Susan L. Martin, AICP
Planning Division Manager

PZ Nos. 11-510-9, 11-510-10, 12-550-01, 11-570-2
Planning Commission: May 17, 2012

ATTACHMENT D RESOLUTIONS

RESOLUTION NO. 2012 --

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD RECOMMENDING TO THE CITY COUNCIL ADOPTION OF PLANNING & ZONING PERMIT NO. 11-570-02 (ZONE CHANGE), TO CHANGE THE ZONE DISTRICT TO GENERAL COMMERCIAL PLANNED DEVELOPMENT (C-2-PD) FOR A.P.N.'S 220-0-220-125 & 220-0-220-135, SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY CADENCE CAPITAL INVESTMENTS L.L.C., 1120 MANZANITA STREET, LOS ANGELES CA 90029.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning & Zoning Permit No. 11-570-02, filed by Terri Dickerhoff of Cadence Capital Investments LLC on behalf of property owner Channel Islands Inn LP, to amend the zoning of Assessor Parcel Numbers 220-0-220-125 and 220-0-220-135 from Commercial & Light Manufacturing Planned Development (C-M-PD) to General Commercial Planned Development (C-2-PD); and

WHEREAS, the California Environmental Quality Act (CEQA) provides categorical exemption from preparation of environmental review pursuant to Sections 15301 for existing facilities, and all findings for this exemption can be made; and

WHEREAS, the Planning Commission conducted a public hearing, and received and reviewed written and oral comments related to proposed Planning & Zoning Permit No. 11-570-02; and

WHEREAS, the Planning Commission finds after due study and deliberation that the proposed zoning designation of General Commercial Planned Development (C-2-PD) will bring the subject properties into conformance with the General Plan designation of Commercial General (CG).

WHEREAS, the Planning Commission finds after due study and deliberation that the public interest and general welfare require the adoption of Planning & Zoning Permit No. 11-570-02.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard hereby recommends to the City Council adoption of Planning & Zoning Permit No. 11-570-02, amending the City's official Zoning Map to change the zoning designation of said parcels as shown in Exhibit "A", attached hereto and incorporated herein by reference.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 17th day
of May, 2011, by the following vote:

AYES:

NOES:

ABSENT:

Anthony R. Murguia, Chair

ATTEST: _____
Susan L. Martin, Secretary

EXHIBIT A

All that certain real property situated in the County of Ventura, State of California, described as follows:

Assessor's Parcel No. 220-0-220-125

All of Parcel 1, in the City of Oxnard, County of Ventura, State of California, as shown on a map recorded in Book 68, Page 9 of Parcel Maps, in the Office of the County Recorder of said Ventura County.

Except all oil, gas or other hydrocarbon substances in or under said land but without any right to use the surface of said land nor the subsurface thereof for a depth vertically of 500 feet from the surface, in any manner or for any purposes connected with the exploration for, drilling for or production of oil, gas or other hydrocarbon substances, as reserved by Paul Donlon, et al, in deed recorded October 2, 1957 in Book 1554, Page 205 of Official Records.

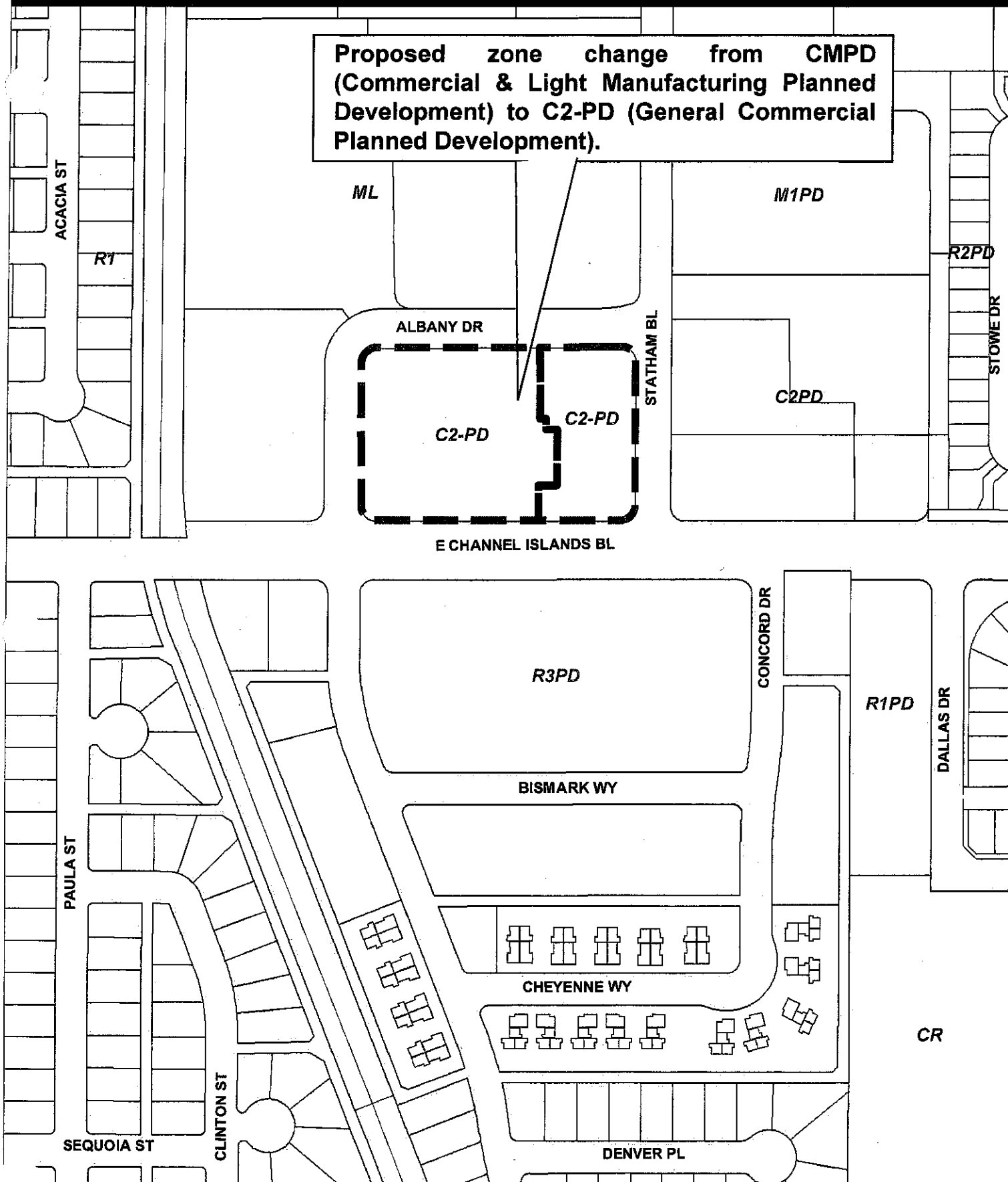
Assessor's Parcel No. 220-0-220-135

All of Parcel 2, in the City of Oxnard, County of Ventura, State of California, as shown on a map recorded in Book 68, Page 9 of Parcel Maps, in the Office of the County Recorder of said Ventura County.

Except all oil, gas or other hydrocarbon substances in or under said land but without any right to use the surface of said land nor the subsurface thereof for a depth vertically of 500 feet from the surface, in any manner or for any purposes connected with the exploration for, drilling for or production of oil, gas or other hydrocarbon substances, as reserved by Paul Donlon, et al, in deed recorded October 2, 1957 in Book 1554, Page 205 of Official Records.

End of Exhibit A

Proposed zone change from CMPD (Commercial & Light Manufacturing Planned Development) to C2-PD (General Commercial Planned Development).



Oxnard Planning
November 22, 2011

PZ 11-570-02, 11-510-10, 11-510-11, 11-140-43

Location: 1051 E. Channel Is. Bl.

APN: 220022013, 220022012

Cadence Capital

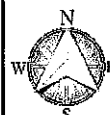
208

0 60 120 240 360 480 Feet

Zone Change

ATTACHMENT 3

PAGE 21 OF 70



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RESOLUTION NO. 2012 –

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING A SPECIAL USE PERMIT (PLANNING & ZONING PERMIT NO. 11-510-09) TO ALLOW A TYPE 20 (OFF-SALE BEER & WINE) ALCOHOLIC BEVERAGE CONTROL LICENSE FOR A PROPOSED CONVENIENCE STORE. THE SUBJECT PROPERTY IS LOCATED AT 1051 EAST CHANNEL ISLANDS BOULEVARD (APN: 220-0-220-135). FILED BY CADENCE CAPITAL INVESTMENTS L.L.C., 1120 MANZANITA STREET, LOS ANGELES CA 90029.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for PZ No. 11-510-09 (Special Use Permit – Alcohol) filed by Terri Dickerhoff of Cadence Capital Investments LLC on behalf of property owner Channel Islands Inn LP, in accordance with Sections 16-530 through 16-553 of the Oxnard City Code; and

WHEREAS, CEQA provides a categorical exemption from the Environmental Quality Act (CEQA) pursuant to CEQA section 15301 for existing facilities, and all findings for this exemption can be made; and

WHEREAS, on May 17, 2012, the Planning Commission conducted a public hearing, and received and reviewed written and oral comments related to proposed Special Use Permit No. 11-510-09; and

WHEREAS, the Planning Commission finds, after due study, deliberation and public hearing that the following circumstances exist:

1. The proposed use is in conformance with the General Plan and other adopted policies of the City of Oxnard.
2. The proposed use will not adversely affect or be materially detrimental to the adjacent uses, buildings or structures or to the public health, safety or general welfare.
3. The site for the proposed use is adequate in size and shape to accommodate the setbacks, parking, landscaping, and other City standards except as may be specifically excepted by the special findings and conditions of this resolution.
4. The site for the proposed use will be served by streets and highways adequate in width and structure to carry the kind and quantity of traffic such use will generate.
5. The site for the proposed use will be provided with adequate sewerage, water, fire protection and storm drainage facilities.

6. The presumption of undue concentration has been refuted by a preponderance of evidence in the record, which shows that the establishment will not result in an undue concentration of retail alcohol outlets. There is one similar alcohol outlet within 350 feet of the site, therefore, there is a local presumption of undue concentration. The presumption of undue concentration can be rebutted by a preponderance of evidence that determines the use will not aggravate policing issues and is appropriate for the area. There are currently seven 7-Eleven stores in Oxnard, none of which are considered to be problem or nuisance establishments.
7. The proposed use is not likely to create or significantly aggravate police problems within 1,000 feet of the location for which the special use permit is applied. The average number of Part I and II crimes in the applicant's reporting district and all other districts within 1000 feet of the applicant is 131 during the same 12-month time period. This is 12% higher than the average citywide crime rate, which is generally not considered to be significant. The nature and types of calls are consistent with citywide trends and those that list alcohol as a contributing factor are below citywide averages.

WHEREAS, the Planning Commission finds that the applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work, visit or live in this development in particular.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard hereby approves Planning & Zoning Permit No. 11-510-09 (Special Use Permit – Alcohol) subject to the following conditions. Except as modified by this Resolution, the conditions of approval imposed on Use Permit No. 1091 shall remain in full force and effect. The decision of the Planning Commission is final unless appealed in accordance with the provisions of Section 16-545 of the Oxnard City Code.

STANDARD CONDITIONS OF APPROVAL FOR LAND USE PERMITS

Note: The abbreviations below identify the City department or division responsible for determining compliance with these standard conditions. The first department or division listed has responsibility for compliance at plan check, the second during inspection and the third at final inspection, prior to issuance of a certificate of occupancy, or at a later date, as specified in the condition. If more than one department or division is listed, the first will check the plans or inspect the project before the second confirms compliance with the condition. The italicized code at the end of each condition provides internal information on the source of each condition: Some are standard permit conditions (e.g. *G-1*) while some are taken from environmental documents (e.g. *MND-S2*).

DEPARTMENTS AND DIVISIONS			
CA	City Attorney	PL	Planning Division
DS	Dev Services/Eng Dev/Inspectors	TR	Traffic Division
PD	Police Department	B	Building Plan Checker
SC	Source Control	FD	Fire Department
PK	Public Works, Landscape Design	CE	Code Compliance

GENERAL PROJECT CONDITIONS

1. This permit is granted for the property described in the application on file with the Planning Division, and may not be transferred from one property to another. (PL, G-1).
2. This permit is granted for the plans dated April 23, 2012 ("the plans") on file with the Planning Division. The project shall conform to the plans, except as otherwise specified in these conditions, or unless a minor modification to the plans is approved by the Planning and Environmental Services Manager ("Planning Manager") or a major modification to the plans is approved by the Planning Commission. A minor modification may be granted for minimal changes or increases in the extent of use or size of structures or of the design, materials or colors of structures or masonry walls. A major modification shall be required for substantial changes or increases in such items. (PL, G-2)
3. This permit shall automatically become null and void 24 months from the date of its issuance, unless Developer has diligently developed the proposed project, as shown by the issuance of a Type 20 Alcoholic Beverage Control license. (PL, G-3)
4. All required off-site and on-site improvements for the project, including structures, paving, and landscaping, shall be completed prior to occupancy unless the Development Services Manager allows Developer to provide security or an executed agreement approved by the City Attorney to ensure completion of such improvements. (DS, G-4)
5. By commencing any activity related to the project or using any structure authorized by this permit, Developer accepts all of the conditions and obligations imposed by this permit and waives any challenge to the validity of the conditions and obligations stated therein. (CA, G-5)
6. Developer agrees, as a condition of adoption of this resolution, at Developer's own expense, to indemnify, defend and hold harmless the City and its agents, officers and employees from and against any claim, action or proceeding to attack, review, set aside, void or annul the approval of the resolution or any condition attached thereto or any proceedings, acts or determinations taken, done or made prior to the approval of such

resolution that were part of the approval process. Developer's commencement of construction or operations pursuant to the resolution shall be deemed to be an acceptance of all conditions thereof. (CA, G-6)

7. Developer shall complete the "Notice of Land Use Restrictions and Conditions" form, using the form provided by the City, for recording with the Ventura County Recorder. Before the City issues building permits, Developer shall submit the original completed, signed and notarized document, together with the required fees to the Planning Manager. (PL, G-8)
8. If Developer, owner or tenant fails to comply with any of the conditions of this permit, the Developer, owner or tenant shall be subject to a civil fine pursuant to the City Code. (CA, G-14)
9. Prior to issuance of building permits, Developer shall correct all violations of the City Code existing on the project property. (PL, G-15).

PLANNING DIVISION STANDARD CONDITIONS

10. Any application for a minor modification to the project shall be accompanied by four copies of plans reflecting the requested modification, together with applicable processing fees. (PL, PL-2)

PLANNING DIVISION SPECIAL CONDITIONS

11. All conditions adopted with Planning Commission Resolution No. 6763 (for Use Permit No. 1091) shall remain applicable to the project, except as modified with this approval. (PL)

POLICE DEPARTMENT STANDARD CONDITIONS

12. All managers or supervisors who are responsible for the daily coordination, supervision or managing of employees, shall complete an approved course in Responsible Beverage Sales and Service (RBSS) within sixty days of license granting and/or date of employment. Training can be arranged through the Oxnard Police Department. (PL/PD)
13. There shall be no advertising of alcoholic beverages visible from the outside of the establishment, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. (PL/PD)

14. The Police Chief or designee may immediately suspend operation of the uses approved by this permit pending a hearing on the revocation of this permit if the Chief finds that there have been significant violations of the use permit conditions and/or ABC permit, or there is a single serious violent crime or single significant incident to which multiple police units or multiple police jurisdictions respond associated with the operation of this use, which the Chief determines, after due process that shall include communication with the owner, is detrimental to the public safety or health. The Chief shall immediately inform the Planning and Environmental Services Manager of the suspension and the Manager shall schedule a hearing on the revocation of the permit by the Planning Commission to be held no more than 30 days after the suspension begins. (PD)
15. Any signs, advertisements or decorations placed upon the windows shall not exceed 20% of the overall window area. Additionally, there shall be no other obstructions placed near the windows that exceed 20% of the overall viewing area including display racks, stored products, shades or blinds.
16. Upon any individual transfer (person-to-person) of the subject Alcoholic Beverage Control License, or if the business is ever deemed a nuisance as defined by Oxnard City Code, the Police Department may initiate Planning Commission review of the existing SUP and the Planning Commission may apply or remove conditions as appropriate to mitigate existing or potential problems.
17. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the Permittee shall be removed or painted over within twenty-four (24) hours of being applied. (PL/PD)
18. Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control. This includes the rear of the business. (PL/PD)
19. Any rear door of the premises shall be equipped on the inside with an automatic locking device, shall be closed at all times, and shall not be used as a means of access by patrons to and from the licensed premises. Temporary use of these doors for delivery of supplies or disposal of trash does not constitute a violation. (PD)
20. Employees involved in the sale or service of alcoholic beverages shall not be allowed to consume alcoholic beverages at any time during their shift. Employees shall not report to work with evidence of having consumed any intoxicants such as alcohol, illegal drugs or controlled substances. (PD)
21. The parking lot and adjacent areas of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons on or about the area. This includes the rear of the business. (PL/PD)

22. There shall be no pay phones installed inside the premises nor shall there be any pay phones installed outside within 100 feet of the premises. (PL/PD)
23. Permittee shall regularly police the area under Permittee's reasonable control (including the rear of the business) and shall not permit the loitering of persons about the premises. (PL/PD)
24. In the areas surrounding the business the Permittee shall post prominent, permanent signs indicating that loitering, open containers and the consumption of alcoholic beverages is prohibited. This includes the parking lot and other adjacent areas under Permittee's reasonable control. (PD)
25. Coolers or displays containing alcoholic beverages shall be positioned so as to allow maximum visibility to cashiers, clerks, associates or employees. Alcohol displays shall not be positioned near customer entry/exit doors, nor shall they be in a location that allows for an easy and unobstructed path to any entry or exit. It is recommended that the alcohol displays or coolers be positioned where employees have a clear view from their normal work stations of the activity of persons in the alcohol aisle. (PD)
26. There shall be no amusement machines or video devices maintained on the premises at any time. (PD)
27. Beer, malt beverages and wine coolers, in containers of 40oz in volume or less, cannot be sold by single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.
28. No wine shall be sold with an alcoholic content of greater than 15% by volume except for "Dinner Wines" which have been aged two years or more and maintained in corked bottles (Port, Sherry, Saki, Marsala, Madiera, Muscat and Vermouth are permitted). (PD)
29. Prominent signs shall be posted stating, in effect, "No persons under 21 will be served alcoholic beverages" and "Valid ID is required to purchase alcoholic beverages". These signs shall, at a minimum, be posted at each point of sale and near any alcohol display or areas. (PD)
30. No open floor displays of alcoholic beverages are allowed, including but not limited to "beer mountains" and portable coolers. (PD)
31. Alcoholic beverages shall not be sold between the hours from 12:00 midnight and 6:00 AM. (PD)
32. There shall be no self-service displays of any type of tobacco product including, but not limited to cigarettes, cigars and smokeless tobacco.

33. Security cameras shall be installed to monitor the premises and be positioned to monitor at minimum the entry/exit, all points of sale, alcohol coolers and the areas immediately surrounding the exterior of the business. The camera system shall comply with the following minimum standards: (PD)
- (A) The cameras shall be color cameras, made by a reputable manufacturer and maintained to current industry standards. They shall have low light capability and be capable of identifying persons conducting transactions at the stores' registers or entering/exiting the business.
 - (B) The system shall utilize a Digital Video Recorder (DVR). The use of videocassette recorders (VHS and other formats) is prohibited. The DVR shall allow recording, live viewing and playback of recorded video for a period of least 30 days. DVR shall perform all recording, viewing (local and remote), playback (local and remote), queries and backup functions simultaneously, with no interruption of any other function.
34. Permittee shall establish responsible cash handling procedures to reduce the likelihood of robberies and thefts.
35. Permittee shall bolt down or otherwise secure all cash registers to service counters in order to prevent the entire device from being stolen during a burglary or robbery.
36. Permittee shall have drop-safes installed or establish other responsible cash handling procedures to allow employees to deposit daily receipts throughout the day as the amounts exceed allowable levels in the register (typically \$50).
37. When used, Permittee shall install signage which indicates that employees do not possess keys to safes and that minimal levels of cash are available in register.
38. Permittee shall install height gauges at all exit doors.
39. Permittee shall install an electronic intrusion detection system (burglary alarm) that detects portal openings, glass break, and interior motion.
40. Permittee shall equip each point of sale with a silent robbery alarm that complies with Oxnard City Ordinance No. 2601 or develop and implement critical incident protocols that provide an efficient method for alerting police and others to a potential threat without unnecessarily putting the employees at risk.
41. A copy of these conditions must be maintained on the premises and made available upon the demand of any peace officer at all times. (PL/PD)

POLICE DEPARTMENT SPECIAL CONDITIONS

42. Permittee shall install a video feedback monitor which displays the live feed from security cameras positioned nearby. The monitor shall, at a minimum, be displayed at each customer entrance. Permittee shall install an additional feedback monitor in the alcoholic beverage display area. (PD)
43. Coolers or displays containing alcoholic beverages shall be maintained in such a way as to allow for them to be locked or inaccessible during hours of prohibited sale and shall, in fact, be secured during the hours from 12:00 Midnight to 6:00 AM. (PD)
44. Permittee shall cooperate fully with staff from Channel Islands High School and shall develop a written policy that specifies how employees will deal with teenage customers that are patronizing the business during normal school hours. The policy will include developing an efficient method of communication with school staff, the Youth Services Officer and how potential truants will be handled. (PD)
45. The sale of flavored malt beverages (commonly referred to as alcopops) or energy drinks containing alcohol is prohibited. Such products are generally sweetened, carbonated alcoholic beverages made with malt or spirits-based alcohol. Examples of such products include Smirnoff Ice, Mike's Hard Lemonade, Bacardi Silver and Jack Daniel's Lynchburg Lemonade. (PD)
46. The use of self-checkout for alcoholic beverages is prohibited.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 17th day of May, 2012, by the following vote:

AYES: Commissioners

NOES: Commissioners

ABSENT: Commissioners

Anthony R. Murguia, Chair

ATTEST: _____
Susan L. Martin, Secretary

RESOLUTION NO. 2012 –

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING A SPECIAL USE PERMIT (PLANNING & ZONING PERMIT NO. 11-510-10) TO ALLOW A TYPE 41 (ON-SALE BEER & WINE FOR BONA FIDE PUBLIC EATING PLACE) ALCOHOLIC BEVERAGE CONTROL LICENSE FOR A PROPOSED NON-FAST-FOOD RESTAURANT. THE SUBJECT PROPERTY IS LOCATED AT 1051 EAST CHANNEL ISLANDS BOULEVARD (APN: 220-0-220-135). FILED BY CADENCE CAPITAL INVESTMENTS L.L.C., 1120 MANZANITA STREET, LOS ANGELES CA 90029.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for PZ No. 11-510-10 (Special Use Permit – Alcohol) filed by Terri Dickerhoff of Cadence Capital Investments LLC on behalf of property owner Channel Islands Inn LP, in accordance with Sections 16-530 through 16-553 of the Oxnard City Code; and

WHEREAS, CEQA provides a categorical exemption from the Environmental Quality Act (CEQA) pursuant to CEQA section 15301 for existing facilities, and all findings for this exemption can be made; and

WHEREAS, on May 17, 2012, the Planning Commission conducted a public hearing, and received and reviewed written and oral comments related to proposed Special Use Permit No. 11-510-10; and

WHEREAS, the Planning Commission finds, after due study, deliberation and public hearing that the following circumstances exist:

1. The proposed use is in conformance with the General Plan and other adopted policies of the City of Oxnard.
2. The proposed use will not adversely affect or be materially detrimental to the adjacent uses, buildings or structures or to the public health, safety or general welfare.
3. The site for the proposed use is adequate in size and shape to accommodate the setbacks, parking, landscaping, and other City standards except as may be specifically excepted by the special findings and conditions of this resolution.
4. The site for the proposed use will be served by streets and highways adequate in width and structure to carry the kind and quantity of traffic such use will generate.
5. The site for the proposed use will be provided with adequate sewerage, water, fire protection and storm drainage facilities.

6. The proposed use will not result in or add to an undue concentration of retail alcohol outlets within 1000 feet of the subject location in that there are no other establishments of the same type as the proposed use within 1000 feet of the subject location.
7. The proposed use is not likely to create or significantly aggravate police problems within 1,000 feet of the location for which the special use permit is applied. The average number of Part I and II crimes in the applicant's reporting district and all other districts within 1000 feet of the applicant is 131 during the same 12-month time period. This is 12% higher than the average citywide crime rate, which is generally not considered to be significant. The nature and types of calls are consistent with citywide trends and those that list alcohol as a contributing factor are below citywide averages.

WHEREAS, the Planning Commission finds that the applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work, visit or live in this development in particular.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard hereby approves Planning & Zoning Permit No. 11-510-10 (Special Use Permit – Alcohol) subject to the following conditions. Except as modified by this Resolution, the conditions of approval imposed on Use Permit No. 1091 shall remain in full force and effect. The decision of the Planning Commission is final unless appealed in accordance with the provisions of Section 16-545 of the Oxnard City Code.

STANDARD CONDITIONS OF APPROVAL FOR LAND USE PERMITS

Note: The abbreviations below identify the City department or division responsible for determining compliance with these standard conditions. The first department or division listed has responsibility for compliance at plan check, the second during inspection and the third at final inspection, prior to issuance of a certificate of occupancy, or at a later date, as specified in the condition. If more than one department or division is listed, the first will check the plans or inspect the project before the second confirms compliance with the condition. The italicized code at the end of each condition provides internal information on the source of each condition: Some are standard permit conditions (e.g. *G-1*) while some are taken from environmental documents (e.g. *MND-S2*).

DEPARTMENTS AND DIVISIONS			
CA	City Attorney	PL	Planning Division
DS	Dev Services/Eng Dev/Inspectors	TR	Traffic Division
PD	Police Department	B	Building Plan Checker
SC	Source Control	FD	Fire Department
PK	Public Works, Landscape Design	CE	Code Compliance

GENERAL PROJECT CONDITIONS

1. This permit is granted for the property described in the application on file with the Planning Division, and may not be transferred from one property to another. (PL, G-1).
2. This permit is granted for the plans dated April 23, 2012 (“the plans”) on file with the Planning Division. The project shall conform to the plans, except as otherwise specified in these conditions, or unless a minor modification to the plans is approved by the Planning and Environmental Services Manager (“Planning Manager”) or a major modification to the plans is approved by the Planning Commission. A minor modification may be granted for minimal changes or increases in the extent of use or size of structures or of the design, materials or colors of structures or masonry walls. A major modification shall be required for substantial changes or increases in such items. (PL, G-2)
3. This permit shall automatically become null and void 24 months from the date of its issuance, unless Developer has diligently developed the proposed project, as shown by the issuance of a Type 41 Alcoholic Beverage Control license. (PL, G-3)
4. All required off-site and on-site improvements for the project, including structures, paving, and landscaping, shall be completed prior to occupancy unless the Development Services Manager allows Developer to provide security or an executed agreement approved by the City Attorney to ensure completion of such improvements. (DS, G-4)
5. By commencing any activity related to the project or using any structure authorized by this permit, Developer accepts all of the conditions and obligations imposed by this permit and waives any challenge to the validity of the conditions and obligations stated therein. (CA, G-5)
6. Developer agrees, as a condition of adoption of this resolution, at Developer’s own expense, to indemnify, defend and hold harmless the City and its agents, officers and employees from and against any claim, action or proceeding to attack, review, set aside, void or annul the approval of the resolution or any condition attached thereto or any proceedings, acts or determinations taken, done or made prior to the approval of such

resolution that were part of the approval process. Developer's commencement of construction or operations pursuant to the resolution shall be deemed to be an acceptance of all conditions thereof. (CA, G-6)

7. Developer shall complete the "Notice of Land Use Restrictions and Conditions" form, using the form provided by the City, for recording with the Ventura County Recorder. Before the City issues building permits, Developer shall submit the original completed, signed and notarized document, together with the required fees to the Planning Manager. (PL, G-8)
8. If Developer, owner or tenant fails to comply with any of the conditions of this permit, the Developer, owner or tenant shall be subject to a civil fine pursuant to the City Code. (CA, G-14)
9. Prior to issuance of building permits, Developer shall correct all violations of the City Code existing on the project property. (PL, G-15).

PLANNING DIVISION STANDARD CONDITIONS

10. Any application for a minor modification to the project shall be accompanied by four copies of plans reflecting the requested modification, together with applicable processing fees. (PL, PL-2)

PLANNING DIVISION SPECIAL CONDITIONS

11. All conditions adopted with Planning Commission Resolution No. 6763 (for Use Permit No. 1091) shall remain applicable to the project, except as modified with this approval. (PL)

POLICE DEPARTMENT STANDARD CONDITIONS

12. Permittee and all sellers or servers shall complete a course in Responsible Beverage Service (RBS) within sixty days of license granting and/or date of employment. Applicant can contact the Alcohol Compliance Officer at the Oxnard Police Department to make arrangements (PL/PD)
13. Permittee and all general managers, managers or policy makers shall complete a course in the Responsible Alcohol Policy Program (available through the Oxnard Police Department) within 12 months of license granting and/or date of employment. (PD)

14. Sales of alcoholic beverages shall be incidental to the sale of food. It shall not be considered a violation of this condition if customers are served alcoholic beverages in any lounge, bar or staging area and who are waiting to be seated for the service of food. Employees shall make a good faith effort to ensure that all customers being served alcoholic beverages are also on the premises for the purpose of consuming food items. (PD)
15. When security personnel are present or required per Oxnard City Code, Permittee shall maintain accurate records of all security personnel on the premise at any given time and make those available to the police upon demand. These records shall, at a minimum, provide the name, date of birth, copies of security guard credentials or license and any other permits or certifications related to security work. This would include copies of permits for weapons or other tools the guard may be authorized to carry. Security personnel shall remain in compliance with updated training related to their work as set forth by any existing or future state and/or local regulations. (PD)
16. The Police Chief or designee may immediately suspend operation of the uses approved by this permit pending a hearing on the revocation of this permit if the Chief finds that there have been significant violations of the use permit conditions and/or ABC permit, or there is a single serious violent crime or single significant incident to which multiple police units or multiple police jurisdictions respond associated with the operation of this use, which the Chief determines is detrimental to the public safety or health. The Chief shall immediately inform the Planning and Environmental Services Manager of the suspension and the manager shall schedule a hearing on the revocation of the permit by the Planning Commission to be held no more than 30 days after the suspension begins. (PD)
17. The premises shall be equipped with an adequate number of seats to accommodate all customers. There shall be no service area that is designed or used as a standing area only or as a combined standing and seating area. (PD)
18. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. Permittee shall at all times maintain records which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department upon demand. (PL/PD)
19. Permittee shall comply with the provisions of Section 23038 of the Business and Professions Code and acknowledges that incidental, sporadic, or infrequent sales of meals or a mere offering of meals without actual sales shall not be deemed sufficient to consider the premises in compliance with the aforementioned section.(PL/PD)
20. The premises shall be equipped and maintained in good faith as a bonafide restaurant and shall possess, in operative condition, such conveniences for cooking and storage of foods such as stoves, ovens, broilers, refrigeration or other devices, as well as pots, pans or

containers which can be used for cooking or heating foods on the type heating device employed. (PL/PD)

21. The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)
22. The use of any amplifying system or device shall not be audible outside the premise nor shall it be disruptive to neighboring uses. (PD)
23. There shall be no advertising of alcoholic beverages visible from the outside of the establishment, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. (PL/PD)
24. The sale of alcoholic beverages for consumption off the premises is strictly prohibited. (PD)
25. Sales of alcohol shall not occur between the hours of 12:00 midnight and 6:00 a.m. (PL/PD)
26. Alcoholic beverages shall not be offered at significantly reduced prices (typically more than 25% reduction) that are meant to encourage greater consumption of alcohol such as during "happy hour" type promotions. Permittee shall not develop any other promotional activity that is designed to encourage excessive drinking of alcoholic beverages. *Promoting a "happy hour" or other event that offers reduced prices on food or other items shall not be considered a violation of this condition and are actually encouraged.* (PD)
27. Alcoholic beverages shall be served in standard sizes that are consistent with the industry and shall not be served by the pitcher, "bucket" or similar high capacity amounts exceeding 36oz total. (PD)
28. In the areas surrounding the business, not otherwise licensed by the Department of Alcoholic Beverage Control allowing the service of alcohol, Permittee shall post prominent, permanent signs indicating that loitering, open containers and the consumption of alcoholic beverages is prohibited. This includes the parking lot, walkways and other adjacent areas under Permittee's reasonable control. (PD)
29. Prominent signs shall be posted stating, in effect, "No persons under 21 will be served alcoholic beverages" and "Valid ID is required to purchase alcoholic beverages". (PD)
30. Employees involved in the sale or service of alcoholic beverages shall not be allowed to consume alcoholic beverages at any time during their shift. Employees shall not report to work with evidence of having consumed any intoxicants such as alcohol, illegal drugs or controlled substances. (PD)

31. Permittee shall not create any bar, lounge or other area in which the exclusive use would be the service of alcoholic beverages. Food shall be made available in all areas where customers are seated. An area designated for customers who are waiting to be seated at a food service table shall not be considered a violation of this condition as long as the area is not used primarily for the service of alcohol. Condition number 14, above, shall be adhered to regardless of where customers are seated. (PD)
32. The subject Alcoholic Beverage Control License shall not be exchanged for any other type of Alcoholic Beverage Control License without review and approval by the Police Chief or his designee, Planning Commission or City Council. (PD)
33. Upon any individual transfer (person-to-person) of the subject Alcoholic Beverage Control License, or if the business is ever deemed a nuisance as defined in the Oxnard City Code, Police Department may initiate Planning Commission review the existing SUP and apply or remove conditions as appropriate to mitigate existing or potential problems. (PD)
34. Any graffiti painted or marked upon the premises or on any adjacent area under the control of Permittee shall be removed or painted over within twenty-four (24) hours of being applied. (PL/PD)
35. Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)
36. The area surrounding premises under the reasonable control of Permittee (including the rear of the business) shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons in or about the area. (PL/PD)
37. No pay phone on the exterior of the premises shall be allowed within 100 feet of the front or rear doors and any pay phones installed inside shall be blocked from incoming calls. (PL/PD)
38. Permittee shall regularly police the area under Permittee's control and shall not permit the loitering of persons about the premises. (PL/PD)
39. Any rear door of the premises shall be equipped on the inside with an automatic locking device, shall be closed at all times, and shall not be used as a means of access by patrons to and from the licensed premises. Temporary use of these doors for delivery of supplies does not constitute a violation. (PD)
40. Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)

41. Permittee shall install a video surveillance system that shall be maintained at a reasonable industry standard and shall, at a minimum, monitor the entrances and exits, any centralized point of sale and areas immediately surrounding the exterior of the business. (PD)
42. Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
43. Permittee shall bolt down or otherwise secure all cash registers to service counters in order to prevent the entire device from being stolen during a burglary or robbery. (PD)
44. A copy of these conditions must be maintained on the premises and made available upon the demand of any peace officer at all times. (PL/PD)

POLICE DEPARTMENT SPECIAL CONDITIONS

45. If alcoholic beverages are to be sold and consumed in any patio area, the patio must be properly licensed by the City of Oxnard Planning Division and Department of Alcoholic Beverage Control. The entire patio shall be adequately enclosed to the satisfaction of the Chief of Police or his designee. Low or excessively wide spaced fencing will not be considered sufficient. (PD)
46. Customer access to and from the patio shall be made through the interior of the business only. (PD)
47. Any exits on the patios shall not be used as a means of access or egress by patrons to and from the licensed premises and, other than during emergencies or for handicapped access per ADA guidelines, shall be kept closed at all times. The exit doors shall close automatically and be equipped with an audible sounding device to alert employees when it has been opened. Adequate signs shall be posted near the gate stating it is an emergency exit or handicapped access only and that an alarm will sound if opened. (PD)
48. There shall not be any outdoor or patio bar (portable or otherwise) where alcoholic beverages are stored or served. (PD)
49. There shall be no live entertainment or amplified sound permitted in outdoor areas (including any patio dining area). Recorded music or acoustic performances for the purposes of creating ambience that is appropriate for the proposed use is permitted but shall be subdued and at no time be disruptive to neighboring uses. (PD)

*Resolution 2012 –
May 17, 2012*

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 17th day
of May, 2012, by the following vote:

AYES: Commissioners

NOES: Commissioners

ABSENT: Commissioners

Anthony R. Murguia, Chair

ATTEST: _____
Susan L. Martin, Secretary

RESOLUTION NO. 2012 –

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING A MAJOR MODIFICATION TO A SPECIAL USE PERMIT (U-1091) TO ALLOW A 1,200 SQUARE-FOOT ADDITION TO AN EXISTING RESTAURANT, AND CREATION OF UP TO THREE SUITES FOR RETAIL AND RESTAURANT USES CONSISTENT WITH THE C-2-PD ZONE. THE SUBJECT PROPERTY IS LOCATED AT 1051 EAST CHANNEL ISLANDS BOULEVARD (APN: 220-0-220-135). FILED BY CADENCE CAPITAL INVESTMENTS L.L.C., 1120 MANZANITA STREET, LOS ANGELES CA 90029.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for PZ No. 12-550-01 (Major Modification) filed by Terri Dickerhoff of Cadence Capital Investments LLC on behalf of property owner Channel Islands Inn LP, in accordance with Section 16-561 of the Oxnard City Code; and

WHEREAS, CEQA provides a categorical exemption from the Environmental Quality Act (CEQA) pursuant to CEQA section 15301 for existing facilities, and all findings for this exemption can be made; and

WHEREAS, the Planning Commission finds, after due study, deliberation and public hearing that the following circumstances exist:

1. The proposed major modification is in conformance with the Findings of Fact previously adopted by Planning Commission Resolution No. 6763.
2. The proposed major modification is permitted by Section 16-561 of the Oxnard City Code.

WHEREAS, the Planning Commission finds that the applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work, visit or live in this development in particular.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard hereby approves Planning & Zoning Permit No. 12-550-01 (Major Modification) subject to the following conditions. Except as modified by this Resolution, the conditions of approval imposed on Use Permit No. 1091 shall remain in full force and effect. The decision of the Planning Commission is final unless appealed in accordance with the provisions of Section 16-545 of the Oxnard City Code.

STANDARD CONDITIONS OF APPROVAL FOR LAND USE PERMITS

Note: The abbreviations below identify the City department or division responsible for determining compliance with these standard conditions. The first department or division listed has responsibility for compliance at plan check, the second during inspection and the third at final inspection, prior to issuance of a certificate of occupancy, or at a later date, as specified in the condition. If more than one department or division is listed, the first will check the plans or inspect the project before the second confirms compliance with the condition. The italicized code at the end of each condition provides internal information on the source of each condition: Some are standard permit conditions (e.g. *G-1*) while some are taken from environmental documents (e.g. *MND-S2*).

DEPARTMENTS AND DIVISIONS			
CA	City Attorney	PL	Planning Division
DS	Dev Services/Eng Dev/Inspectors	TR	Traffic Division
PD	Police Department	B	Building Plan Checker
SC	Source Control	FD	Fire Department
PK	Public Works, Landscape Design	CE	Code Compliance

GENERAL PROJECT CONDITIONS

1. This permit is granted for the property described in the application on file with the Planning Division, and may not be transferred from one property to another. (PL, *G-1*).
2. This permit is granted for the plans dated April 23, 2012 (“the plans”) on file with the Planning Division. The project shall conform to the plans, except as otherwise specified in these conditions, or unless a minor modification to the plans is approved by the Planning and Environmental Services Manager (“Planning Manager”) or a major modification to the plans is approved by the Planning Commission. A minor modification may be granted for minimal changes or increases in the extent of use or size of structures or of the design, materials or colors of structures or masonry walls. A major modification shall be required for substantial changes or increases in such items. (PL, *G-2*)
3. This permit shall automatically become null and void 36 months from the date of its issuance, unless Developer has diligently developed the proposed project, as shown by the issuance of a grading, foundation, or building permit and the construction of substantial improvements. (PL, *G-3*)
4. All required off-site and on-site improvements for the project, including structures, paving, and landscaping, shall be completed prior to occupancy unless the Development Services Manager allows Developer to provide security or an executed agreement approved by the City Attorney to ensure completion of such improvements. (DS, *G-4*)

5. By commencing any activity related to the project or using any structure authorized by this permit, Developer accepts all of the conditions and obligations imposed by this permit and waives any challenge to the validity of the conditions and obligations stated therein. (CA, G-5)
6. Developer agrees, as a condition of adoption of this resolution, at Developer's own expense, to indemnify, defend and hold harmless the City and its agents, officers and employees from and against any claim, action or proceeding to attack, review, set aside, void or annul the approval of the resolution or any condition attached thereto or any proceedings, acts or determinations taken, done or made prior to the approval of such resolution that were part of the approval process. Developer's commencement of construction or operations pursuant to the resolution shall be deemed to be an acceptance of all conditions thereof. (CA, G-6)
7. Developer shall complete the "Notice of Land Use Restrictions and Conditions" form, using the form provided by the City, for recording with the Ventura County Recorder. Before the City issues building permits, Developer shall submit the original completed, signed and notarized document, together with the required fees to the Planning Manager. (PL, G-8)
8. Developer shall provide off-street parking for the project, including the number of spaces, stall size, paving, striping, location, and access, as required by the City Code. (PL/B, G-9)
9. Developer shall obtain a building permit for any new construction or modifications to structures, including interior modifications, authorized by this permit. (B, G-11)
10. Developer shall not permit any combustible refuse or other flammable materials to be burned on the project property. (FD, G-12)
11. Developer shall not permit any materials classified as flammable, combustible, radioactive, carcinogenic or otherwise potentially hazardous to human health to be handled, stored or used on the project property, except as provided in a permit issued by the Fire Chief. (FD, G-13)
12. If Developer, owner or tenant fails to comply with any of the conditions of this permit, the Developer, owner or tenant shall be subject to a civil fine pursuant to the City Code. (CA, G-14)
13. Prior to issuance of building permits, Developer shall correct all violations of the City Code existing on the project property. (PL, G-15).

PLANNING DIVISION STANDARD CONDITIONS

14. Any application for a minor modification to the project shall be accompanied by four copies of plans reflecting the requested modification, together with applicable processing fees. (PL, *PL-2*)
15. Before the City issues building permits, Developer shall include a reproduction of all conditions of this permit as adopted by resolution of the Planning Commission and/or the City Council in all sets of construction documents and specifications for the project. (PL, *PL-3*)
16. Developer may not modify any use approved by this permit unless the Planning Division Manager determines that Developer has provided the parking required by the City Code for the modified use. (PL, *PL-7*)
17. Prior to issuance of building permits, Developer shall pay a document imaging fee for the planning files in an amount calculated by planning staff at the time of building permit review based on fees then in effect. (PL/B, *PL-16*).

PLANNING DIVISION SPECIAL CONDITIONS

18. Developer shall submit an application for building permits for Phase II (or "Option B") of the project no later than 36 months after the date of adoption of this resolution. If Developer does not submit such application by such time, Developer shall be required to obtain a major modification to the approved special use permit to construct the additional structures on the subject property. (PL)
19. All conditions adopted with Planning Commission Resolution No. 6763 (for Use Permit No. 1091) shall remain applicable to the project, except as modified with this approval. (PL)
20. Hours for receiving deliveries for the businesses (loading zone adjacent to the hotel) shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. daily, with no parking or idling on the subject property or on adjacent streets outside of these specified hours. (PL)
21. Developer shall install all roof and building drainpipes and downspouts inside building elements. These items shall not be visible on any exterior building elevations. (Option "B") (PL, *PL-42*)
22. For any exterior utility meter panels, Developer shall paint such panels to match the structure upon which it is located. Such panels shall be located to take advantage of screening (e.g. landscaping or other building elements) from public right-of-ways, to the maximum extent feasible. (PL, *PL-43*)

23. Prior to issuance of a certificate of occupancy, Developer shall remove all construction materials and vehicles from the subject property. (PL/B, PL-47)
24. Developer shall install toilets that have automatic flush sensors in all public restrooms. Such toilets shall be included on the plans submitted for a building permit and shall be maintained and in working order at all times. (PL)
25. Developer shall install individual mirrors above each sink in a public restroom to the satisfaction of the Planning Division Manager. The details of such mirrors shall be approved prior to issuance of a building permit. Developer shall remove graffiti from the mirrors or replace the mirrors within 24 hours of graffiti appearance. (PL)
26. Developer shall remove any and all graffiti from the project premises, including but not limited to graffiti within the building, such as in restrooms or fitting rooms, within 24 hours of its appearance. The surface of such affected areas shall be matched to blend in with the underlying colors and/or design, and shall not look like a paint patch. (PL)

FIRE DEPARTMENT STANDARD CONDITIONS

All listed items shall be included on the plan check notes detailing Fire Department requirements. Listed items applicable to Option "B" only shall have (Option "B") noted immediately afterwards.

27. Developer shall construct all vehicle access driveways on the project property to be at least 26 feet wide. Developer shall mark curbs adjacent to designated fire lanes in parking lots to prohibit stopping and parking in the fire lanes. Developer shall mark all designated fire lanes in accordance with the California Vehicle Code. (FD/B, F-1)
28. All roof covering materials on the project property shall be of non-combustible or fire retardant materials approved by the Fire Chief and in compliance with the City Code. (FD, F-2)
29. Before the City issues building permits, Developer shall obtain the Fire Chief's approval of a plan to ensure fire equipment access and the availability of water for fire combat operations to all areas of the project property. The Fire Chief shall determine whether or not the plan provides adequate fire protection. (FD/DS, F-3)
30. All structures on the project property shall conform to the minimum standards prescribed in Title 19 of the California Code of Regulations. (FD, F-5)
31. The project shall meet the minimum requirements of the "Fire Protection Planning Guide" published by the Fire Department. (FD, F-6)

32. Developer shall identify all hydrants and fire protection equipment on the project property as required by the Fire Chief. (FD, F-8)
33. Developer shall provide central station monitoring of the fire sprinkler system and all control valves. (Option “B”) (FD)
34. The turning radius of all project property driveways and turnaround areas used for emergency access shall be approved by the City Traffic Engineering Department. (FD, F-11)
35. Developer shall provide automatic fire sprinklers as required by the City Code and shall contact the Fire Chief to ascertain the location of all connections. (Option “B”) (FD)
36. Developer shall install in each structure in the project an alarm system with a central station monitor that will automatically notify the Fire Department in the event of a fire in the structure. The alarm system shall include a UL or State Fire Marshal approved device, which shall not exceed design specifications, that reports the location of the fire and allows the central station monitor to inform the Fire Department. (Option “B”) (FD)
37. Developer shall comply with Certified Unified Program Agency (CUPA) requirements regarding the storage, handling and generation of hazardous materials or waste. Prior to the issuance of building permits, Developer shall contact the CUPA division of the Fire Department to ensure that such requirements are followed. (FD, F-16)

FIRE DEPARTMENT SPECIAL CONDITIONS

38. Before the city issues a certificate of occupancy, the developer shall install a Knox key vault at a location to be determined by the Fire Department. (FD)
39. Developer shall ensure Fire Department access through man-gates, either by Knox lock devices or other Fire Department approved means. (FD)

LANDSCAPE STANDARD CONDITIONS

40. Before the City issues building permits or the proposed use is initiated, Developer shall submit two copies of landscape and irrigation plans, along with the appropriate permit application and fees, to the Development Services Division and obtain approval of such plans. (PK/DS, PK-2)
41. Before the City issues a certificate of occupancy, Developer shall install landscape and automatic irrigation systems that have been approved by Parks and Facilities Superintendent. (PK, PK-3)

42. Developer shall maintain landscape planting and all irrigation systems as required by the City Code and as specified by this permit. Failure of Developer to do so will result in the revocation of this permit and initiation of legal proceedings against Developer. (PK, PK-4)
43. Before the City issues a certificate of occupancy, Developer shall provide a watering schedule to the building owner or manager and to the Parks and Facilities Superintendent. The irrigation system shall include automatic rain shut-off devices, or instructions on how to override the irrigation system during rainy periods. (PK, PK-5)
44. All trees planted or placed on the project property by Developer shall be at least 24-inch-box size. All shrubs and vines shall be at least five-gallon size, except as otherwise specified by this permit. (PK, PK-6)
45. Developer shall install an irrigation system that includes a water sensor shut off device as a water conservation measure. (PK, PK-22)

LANDSCAPE SPECIAL CONDITIONS

46. Developer's Landscape Architect or Architect shall provide the City with written confirmation that they have reviewed the civil engineering construction drawings and that the NPDES requirements are not in conflict with meeting the City's landscape requirements. (PK)
47. All landscaping and irrigation shall comply with Ordinance No. 2822, which adopted the City of Oxnard Landscape Water Conservation Standards. (PK)

The following Special Conditions apply to Phase 1 (option "A") of the plans:

48. The new proposed pedestrian ramp from Statham Blvd. appears to be in conflict with an existing tree location (based on aerial photographs). If the pedestrian ramp cannot be relocated, then an Arborist's Tree Report is required for the removal of any trees. The Arborist's Tree Report is required for the health and economic appraisal value of any existing trees to be removed or displaced from the site due to construction. City staff will have final review approval on selection of an arborist. The Arborist's Tree Report shall be prepared by a certified arborist and shall follow the format as outlined in *Valuation of Landscape Trees, Shrubs, and Other Plants: A Guide to the Methods and Procedures for Appraising Amenity Plants.*, latest edition as published by the International Society of Arboriculture. The Tree Report shall include text, photos and a site plan that clearly labels all trees to be saved, removed or transplanted. The methodology for the tree appraisal value shall be based on the "Trunk Formula" method, with calculation work sheets included. The economic appraisal value of the trees removed shall be put back into new tree sizes for the project and shall be in addition to meeting the City's minimum tree size of 24" box.

49. The proposed landscape finger planter northeast of the existing building removes a portion of the existing landscape finger planter and an existing tree. An Arborist's Tree Report is required for the health and economic appraisal value of any existing trees to be removed or displaced from the site due to construction. City staff will have final review approval on selection of an arborist. The Arborist's Tree Report shall be prepared by a certified arborist and shall follow the format as outlined in *Valuation of Landscape Trees, Shrubs, and Other Plants: A Guide to the Methods and Procedures for Appraising Amenity Plants.*, latest edition as published by the International Society of Arboriculture. The Tree Report shall include text, photos and a site plan that clearly labels all trees to be saved, removed or transplanted. The methodology for the tree appraisal value shall be based on the "Trunk Formula" method, with calculation work sheets included. The economic appraisal value of the trees removed shall be put back into new tree sizes for the project and shall be in addition to meeting the City's minimum tree size of 24" box.
50. The proposed bicycle pad and rack located in the landscape finger planter at the southeast corner of the existing building may be encroaching into the existing mature tree root system. If the bicycle pad and rack cannot be reconfigured or relocated to avoid the tree, then an Arborist's Tree Report is required for the removal of the tree root system. An Arborist's Tree Report is required for the health and economic appraisal value of any existing trees to be removed or displaced from the site due to construction. City staff will have final review approval on selection of an arborist. The Arborist's Tree Report shall be prepared by a certified arborist and shall follow the format as outlined in *Valuation of Landscape Trees, Shrubs, and Other Plants: A Guide to the Methods and Procedures for Appraising Amenity Plants.*, latest edition as published by the International Society of Arboriculture. The Tree Report shall include text, photos and a site plan that clearly labels all trees to be saved, removed or transplanted. The methodology for the tree appraisal value shall be based on the "Trunk Formula" method, with calculation work sheets included. The economic appraisal value of the trees removed shall be put back into new tree sizes for the project and shall be in addition to meeting the City's minimum tree size of 24" box.
51. If trees are anticipated to be removed from the site, then at the time of Plan Check submittal, the landscape plans shall contain an exhibit titled "Tree Tabulation Chart". The Tree Tabulation Chart shall contain a listing of all existing trees on site and shall refer to them by number as identified in the Arborist's Report. The Tree Tabulation Chart shall clearly list all trees to remain, be removed or transplanted. The Chart shall contain the Arborist's economic appraisal value of each tree(s) removed as well as computations and calculations showing how the value of the removed tree(s) was put back into new tree sizes for the project that are in addition to meeting the City's minimum tree size of 24" box.
52. Much of the required existing 36" high parking lot visual shrub screen plant material is missing from Statham Blvd. and Channel Islands Blvd. Uniformly replace all the missing 36" high shrub screen plant materials with new.

The following Special Conditions apply to Phase 2 (option "B") of the plans:

53. All Special Conditions outlined in Phase 1 (option "A") are incorporated into Special Conditions for Phase 2 (option "B").
54. Numerous site modifications will impact the existing trees on the site. An Arborist's Tree Report is required for the health and economic appraisal value of any existing trees to be removed or displaced from the site due to construction. City staff will have final review approval on selection of an arborist. The Arborist's Tree Report shall be prepared by a certified arborist and shall follow the format as outlined in *Valuation of Landscape Trees, Shrubs, and Other Plants: A Guide to the Methods and Procedures for Appraising Amenity Plants.*, latest edition as published by the International Society of Arboriculture. The Tree Report shall include text, photos and a site plan that clearly labels all trees to be saved, removed or transplanted. The methodology for the tree appraisal value shall be based on the "Trunk Formula" method, with calculation work sheets included. The economic appraisal value of the trees removed shall be put back into new tree sizes for the project and shall be in addition to meeting the City's minimum tree size of 24" box.
55. If trees are anticipated to be removed from the site, then at the time of Plan Check submittal, the landscape plans shall contain an exhibit titled "Tree Tabulation Chart". The Tree Tabulation Chart shall contain a listing of all existing trees on site and shall refer to them by number as identified in the Arborist's Report. The Tree Tabulation Chart shall clearly list all trees to remain, be removed or transplanted. The Chart shall contain the Arborist's economic appraisal value of each tree(s) removed as well as computations and calculations showing how the value of the removed tree(s) was put back into new tree sizes for the project that are in addition to meeting the City's minimum tree size of 24" box.
56. The new parking lot landscape finger planters shall be landscaped per the City's Landscape Standards.
57. The trash enclosure shall have evergreen self clinging vines (minimum 5-gallon size) attached to exterior walls.
58. Any existing landscaping which is dead, failing, or missing shall be replaced with new.

DEVELOPMENT SERVICES STANDARD CONDITIONS

The following Standard Conditions apply to Phase 2 (option "B") of the plans:

59. Developer shall pay plan check and processing fees in effect at the time of construction plan submittal and shall pay development fees, encroachment permit fees, and other applicable fees in effect at the time the City issues building permits. (DS-1)

60. Developer's Engineer shall design parking lot structural sections based on an analysis of the soils R-value and a traffic index (T.I.) approved by the City Engineer. The minimum structural section for parking lots is two inches of asphalt on four inches of base material. Developer shall show the proposed structural section on the site improvement plans. (DS-2)
61. Developer shall have the site improvement plans prepared on standard Development Services Division mylars by a civil engineer licensed in the State of California. The plans shall incorporate recommendations from soil engineering and geology reports. Prior to issuance of a grading permit, improvement plans must be approved by the City Engineer and the original ink-on-mylar plans filed with the Development Services Division. (DS-3)
62. Developer shall submit improvement plans and drainage calculations that demonstrate that storm drainage from the project property and all upstream areas will be safely conveyed to an approved drainage facility. The design and conveyance route shall be compatible with the City's Master Plan of Drainage and shall be approved by the City Engineer prior to approval of improvement plans. (DS-4)
63. Developer shall protect building pads from inundation during a 100-year storm. (DS-5)
64. Developer shall remove and replace all improvements that are damaged during construction. (DS-6)
65. Where a separate loop or terminal line is required for water mains, fire hydrants or fire sprinkler systems, Developer's site improvement plans shall include an on-site water plan. (DS-11)
66. Developer shall install on-site and off-site utility services underground in accordance with City ordinances in effect at the time City issues the building permit. Services shall be installed underground to the nearest suitable riser pole as determined by the appropriate utility service provider. (DS-12)
67. A civil engineer licensed in the State of California shall prepare the public improvement plans and documents for this project in accordance with City standards and shall submit all such plans to the City Engineer. Such plans and documents shall include, but not be limited to, grading, street, drainage, sewer, water and other appurtenant improvement plans; a master utility plan showing the layout and location of all on-site and off-site utility improvements that serve the project; construction cost estimates, soils reports, and all pertinent engineering design calculations. City will not accept an application for the final map or parcel map for the project or issue a grading, site improvement or building permit until the City Engineer has approved all improvement plans. (DS-15)
68. Prior to issuance of a site improvement permit, Developer shall provide to the Development Services Division a compact Disc (CD) containing digital copies of the final

subdivision map, address map, and civil improvements drawings in DWG format. Prior to improvement bond release, Developer shall provide an updated CD containing all changes that occur during construction. (DS-16)

69. Developer shall remove graffiti from the project, including graffiti on offsite public infrastructure under construction by Developer, within 24 hours of its appearance. If Developer fails to remove graffiti in accordance with this condition, the City may at the discretion of the Development Services Manager issue a stop work order until such time as the graffiti is removed. (DS-20)
70. The conditions of this resolution shall prevail over all omissions, conflicting notations, specifications, dimensions, typical sections, and the like, that may or may not be shown on the improvement plans. (DS-21)
71. Developer shall pay the cost of all inspections of on-site and off-site improvements. (DS-22)
72. Developer shall be responsible for all project-related actions of Developer's employees, contractors, subcontractors, and agents until City accepts the improvements. (DS-23)
73. Prior to beginning construction, Developer shall designate in writing an authorized agent who shall have complete authority to represent and to act for Developer. The authorized agent shall be present at the work site whenever work is in progress. Developer or the authorized agent shall make arrangements acceptable to City for any emergency work. When City gives orders to the authorized agent to do work required for the convenience and safety of the general public because of inclement weather or any other cause, and the orders are not immediately acted upon by the authorized agent, City may do or have such work done by others at Developer's expense. (DS-24)
74. "Standard Specifications for Public Works Construction," latest edition, and any modifications thereto by City, and City of Oxnard Standard Land Development Specifications and all applicable City Standard Plans, shall be the project specifications, except as noted otherwise on the approved improvement plans. City reserves the right to upgrade, add to, or revise these specifications and plans and all other City ordinances, policies, and standards. If the improvements required of this project are not completed within 12 months from the date of City's approval of the improvement plans, Developer shall comply with and conform to any and all upgraded, additional or revised specifications, plans, ordinances, policies and standards. (DS-27)
75. Developer shall retain a Civil Engineer licensed in the State of California to ensure that the construction work conforms to the approved improvement plans and specifications and to provide certified "as-built" plans after project completion. Developer's submittal of the certified "as-built" plans is a condition of City's final acceptance of the project. (DS-29)

76. All grading shall conform to City's grading ordinance and any recommendations of Developer's soils engineer that have been approved by the City Engineer. Developer shall conform to all applicable notes specified on the site improvement/grading plan cover sheet and grading permit. (DS-30)
77. Each lot shall drain into a street, alley, or approved drain so that there will be no undrained depressions. (DS-35)
78. Prior to issuance of a site improvement permit, Developer shall provide to the City Engineer easements or written consents from all affected landowners for any diversion of historical flows or change in drainage conditions caused by the project, as evidence that such landowners accept any additional water flowing over their property. (DS-36)
79. Developer shall dispose of sewage and solid waste from the project by City's wastewater and solid waste systems in a manner approved by the City Engineer. (DS-38)
80. Prior to issuance of building permits, Developer shall present to the City Engineer a "Proof of Payment - Authorization for Building Permits" form issued by the Calleguas Municipal Water District. (DS-44)
81. Developer shall install City approved backflow prevention devices for water connections if so ordered by the City Engineer. (DS-45)
82. Developer shall be responsible for and bear the cost of replacement of all existing survey monumentation (e.g., property corners) disturbed or destroyed during construction, and shall file appropriate records with the Ventura County Surveyor's Office. (DS-64)
83. Developer shall provide adequate vehicle sight distance as specified by CalTrans specifications at all driveways and intersections. (TR-71)
84. Developer shall install bike racks in accordance with City standards at locations approved by City Traffic Engineer. (TR-73)
85. Developer shall design parking lot and other drive areas to minimize degradation of stormwater quality. Using Best Management Practices (BMPs), such as oil and water separators, sand filters, landscaped areas for infiltration, basins or approved equals, Developer shall intercept and effectively prevent pollutants from discharging to the storm drain system. The stormwater quality system design shall be approved by the City Engineer prior to the issuance of a site improvement permit. (DS-81)
86. Using forms provided by the Development Services Division, Developer shall submit a stormwater quality control measures maintenance program ("the Program") for this project.

If the BMPs implemented with this project include proprietary products that require regular replacement and/or cleaning, Developer shall provide proof of a contract with an entity qualified to provide such periodic maintenance. The property owner is responsible for the long-term maintenance and operation of all BMPs included in the project design. Upon request by City, property owner shall provide written proof of ongoing BMP maintenance operations. No grading or building permit shall be issued until the Development Services Manager approves the Program and Developer provides an executed copy for recordation. (DS-82)

87. Developer shall maintain parking lots free of litter and debris. Developer shall sweep sidewalks, drive aisles, and parking lots regularly to prevent the accumulation of litter and debris. When swept or cleaned, debris must be trapped and collected to prevent entry into the storm drain system. Developer may not discharge any cleaning agent into the storm drain system. (DS-84)
88. Prior to issuance of a certificate of occupancy, on-site storm drain inlets shall be labeled "Don't Dump - Drains to Ocean" in accordance with City standards. Before City issues a site improvement permit, the requirement to label storm drain inlets shall be shown on the civil engineering plans. (DS-85)
89. Prior to issuance of a grading permit or commencement of any clearing, grading or excavation, Developer shall prepare a Stormwater Pollution Control Plan ("SWPCP") on the form provided by City. The SWPCP shall be developed and implemented in accordance with requirements of the Ventura Countywide Stormwater Quality Management Program, National Pollutant Discharge Elimination System Permit. The SWPCP shall identify potential pollutant sources that may affect the quality of discharges to stormwater and shall include the design and placement of recommended Best Management Practices (BMPs) to effectively prohibit pollutants from the construction site entering the storm drain system. The SWPCP shall be reviewed and approved by the City Engineer prior to issuance of a site improvement/grading permit. Developer shall keep the SWPCP updated to reflect current site conditions at all times and shall keep a copy of the SWPCP on the site and make it available for City or designated representative to review upon request. (DS-87)

DEVELOPMENT SERVICES SPECIAL CONDITIONS

The following Special Conditions apply to Phase 1 (option "A") of the plans:

90. Developer shall provide an ADA compliant pedestrian path from the public sidewalk to the main entrance of the building. (DS)
91. Restaurant uses are required to have a separate water service (meter) from other tenants in accordance with City Code. (DS)

The following Special Conditions apply to Phase 2 (option "B") of the plans:

92. Developer shall provide an ADA compliant pedestrian path from the public sidewalk to the main entrance of the building. (DS)
93. Developer shall construct a concrete apron along the length of the trash enclosure opening that extends a minimum of 15 feet from the face of the enclosure. (DS)
94. Developer shall provide a written analysis to determine if this project meets the definition of "Redevelopment" as defined in the current MS4 permit and associated 2011 Technical Guidance Manual for Stormwater Quality Control Measures ("2011 TGM"). If it is determined by the Development Services Manager that the project meets the definition of "Redevelopment", Developer shall provide stormwater mitigations (including stormwater infiltration) as required by the MS4 permit and 2011 TGM. (DS)
95. Developer shall provide site specific analysis and recommendations from a geotechnical engineer, and if applicable, a landscape architect for design and implementation of stormwater infiltration devices. Geotechnical Engineering analysis and recommendations shall include, but not be limited to, determination of site soil infiltration rates, depth to permeable soil layers, methods to reach permeable soil layers, appropriate compaction rates, recommendations to enhance infiltration, methods (e.g. Pre-treatment) to minimize long-term occlusion of soil porosity, and other requirements of the 2011 TGM. Landscape architectural recommendations shall include, but not be limited to, suggestions regarding appropriate vegetation and soil amendments for vegetated infiltration devices. Design plans shall implement approved design recommendations. Grading plans shall implement temporary fencing or other similar barriers to prevent compaction of the soil in the infiltration devices during construction. (DS)
96. Developer shall shorten proposed new or significantly altered parking stalls to 17 feet deep where shortening results in an additional 2 feet of pervious landscaping. Final determination shall be made by the Development Services Manager. (DS)
97. Developer shall provide and maintain an area within the tenant space of any restaurant or food preparation tenant for the washing/steam cleaning of equipment, floor mats and accessories. This area shall be self-contained and connected to the project grease interceptor. (DS)
98. Developer shall construct double-bin trash enclosure (one bin for recycle use) with a solid non-combustible roof (8-foot minimum clearance) that prevents stormwater from entering the refuse bins. Developer shall provide a traffic rated drain centered in the enclosure to

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catch all wash water from the trash enclosure. This drain shall connect to the sanitary sewer system via a grease interceptor. Developer shall construct all other components of the trash enclosure in accordance with the approved City Standard Plan on file with the Development Services Division. Developer shall finish the trash enclosure to match the major design elements of the main structure. The finish and roof appearance shall be indicated on the building plans and are subject to approval by the Planning Division. The location and configuration of trash enclosures shall be reviewed and approved by the Environmental Resources Division. All refuse bins on the site shall be stored in an approved trash enclosure. No objects other than refuse bins may be stored in the trash enclosure without the written permission of the Environmental Resources Division. (DS-80)

99. Restaurant uses are required to have a separate water service (meter) from other tenants in accordance with City Code. (DS)

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 17th day of May, 2012, by the following vote:

AYES:

NOES:

ABSENT:

Anthony R. Murguia, Chair

ATTEST: _____
Susan L. Martin, Secretary

PZ Nos. 11-510-9, 11-510-10, 12-550-01, 11-570-2
Planning Commission: May 17, 2012

ATTACHMENT E
POLICE REPORTS



Police Department

Jeri Williams, Police Chief

Date: February 13, 2012

To: Brian Foote, Associate Planner

From: Cliff Waer, Senior Alcohol Compliance Officer

Subject: 1051 E. Channel Islands Blvd. (7-Eleven)

Re: PZ 11-510-09

Site Information:

The proposed site is at an existing, vacant space in a building that was most recently occupied by a restaurant/café located at 1051 East Channel Islands Boulevard. The building is located on the northwest corner of the intersection of Channel Islands Boulevard and Statham Boulevard, immediately west of the Comfort Inn (formerly the Channel Islands Inn & Suites). The front doors are to face south toward the parking lot and Channel Islands Boulevard.

The building is proposed to be divided into two separate uses. One is proposed to be a restaurant with sales of alcohol for on-site consumption and the other is to be a convenience store with sales of alcohol for off-site consumption. The latter is the proposal discussed in this report.

The site is generally bordered by commercial to the north and west, Channel Islands Boulevard to the south and Statham Boulevard to the east. The nearest residences are approximately 150 feet to the west across Channel Islands Boulevard where there are several apartment complexes and single family homes.

The applicant has requested to obtain a California Alcoholic Beverage Control (ABC) License Type-20 which is an Off-Sale License that allows for the sale of beer and wine for consumption off the premises. There is one similar Off-Sale alcohol outlet within 350 feet of the site (Amar Ranch Market) and one more within 1000 feet.

Alcohol Outlets located within 350 feet of the proposed site include:

1. Amar Ranch Market	1111 E. Channel Islands Blvd.	Type 21	Off-Sale General	Grocery	Beer, Wine and Spirits
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Alcohol outlets located within 1000 feet of the establishment also include:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	LICENSE DESC.	ALCOHOL ALLOWED
1. Fresh & Easy Market	1750 E. Channel Islands Blvd.	Type 20	Off-Sale Beer and Wine	Market / Grocery	Beer and Wine

Crime Statistic Review:

For comparison purposes the Police Department calculates the average number of Part I and II crimes that occur per reporting district (grid) during a selected 12-month period. The average city-wide, per grid base number of Part I and II crimes is currently 117.

The average number of Part I and II crimes in the *applicant's* reporting district and all other districts within 1000 feet of the applicant is 131 during the same 12-month time period. This is 12% higher than the average crime rate citywide which is generally not considered to be significant. The nature and types of calls are consistent with citywide trends and those that list alcohol as a contributing factor are below citywide averages.

There are currently seven, 7-Eleven stores in Oxnard, none of which are considered to be problem or nuisance establishments. The average number of disturbances at each store is 11 per year and the average number of thefts is five. Contrast that to another convenience store chain that has several outlets in Oxnard where the annual number of disturbances was 22 and the average number of thefts was 36. The Police Department only points this out to give perspective to the numbers and types of calls that are typical of similar stores and to demonstrate that other stores operating under the Applicant's corporate policies seem to be effective at minimizing problems.

For reference, the category of Part I crimes include: murder, rape, robbery, theft, burglary, auto theft, assault, and arson. Part II crimes include: vandalism, weapons possession, other sex offenses, drug abuse violations, driving under the influence, liquor laws, drunkenness, and disorderly conduct. All references to "police calls for service" may include *any* type of police response to the area in addition to those classified as Part I or II.

Police Department Input:

The Beat Coordinator who is responsible for monitoring and managing the day-to-day police activity near the location said that the area immediately surrounding the proposed site is not considered to be a policing problem. However, in the areas further south of the site where there are dense apartment complexes, there are occasional policing issues.

The primary concern of the Police Department is the site's close proximity to Channel Islands High School. The school is approximately 600 feet southeast of the proposed site and the business is likely to be a popular destination for students as they commute to and from school.

Numerous studies have shown that youth exposure to alcohol significantly impacts underage consumption. Increased access and exposure to alcoholic beverages are directly related to incidences of youth consumption and should be carefully considered when determining appropriate locations for new outlets.¹⁻² There are now many preventative conditions that can help to minimize exposure to young people and to also reduce the access to alcohol. Prohibiting alcohol advertisements, limiting the types and sizes of alcoholic beverages and positioning the alcohol displays to be separate from other, non-alcoholic products and placed where they can be easily monitored by employees should minimize the likelihood for conflicts.

Also, our experience with other alcohol outlets in Oxnard that are near middle schools or high schools is that there is often a heavy influx of students during the commuting hours that can often overwhelm the employees. A few businesses have had to develop preventative policies such as limiting the number of students that can be present inside the store at any one time. Not allowing them to bring in backpacks or other large storage bags is another effective strategy to reduce the likelihood for theft related problems.

The Youth Services Officer that monitors Channel Islands High agreed that the students may take advantage of the situation and could flood the store after school. Additionally, if the site has an area surrounding the building that is conducive to loitering or is inviting to students, they may experience problems with lingering crowds outside that may be disruptive.

The Police Department has visited the proposed site several times to monitor the after school commuting patterns of Channel Islands High School students. Generally, our observations were that there are approximately 200 students who consistently walk westbound on Channel Islands past Statham and that all but a handful remains on the south side of the street. The groups of students tended to pass by the site in waves of 20 people or less with most groups being much smaller. This is in contrast to the large groups that overwhelm the shopping centers to the north of the school and crowd businesses such as Fresh & Easy and Walgreens. That being said, neither of these businesses have had any significant problems with students other than crowding and Fresh & Easy has not had any alcohol/student related problems.

There are a few other locations in Oxnard where there are alcohol outlets near schools, including two that are in very close proximity to high schools where the students are at the highest risk of exposure and access to alcohol. One of those is the Fresh & Easy Market which is literally across the street from Channel Islands High. This posed some very unique challenges when determining what the most appropriate and effective operating conditions should be to minimize the potential for conflicts. Fortunately, the preventative conditions we included with each of these sites appears to have been effective at preventing problems as there have been no alcohol/student related incidents at any one of the four businesses considered to be in close proximity to the high schools.

It is the conclusion of the Police Department that, while cautious and mindful of the potential for conflict with students, that the concerns can be effectively mitigated with the addition of

¹ G. Hastings, S. Anderson, E. Cooke, and R. Gordon, "Alcohol advertising and marketing and young people's drinking: a review of the research," *Journal of Public Health Policy* 26 (2005):296-311.

² L.B. Snyder, F.F. Milici, M. Slater, H. Sun, and Y. Strizhakova, "Effects of alcohol advertising exposure on drinking among youth," *Archives of Pediatrics and Adolescent Medicine* 160 (2006):18-24.

comprehensive operating conditions and close oversight of the activity at the business. Prohibiting the sale of single servings of alcohol and limiting certain types of sweetened malt beverages or alcoholic energy drinks that are popular with young drinkers are some of the recommended conditions included below. Other preventative measures include installing security cameras with feedback monitors that would give school staff the ability to review the recordings and help identify problem students should it be necessary.

Community Input:

Members of the Responsible Alcohol Policy Action Coalition (RAPAC) will be informed of the details of this proposal in order to discuss it at their monthly meetings. Any concerns can be expressed at the hearing. Surrounding neighborhood councils are advised of the proposal via the neighborhood packet and no comments were received by the Police Department.

Conclusion:

The statistical analysis shows the area to have a crime rate that is slightly above the citywide average but the area is not generally considered to be a policing problem. There is one similar alcohol outlet within 350 feet of the site so there is a local presumption of undue concentration. The presumption of undue concentration can be rebutted by a preponderance of evidence that determines the use will not aggravate policing issues and may be appropriate for the area. The site's close proximity to Channel Islands High School is of some concern but can be effectively mitigated by including preventative operating conditions with the resolution.

The Police Department's experience is that the proposed license (Type 20 - Market), when properly regulated through conditions imposed by the Planning Commission, does not normally aggravate policing issues, as long as the establishment complies with these regulations and operates responsibly. Listed below are the Police Department's recommended operating conditions for the Resolution.

Police Standard Conditions (Off-Sale Alcohol Establishments)

- 1) All managers or supervisors who are responsible for the daily coordination, supervision or managing of employees, shall complete an approved course in Responsible Beverage Sales and Service (RBSS) within sixty days of license granting and/or date of employment. Training can be arranged through the Oxnard Police Department. (PL/PD)
- 2) There shall be no advertising of alcoholic beverages visible from the outside of the

establishment, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. (PL/PD)

- 3) The Police Chief or designee may immediately suspend operation of the uses approved by this permit pending a hearing on the revocation of this permit if the Chief finds that there have been significant violations of the use permit conditions and/or ABC permit, or there is a single serious violent crime or single significant incident to which multiple police units or multiple police jurisdictions respond associated with the operation of this use, which the Chief determines, after due process that shall include communication with the owner, is detrimental to the public safety or health. The Chief shall immediately inform the Planning and Environmental Services Manager of the suspension and the Manager shall schedule a hearing on the revocation of the permit by the Planning Commission to be held no more than 30 days after the suspension begins. (PD)
- 4) Any signs, advertisements or decorations placed upon the windows shall not exceed 20% of the overall window area. Additionally, there shall be no other obstructions placed near the windows that exceed 20% of the overall viewing area including display racks, stored products, shades or blinds.
- 5) Upon any individual transfer (person-to-person) of the subject Alcoholic Beverage Control License, or if the business is ever deemed a nuisance as defined by Oxnard City Code, the Police Department may initiate Planning Commission review of the existing SUP and the Planning Commission may apply or remove conditions as appropriate to mitigate existing or potential problems.
- 6) Any graffiti painted or marked upon the premises or on any adjacent area under the control of the Permittee shall be removed or painted over within twenty-four (24) hours of being applied. (PL/PD)
- 7) Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control. This includes the rear of the business. (PL/PD)
- 8) Any rear door of the premises shall be equipped on the inside with an automatic locking device, shall be closed at all times, and shall not be used as a means of access by patrons to and from the licensed premises. Temporary use of these doors for delivery of supplies or disposal of trash does not constitute a violation. (PD)
- 9) Employees involved in the sale or service of alcoholic beverages shall not be allowed to consume alcoholic beverages at any time during their shift. Employees shall not report to work with evidence of having consumed any intoxicants such as alcohol, illegal drugs or controlled substances. (PD)
- 10) The parking lot and adjacent areas of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons on or about the area. This includes the rear of the business. (PL/PD)

- 11) There shall be no pay phones installed inside the premises nor shall there be any pay phones installed outside within 100 feet of the premises. (PL/PD)
- 12) Permittee shall regularly police the area under Permittee's reasonable control (including the rear of the business) and shall not permit the loitering of persons about the premises. (PL/PD)
- 13) In the areas surrounding the business the Permittee shall post prominent, permanent signs indicating that loitering, open containers and the consumption of alcoholic beverages is prohibited. This includes the parking lot and other adjacent areas under Permittee's reasonable control. (PD)
- 14) Coolers or displays containing alcoholic beverages shall be positioned so as to allow maximum visibility to cashiers, clerks, associates or employees. Alcohol displays shall not be positioned near customer entry/exit doors, nor shall they be in a location that allows for an easy and unobstructed path to any entry or exit. It is recommended that the alcohol displays or coolers be positioned where employees have a clear view from their normal work stations of the activity of persons in the alcohol isle. (PD)
- 15) There shall be no amusement machines or video devices maintained on the premises at any time. (PD)
- 16) Beer, malt beverages and wine coolers, in containers of 40oz in volume or less, cannot be sold by single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.
- 17) No wine shall be sold with an alcoholic content of greater than 15% by volume except for "Dinner Wines" which have been aged two years or more and maintained in corked bottles (Port, Sherry, Saki, Marsala, Madiera, Muscat and Vermouth are permitted). (PD)
- 18) Prominent signs shall be posted stating, in effect, "No persons under 21 will be served alcoholic beverages" and "Valid ID is required to purchase alcoholic beverages". These signs shall, at a minimum, be posted at each point of sale and near any alcohol display or areas. (PD)
- 19) No open floor displays of alcoholic beverages are allowed, including but not limited to "beer mountains" and portable coolers. (PD)
- 20) Alcoholic beverages shall not be sold between the hours from 12:00 midnight and 6:00 AM. (PD)
- 21) There shall be no self-service displays of any type of tobacco product including, but not limited to cigarettes, cigars and smokeless tobacco.
- 22) Security cameras shall be installed to monitor the premises and be positioned to monitor at minimum the entry/exit, all points of sale, alcohol coolers and the areas

immediately surrounding the exterior of the business. The camera system shall comply with the following minimum standards: (PD)

- a. The cameras shall be color cameras, made by a reputable manufacturer and maintained to current industry standards. They shall have low light capability and be capable of identifying persons conducting transactions at the stores' registers or entering/exiting the business.
 - b. The system shall utilize a Digital Video Recorder (DVR). The use of videocassette recorders (VHS and other formats) is prohibited. The DVR shall allow recording, live viewing and playback of recorded video for a period of least 30 days. DVR shall perform all recording, viewing (local and remote), playback (local and remote), queries and backup functions simultaneously, with no interruption of any other function.
- 23) Permittee shall establish responsible cash handling procedures to reduce the likelihood of robberies and thefts.
 - 24) Permittee shall bolt down or otherwise secure all cash registers to service counters in order to prevent the entire device from being stolen during a burglary or robbery.
 - 25) Permittee shall have drop-safes installed or establish other responsible cash handling procedures to allow employees to deposit daily receipts throughout the day as the amounts exceed allowable levels in the register (typically \$50).
 - 26) When used, Permittee shall install signage which indicates that employees do not possess keys to safes and that minimal levels of cash are available in register.
 - 27) Permittee shall install height gauges at all exit doors.
 - 28) Permittee shall install an electronic intrusion detection system (burglary alarm) that detects portal openings, glass break, and interior motion.
 - 29) Permittee shall equip each point of sale with a silent robbery alarm that complies with Oxnard City Ordinance No. 2601 or develop and implement critical incident protocols that provide an efficient method for alerting police and others to a potential threat without unnecessarily putting the employees at risk.
 - 30) A copy of these conditions must be maintained on the premises and made available upon the demand of any peace officer at all times. (PL/PD)

Police Special Conditions

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1. Permittee shall install a video feedback monitor which displays the live feed from security cameras positioned nearby. The monitor shall, at a minimum, be displayed at each customer entrance. Permittee shall install an additional feedback monitor in the alcoholic beverage display area. (PD)
 1. Coolers or displays containing alcoholic beverages shall be maintained in such a way as to allow for them to be locked or inaccessible during hours of prohibited sale and shall, in fact, be secured during the hours from 12:00 Midnight to 6:00 AM. (PD)
 2. Permittee shall cooperate fully with staff from Channel Islands High School and shall develop a written policy that specifies how employees will deal with teenage customers that are patronizing the business during normal school hours. The policy will include developing an efficient method of communication with school staff, the Youth Services Officer and how potential truants will be handled. (PD)
 3. The sale of flavored malt beverages (commonly referred to as alcopops) or energy drinks containing alcohol is prohibited. Such products are generally sweetened, carbonated alcoholic beverages made with malt or spirits-based alcohol. Examples of such products include Smirnoff Ice, Mike's Hard Lemonade, Bacardi Silver and Jack Daniel's Lynchburg Lemonade. (PD)
 4. The use of self-checkout for alcoholic beverages is prohibited.



Police Department

Jeri Williams, Police Chief

Date: February 13, 2012

To: Brian Foote, Associate Planner

From: Cliff Waer, Senior Alcohol Compliance Officer

Subject: 1051 E. Channel Islands Blvd. (Restaurant)

Re: PZ 11-510-10

Site Information:

The proposed site is at an existing, vacant space in a building that was most recently occupied by a restaurant/café located at 1051 East Channel Islands Boulevard. The building is located on the northwest corner of the intersection of Channel Islands Boulevard and Statham Boulevard, immediately west of the Comfort Inn (formerly the Channel Islands Inn & Suites). The front doors face east toward the parking lot and Statham Boulevard.

The building is proposed to be divided into two separate uses. One is proposed to be a restaurant with sales of alcohol for on-site consumption and the other is to be a convenience store with sales of alcohol for off-site consumption. The restaurant use is the proposal discussed in this report.

The site is generally bordered by commercial to the north and west, Channel Islands Boulevard to the south and Statham Boulevard to the east. The nearest residences are approximately 150 feet to the west across Channel Islands Boulevard where there are several apartment complexes and single family homes.

The applicant has requested to obtain a California Alcoholic Beverage Control (ABC) License Type-41 which is an On-Sale License that allows for the sale of beer and wine for consumption on the premises. There are no similar On-Sale alcohol outlets within 350 or 1000 feet of the site.

Alcohol Outlets located within 350 feet of the proposed site include:

1. Amar Ranch Market	1111 E. Channel Islands Blvd.	Type 21	Off-Sale General	Grocery	Beer, Wine and Spirits
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Alcohol outlets located within 1000 feet of the establishment also include:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	LICENSE DESC.	ALCOHOL ALLOWED
1. Fresh & Easy Market	1750 E. Channel Islands Blvd.	Type 20	Off-Sale Beer and Wine	Market / Grocery	Beer and Wine

Crime Statistic Review:

For comparison purposes the Police Department calculates the average number of Part I and II crimes that occur per reporting district (grid) during a selected 12-month period. The average city-wide, per grid base number of Part I and II crimes is currently 117.

The average number of Part I and II crimes in the *applicant's* reporting district and all other districts within 1000 feet of the applicant is 131 during the same 12-month time period. This is 12% higher than the average crime rate citywide which is generally not considered to be significant. The nature and types of calls are consistent with citywide trends and those that list alcohol as a contributing factor are below citywide averages.

For reference, the category of Part I crimes include: murder, rape, robbery, theft, burglary, auto theft, assault, and arson. Part II crimes include: vandalism, weapons possession, other sex offenses, drug abuse violations, driving under the influence, liquor laws, drunkenness, and disorderly conduct. All references to "police calls for service" may include *any* type of police response to the area in addition to those classified as Part I or II.

Police Department Input:

The Beat Coordinator who is responsible for monitoring and managing the day-to-day police activity near the location said that the area immediately surrounding the proposed site is not considered to be a policing problem. However, in the areas further south of the site where there are dense apartment complexes, there are occasional policing issues.

The primary concern of the Police Department is the site's close proximity to Channel Islands High School. The school is approximately 600 feet southeast of the proposed site and access and exposure to the students is somewhat of a concern. Numerous studies have shown that youth exposure to alcohol significantly impacts underage consumption. Increased access and exposure to alcoholic beverages are directly related to incidences of youth consumption and should be carefully considered when determining appropriate locations for new outlets.¹⁻² There are now many preventative conditions that can help to minimize exposure to young people and also

¹ G. Hastings, S. Anderson, E. Cooke, and R. Gordon, "Alcohol advertising and marketing and young people's drinking: a review of the research," *Journal of Public Health Policy* 26 (2005):296-311.

² L.B. Snyder, F.F. Milici, M. Slater, H. Sun, and Y. Strizhakova, "Effects of alcohol advertising exposure on drinking among youth," *Archives of Pediatrics and Adolescent Medicine* 160 (2006):18-24.

reduce easy access. Prohibiting alcohol advertisements and limiting the types and sizes of alcoholic beverages should minimize the likelihood for conflicts.

The Youth Services Officer that monitors Channel Islands High agreed that the site could be a popular destination after school depending upon the atmosphere of the business and the manner in which it is run. She felt any conflicts or potential problems could be easily minimized by including comprehensive operating conditions and working cooperatively with the business.

The Police Department has visited the proposed site several times to monitor the after school commuting patterns of Channel Islands High School students. Generally, our observations were that there are approximately 200 students who consistently walk westbound on Channel Islands past Statham and that all but a handful remains on the south side of the street. The groups of students tended to pass by the site in waves of 20 people or less with most groups being much smaller. This is in contrast to the large groups that overwhelm the shopping centers to the north of the school and crowd businesses such as Fresh & Easy and Walgreens. That being said, neither of these businesses has had any significant problems with students other than crowding and Fresh & Easy has not had any alcohol/student related problems.

It is the conclusion of the Police Department that, while cautious and mindful of the potential for conflict with students, that the concerns can be effectively mitigated with the addition of comprehensive operating conditions and close oversight of the activity at the business.

Community Input:

Members of the Responsible Alcohol Policy Action Coalition (RAPAC) will be informed of the details of this proposal in order to discuss it at their monthly meetings. Any concerns can be expressed at the hearing. Surrounding neighborhood councils are advised of the proposal via the neighborhood packet and no comments were received by the Police Department.

Conclusion:

The statistical analysis shows the area to have a crime rate that is slightly above the citywide average but the area is not generally considered to be a policing problem. There are no similar alcohol outlets within 350 feet of the site so there is no local presumption of undue concentration. The site's close proximity to Channel Islands High School is of some concern but can be effectively mitigated by including preventative operating conditions with the resolution.

The Police Department's experience is that the proposed license (Type 41 - Restaurant), when properly regulated through conditions imposed by the Planning Commission, does not normally aggravate policing issues, as long as the establishment complies with these regulations and operates responsibly. Listed below are the Police Department's recommended operating conditions for the Resolution.

Police Standard Operating Conditions

- 1) Permittee and all sellers or servers shall complete a course in Responsible Beverage Service (RBS) within sixty days of license granting and/or date of employment. Applicant can contact the Alcohol Compliance Officer at the Oxnard Police Department to make arrangements (PL/PD)
- 2) Permittee and all general managers, managers or policy makers shall complete a course in the Responsible Alcohol Policy Program (available through the Oxnard Police Department) within 12 months of license granting and/or date of employment. (PD)
- 3) Sales of alcoholic beverages shall be incidental to the sale of food. It shall not be considered a violation of this condition if customers are served alcoholic beverages in any lounge, bar or staging area and who are waiting to be seated for the service of food. Employees shall make a good faith effort to ensure that all customers being served alcoholic beverages are also on the premises for the purpose of consuming food items. (PD)
- 4) When security personnel are present or required per Oxnard City Code, Permittee shall maintain accurate records of all security personnel on the premise at any given time and make those available to the police upon demand. These records shall, at a minimum, provide the name, date of birth, copies of security guard credentials or license and any other permits or certifications related to security work. This would include copies of permits for weapons or other tools the guard may be authorized to carry. Security personnel shall remain in compliance with updated training related to their work as set forth by any existing or future state and/or local regulations. (PD)
- 5) The Police Chief or designee may immediately suspend operation of the uses approved by this permit pending a hearing on the revocation of this permit if the Chief finds that there have been significant violations of the use permit conditions and/or ABC permit, or there is a single serious violent crime or single significant incident to which multiple police units or multiple police jurisdictions respond associated with the operation of this use, which the Chief determines is detrimental to the public safety or health. The Chief shall immediately inform the Planning and Environmental Services Manager of the suspension and the manager shall schedule a hearing on the revocation of the permit by the Planning Commission to be held no more than 30 days after the suspension begins. (PD)
- 6) The premises shall be equipped with an adequate number of seats to accommodate all customers. There shall be no service area that is designed or used as a standing area only or as a combined standing and seating area. (PD)

- 7) The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. Permittee shall at all times maintain records which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department upon demand. (PL/PD)
- 8) Permittee shall comply with the provisions of Section 23038 of the Business and Professions Code and acknowledges that incidental, sporadic, or infrequent sales of meals or a mere offering of meals without actual sales shall not be deemed sufficient to consider the premises in compliance with the aforementioned section.(PL/PD)
- 9) The premises shall be equipped and maintained in good faith as a bonafide restaurant and shall possess, in operative condition, such conveniences for cooking and storage of foods such as stoves, ovens, broilers, refrigeration or other devices, as well as pots, pans or containers which can be used for cooking or heating foods on the type heating device employed. (PL/PD)
- 10) The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)
- 11) The use of any amplifying system or device shall not be audible outside the premise nor shall it be disruptive to neighboring uses. (PD)
- 12) There shall be no advertising of alcoholic beverages visible from the outside of the establishment, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. (PL/PD)
- 13) The sale of alcoholic beverages for consumption off the premises is strictly prohibited. (PD)
- 14) Sales of alcohol shall not occur between the hours of 12:00 midnight and 6:00 a.m. (PL/PD)
- 15) Alcoholic beverages shall not be offered at significantly reduced prices (typically more than 25% reduction) that are meant to encourage greater consumption of alcohol such as during "happy hour" type promotions. Permittee shall not develop any other promotional activity that is designed to encourage excessive drinking of alcoholic beverages. *Promoting a "happy hour" or other event that offers reduced prices on food or other items shall not be considered a violation of this condition and are actually encouraged.* (PD)
- 16) Alcoholic beverages shall be served in standard sizes that are consistent with the industry and shall not be served by the pitcher, "bucket" or similar high capacity amounts exceeding 36oz total. (PD)

- 17) In the areas surrounding the business, not otherwise licensed by the Department of Alcoholic Beverage Control allowing the service of alcohol, Permittee shall post prominent, permanent signs indicating that loitering, open containers and the consumption of alcoholic beverages is prohibited. This includes the parking lot, walkways and other adjacent areas under Permittee's reasonable control. (PD)
- 18) Prominent signs shall be posted stating, in effect, "No persons under 21 will be served alcoholic beverages" and "Valid ID is required to purchase alcoholic beverages". (PD)
- 19) Employees involved in the sale or service of alcoholic beverages shall not be allowed to consume alcoholic beverages at any time during their shift. Employees shall not report to work with evidence of having consumed any intoxicants such as alcohol, illegal drugs or controlled substances. (PD)
- 20) Permittee shall not create any bar, lounge or other area in which the exclusive use would be the service of alcoholic beverages. Food shall be made available in all areas where customers are seated. An area designated for customers who are waiting to be seated at a food service table shall not be considered a violation of this condition as long as the area is not used primarily for the service of alcohol. Condition number 3, above, shall be adhered to regardless of where customers are seated. (PD)
- 21) The subject Alcoholic Beverage Control License shall not be exchanged for any other type of Alcoholic Beverage Control License without review and approval by the Police Chief or his designee, Planning Commission or City Council. (PD)
- 22) Upon any individual transfer (person-to-person) of the subject Alcoholic Beverage Control License, or if the business is ever deemed a nuisance as defined in the Oxnard City Code, Police Department may initiate Planning Commission review the existing SUP and apply or remove conditions as appropriate to mitigate existing or potential problems. (PD)
- 23) Any graffiti painted or marked upon the premises or on any adjacent area under the control of Permittee shall be removed or painted over within twenty-four (24) hours of being applied. (PL/PD)
- 24) Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)
- 25) The area surrounding premises under the reasonable control of Permittee (including the rear of the business) shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons in or about the area. (PL/PD)
- 26) No pay phone on the exterior of the premises shall be allowed within 100 feet of the front or rear doors and any pay phones installed inside shall be blocked from incoming calls. (PL/PD)

- 27) Permittee shall regularly police the area under Permittee's control and shall not permit the loitering of persons about the premises. (PL/PD)
- 28) Any rear door of the premises shall be equipped on the inside with an automatic locking device, shall be closed at all times, and shall not be used as a means of access by patrons to and from the licensed premises. Temporary use of these doors for delivery of supplies does not constitute a violation. (PD)
- 29) Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
- 30) Permittee shall install a video surveillance system that shall be maintained at a reasonable industry standard and shall, at a minimum, monitor the entrances and exits, any centralized point of sale and areas immediately surrounding the exterior of the business. (PD)
- 31) Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
- 32) Permittee shall bolt down or otherwise secure all cash registers to service counters in order to prevent the entire device from being stolen during a burglary or robbery. (PD)
- 33) A copy of these conditions must be maintained on the premises and made available upon the demand of any peace officer at all times. (PL/PD)

Police Special Conditions

- 1) If alcoholic beverages are to be sold and consumed in any patio area, the patio must be properly licensed by the City of Oxnard Planning Division and Department of Alcoholic Beverage Control. The entire patio shall be adequately enclosed to the satisfaction of the Chief of Police or his designee. Low or excessively wide spaced fencing will not be considered sufficient. (PD)
- 2) Customer access to and from the patio shall be made through the interior of the business only. (PD)
- 3) Any exits on the patios shall not be used as a means of access or egress by patrons to and from the licensed premises and, other than during emergencies or for

handicapped access per ADA guidelines, shall be kept closed at all times. The exit doors shall close automatically and be equipped with an audible sounding device to alert employees when it has been opened. Adequate signs shall be posted near the gate stating it is an emergency exit or handicapped access only and that an alarm will sound if opened. (PD)

- 4) There shall not be any outdoor or patio bar (portable or otherwise) where alcoholic beverages are stored or served. (PD)
- 5) There shall be no live entertainment or amplified sound permitted in outdoor areas (including any patio dining area). Recorded music or acoustic performances for the purposes of creating ambience that is appropriate for the proposed use is permitted but shall be subdued and at no time be disruptive to neighboring uses. (PD)



Meeting Date: 07/10/12

ACTION	TYPE OF ITEM
☐ Approved Recommendation	☐ Info/Consent
☐ Ord. No(s). _____	☐ Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☒ Other Council Business

Prepared By: Martin R. Erickson *MRE*

Agenda Item No. N-1

Reviewed By: City Manager *MMH*City Attorney *MA*Finance *PC*

Other (Specify) _____

DATE: June 13, 2012

TO: City Council

FROM: Martin R. Erickson, Special Assistant to the City Manager
City Manager's Office *MRE*

SUBJECT: Consideration of Support for the Ventura County Transportation Commission (VCTC's) Adopted Position on Countywide Transit.

RECOMMENDATION

That City Council consider supporting the adopted position of VCTC concerning countywide transit and provide direction to City Manager.

DISCUSSION

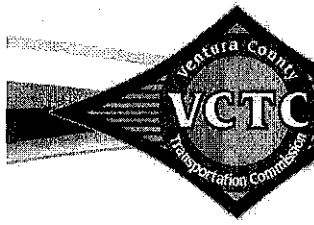
In January 2010, SB 716 (Wolk) went into effect. One of SB 716's provisions for Ventura County dictated that by July 1 2014, all Transportation Development Act (TDA) funding would need to be expended on transit. VCTC was encouraged to prepare a countywide transit plan in 2012 to prepare for this. VCTC prepared a regional transit study in cooperation with Ventura County's cities and the County which was adopted by VCTC on April 13, 2012. A key component of the plan was that Gold Coast Transit (GCT) would transition into a west county transit district. Another element of the transit study was to allow flexibility for all cities and the County to use TDA funds for streets and roads purposes if all transit needs were met.

From Oxnard City staff's vantage point, although the City has expended all of its TDA funding on transit purposes for the past two years, maintaining flexibility of TDA funds for Article 8 (streets and roads) would be a desirable outcome. VCTC is requesting that each member City of VCTC and the County formally support VCTC's adopted regional transit study.

FINANCIAL IMPACT

There is no financial impact at this time.

Attachment #1 – Ventura County Regional Transit Study – Final Report



TRANSFORMING TRANSPORTATION IN VENTURA COUNTY

Ventura County Regional Transit Study

FINAL REPORT

Prepared for:
Ventura County Transportation Commission

Prepared by:
MIG, Inc.
Wendel
Patti Post & Associates

April 9, 2012

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I. Executive Summary

Introduction

This report presents the findings and outcomes of a nearly two-year study of options for organizing public transportation services for Ventura County and the direction and actions adopted by the Ventura County Transportation Commission pursuant to it. The direction for the study came from two sources: A 2009 Commission workshop on the future of VCTC's own VISTA service and legislative provisions arising out of SB 716, which went into effect January 1, 2010. SB 716 generally requires that Transportation Development Act funds be spent for public transit purposes, but in a section specific to Ventura County states that:

The Ventura County Transportation Commission may submit to the Senate Committee on Transportation and Housing and the Assembly Committee on Transportation a report analyzing options for organizing public mass transportation services in the county, for the expenditure of revenues deposited in the local transportation fund, and a recommended legislative proposal for implementing the plan by December 31, 2011. If the legislative proposal is not enacted by the end of the 2011-12 Regular Session of the Legislature, revenues deposited in the local transportation fund in that county shall be available for the fiscal year beginning on July 1, 2014, and each fiscal year thereafter, solely for claims for Article 4 (commencing with Section 99260) and Article 4.5 (commencing with Section 99275) purposes.

The study has involved data collection, analysis of options by a Steering Committee and engagement of the community, the operators, and city and county management. The process culminated in an unprecedented level of consensus among the operators on the desirable path forward in creating a more coordinated, customer-focused system of services in Ventura County. A proposal was developed by transit operators in the County, which ultimately resulted in adoption of a recommendation by the Commission to be forwarded to the Legislature. Details on the analysis, process and recommendations are presented in the report.

Commission Recommendation in Report to the Legislature

As an outcome to this study, the Commission adopted a consensus position reached by the Regional Transit Study Steering Committee, the Transit Managers and the City Managers. The proposal is an innovative combination of the cooperation and consolidation approaches discussed in this report that is uniquely tailored to Ventura County's conditions and needs, and that allows for further development and change over time as results and conditions warrant:

1. Support creation of a Gold Coast Transit District (GCTD) to assume the responsibilities for West County public transportation services. Cities and communities in West County (including Heritage Valley) would be provided with the opportunity to join the District.
2. Transition authority for VISTA services in West County to the new District, with services in the Heritage Valley subject to negotiation and participation by those communities and California State University Channel Islands (CSUCI) and Santa Barbara County Association of Governments (for Coastal Express) pending continued funding agreements with those entities.
3. Support creation of a Memorandum of Understanding (MOU) in East County between the cities of Camarillo, Moorpark, Simi Valley and Thousand Oaks and the County of Ventura for unincorporated East County, to further coordination of individual services.
4. Transition authority for VISTA East service to the East County MOU.
5. Support legislation to allow the use of TDA funds for Article 8 purposes, including streets and roads, and continued return to source of Local Transit Funds.
6. Use VCTC discretionary transit funds to deliver sustainable levels of transit service.
7. Support the objective of further consolidation over time as needed to improve connectivity and customer service.

Study Background and Process

The study began in April, 2010 with appointment of a Commission Steering Committee from the Commission membership, representing the diverse geography and interests of Ventura County. This Steering Committee met six times over the course of the study, providing policy guidance and a forum for deliberation on issues and alternatives. Each of the ten agencies providing public transportation was interviewed in-depth and operator profiles were prepared. Meetings were held with the technical committee of the operators (TRANSCOM), the City Managers and the public. The public meetings were conducted in conjunction with VCTC's Comprehensive Transportation Plan and involved subregional advisory groups and a regional advisory group.

Guiding Principles

The Commission adopted the following Guiding Principles for the study:

Develop a network of sustainable services that meet the diverse needs of the customers through the following actions:

1. Foster open dialogue among communities, system users, operators and agencies
2. Transition to a user-focused system that goes beyond individual operator boundaries
3. Gain consensus on the approach from elected officials and city management
4. Incorporate applicable Federal, State, regional and local livability, sustainability and greenhouse gas reduction goals

Current State of Transit in Ventura County

Public transportation in Ventura County is provided by ten different agencies through a combination of fixed route and demand-responsive services. These operations range in size from the multi-jurisdictional Gold Coast Transit Joint Powers Authority to the Ojai Trolley. VCTC operates VISTA, which consists of basic interjurisdictional connector routes and a dial-a-ride serving Heritage Valley (mainly the communities of Santa Paula, Fillmore and Piru). Based on local funding policies and perception of transit needs, operators offer different days and hours of service. This makes connections difficult and service confusing, especially for the infrequent or new rider. While VCTC and the operators have attempted to improve connections through coordinated fare media and scheduling software, progress toward truly integrated service has been minimal.

Costs also vary widely – for example according to data from the 2009 National Transit Database (NTD), utilized for illustrative purposes early in the report process, cost per passenger trip for the four largest operations ranges from \$3.66 to \$7.70 for fixed route service and from \$5.55 to \$46.39 for demand-response service. There are many reasons for this range in costs – for example type of area served, level of service provided, type of vehicle operated and variance in labor costs, including contract or in-house service and administrative overhead. Also, agencies can use different reporting methods and some transit costs are not included.

Views of the Current Situation

Interviews of key stakeholders (including all of the Transportation Commissioners) revealed some common views:

- Many of the obstacles to transit service are inherent to Ventura County's characteristics – widely spaced, diverse communities and centers where geographic areas do not share common economic, social and transportation service values.
- Current transportation services are good given the amount of local resources that are available and individual cities are doing a good job of balancing resources.
- There is no one preferred organizational structure for transit service provision – views range from a single entity to the current system of smaller, customized providers
- There is extensive support for quality transit services

Organizational Options Considered

The Steering Committee and the Commission considered four potential models for structuring public transit service in Ventura County:

Collaboration – informal agreements to modify or change the status quo. For example, agreements for an "800" or "511" information number, regionwide marketing, or transfers. Over the years, VCTC has managed a number of these agreements, including a coordinated farecard, paratransit scheduling software and NextBus information program.

Coordination – formal agreements that modify ways of doing business. This could include a countywide ADA paratransit service, agreements to share funding responsibility (such as the current agreement between various parties and VCTC to VISTA service on the 101 corridor), a Joint Powers Authority to govern more formal service coordination, joint procurement or public information and marketing.

Consolidation – a formal combination or blending of services under a single or multiple entities. There are two types of Consolidation – Full or Moderate.

Full Consolidation – a single agency provides all policy, funding, planning and operations.

Moderate Consolidation - a central entity provides policy, planning and funding and one or two operating entities provide the service.

Policy Direction on Options

Mid-point in the study, the Steering Committee determined, with concurrence of the Commission, that Commission staff and the consultant team should move forward with analysis and city consultation on the Full Consolidation option (with strong continued local influence) and a hybrid version of Moderate Consolidation with two operating entities. Under this type of arrangement, the entities could be a combination of a District, a Joint Powers Authority or other alternative. Key principles moving forward were:

- Keep communities whole – having at least the level of service that communities have now
- Increase connectivity
- Improve local service
- Maintain a level of local influence and control

Evolution of the Organizational Concept

During consultation with the operators and City Management, several expressed concern that the Coordination option had been abandoned prematurely and requested that it be re-inserted for further consideration. In meeting with the Steering Committee, the operators and management were offered the option of presenting their own alternative. VCTC informed State Senate Transportation Committee staff that the report would be submitted after December 31, 2011 so that an organizational option could be worked out that the Commission and the communities could come to consensus.

The operators developed an initial proposal that featured:

- Creating a Gold Coast Transit District (GCTD) to provide a framework for consolidated service in West County. Communities, including Heritage Valley, would be provided with the opportunity to join the District.
- Provide for member agency TDA to be subvented to GCTD as of July 1, 2014, net of funding for transit stations, stops and facilities. TDA would be returned to

individual jurisdictions in East County and cities would be allowed to file for Article 8 purposes (for streets and roads) if there were no unmet transit needs.

- Transition authority for VISTA services in West County to the new District, with services in the Heritage Valley subject to negotiation and participation by those communities and California State University Channel Islands (CSUCI) and Santa Barbara County Association of Governments (for Coastal Express) pending continued funding agreements with those entities.
- Consolidate ADA service into no more than two areas.
- Create an East County MOU to govern further coordination of service, transfers and fares among East County operators.

They also articulated Guiding Principles that stated the right of local agencies to determine how to provide services, concern with equity of TDA requirements, the importance of continued local control of state and federal funds, and the desirability of consolidation of local ADA and dial-a-ride operations.

Steering Committee and Commission Direction

The Steering Committee considered the operators proposal and recommended:

- Include Customer Focus as a top priority in any Guiding Principles
- Express consensus support for the operators' structural proposal
- Further consolidation would be pursued at a future undetermined date
- The operators' proposal for use of TDA for Article 8 purposes in East County remained an open issue

March 2, 2012 Commission Action

On March 2 the Commission took action to *"Support the Operators proposal in concept with the understanding that all cities would have flexible use of TDA funds and further discussion of Heritage Valley Service would take place before a proposal is brought back to VCTC on April 13th with the specifics fleshed out and with the recognition that the concept of full consolidation will continue to be discussed as a long term goal. Staff was directed to work with City Managers to flesh out specifics."*

Future Steps

VCTC and the operators, working with the consultant team, have identified a number of issues to be considered in successful implementation of this new organizational model. These include logistics for transition of VISTA service, including outside funding arrangements from CSUCI and SBCAG; VCTC roles and responsibilities; framework for further consolidation of ADA and dial-a-ride services; creation and constitution of GCTD; terms and timing of the East County MOU and arrangements for use of VCTC discretionary funds to meet the objective of "keeping communities whole" from a service perspective. The intent is to submit this report to the Legislature and continue proceeding in the preferred direction for reorganizing and improving the delivery of public transportation in Ventura County.

II. Introduction

Origin of the Study

For the past several years many policymakers and customers have recognized that the way that public transportation is provided in Ventura County needs to be reconsidered. Impetus for change came from at least the following: VCTC's consensus that the funding, organizational and governance of its own VISTA service required simplification and consolidation; California Senate Bill (SB) 716, affecting the use of Transportation Development Act funds; trends in state and federal transportation funding; awareness of the benefits of organizational structures and practices employed elsewhere; and input from policy leaders and the public in a variety of forums and surveys of Ventura County residents and business, including the concurrent development of the Comprehensive Transportation Plan and during virtually every annual Unmet Transit Needs process.

In recent years, VCTC, in working with Ventura County's multiple operators, has made a number of attempts at further coordinating and rationalizing service delivery in the county. VCTC operates VISTA service, a contractually-provided "baseline" that serves as a fixed-route connection between jurisdictions. VCTC has also explored "virtual consolidation" of fares and transfers through a smart card and the Trapeze scheduling system that allows agencies to share and monitor interagency trip data. However, these efforts have served more to improve local service operations than to further connect individual services.

In early 2010 the Ventura County Transportation Commission (VCTC) embarked on a Regional Transit Study for the county. The intent was to define a direction for improving the quality, efficiency and overall sustainability of public transportation in Ventura County and to provide a platform for presenting an organizational proposal to the State Legislature. VCTC enlisted the services of a consultant team to work with Commissioners and staff in reviewing the state of the system, identifying potential options and charting an initial path forward. The results of this analysis would form the basis of a report to the Legislature and also pave the way for a more effective, comprehensible and sustainable public transportation system for Ventura County.

SB 716

SB 716, enacted in 2009, requires that all state Transportation Development Act (TDA) funds committed to transit uses beginning on January 1, 2010. However, Ventura

County and other counties, were given an extension to July 1, 2014. The bill allowed VCTC to propose a plan to the Legislature for utilization of TDA funds and organizing public mass transportation services in the county.

TDA funds are currently allocated on the basis of population to the cities and unincorporated area of the County. The amount of TDA funds allocated to the cities and County in 2011 was amended up a final number of approximately \$26 million. Amounts allocated to local jurisdictions ranged from about \$235,000 in Ojai to almost \$6,250,000 in Oxnard. This is down from a high of almost \$30 million several years ago. In accordance with SB 716, until July 1, 2014 TDA funds in Ventura County can be spent for other transportation purposes, if no outstanding needs for public transportation that were "reasonable to be met" were identified through the Unmet Transit Needs or "Article 8" process. SB 716 does not change the way the TDA funds are allocated.

When the statute goes into effect on July 1, 2014, this option would be eliminated along with the ability of local jurisdictions to substitute local funds for TDA and use TDA for funding streets and roads (and technically complying with the required farebox recover requirement). According to this statute, after a few prescribed regional uses, all TDA funds must be allocated to transit, and adherence to all TDA rules and regulations will be required. Assuming there are no further amendments to the statute, many of the current, longstanding practices and processes will need to change. The status quo will be difficult to maintain from either financial or regulatory compliance perspectives. For example, individual city operations will be required to meet fare recovery requirements (20% in urban areas, 10% in rural areas).

To provide a basic analysis of the impact of SB 716 on transportation spending a review of available data was conducted. VCTC staff estimates indicate that if SB 716 were to have been in effect today, using 2010-11 data (the latest full year of available data), slightly over \$3,000,000 out of a total TDA allocation of \$20,884,000 would be shifted from streets and roads to public transit use. However, SB 716 does not change the TDA allocation process.

Under the provisions of SB 716, when the statute goes into effect on July 1, 2014, it may also eliminate the practice of some local jurisdictions to substitute local funding in order to allow compliance with the farebox recovery requirement.

The bill also provided Ventura County with an opportunity to propose alternative organizational approaches to improve Ventura County public transit and explore creation of a more consistent region-wide system that provides a family of services to better meet the County's overall mobility needs. Changes resulting from this response

to SB 716 could lead to establishing a countywide transit program that also better meets the needs of customers through consistent policies and programs, addressing the increasing demand for public transportation that will occur over time. In conjunction with making these improvements will be the need to insure continued recognition of the contributions and priorities of all of the local communities served by transit.

With an understanding of this background, the Commission embarked on a process to develop a consensus report on future operation and provision of public transportation services in the County.

Study Guiding Principles

Initiating the study in May of 2010, the Commission adopted a set of Guiding Principles:

Develop a network of sustainable services that meet the diverse needs of the customers through the following actions:

1. Foster open dialogue among communities, system users, operators and agencies
2. Transition to a user-focused system that goes beyond individual operator boundaries
3. Gain consensus on the approach from elected officials and city management
4. Incorporate applicable Federal, State, regional and local livability, sustainability and greenhouse gas reduction goals

III. Overview of the Study Process

Steering Committee

To guide the study from a policy perspective, on April 9, 2010, the Commission appointed a Steering Committee. Commissioners named to this Steering Committee represented the diverse geography and interests in Ventura County, including:

- East and West County
- Rural areas of Heritage Valley and Ojai

- Smaller and larger cities
- Commissioners also sitting on the Gold Coast Board of Directors

The Steering Committee met a total of six times over the course of a roughly 18-month period and achieved the following milestones:

August 26, 2010: Confirmed Study outcomes and expectations and developed a framework for a Ventura County transit vision

December 9, 2010: Considered basic criteria to guide selection of the organizational alternatives. These included: Affordability and funding; implementability; connectivity and coordination; service quality and efficiency and effectiveness

March 9, 2011: Reviewed potential organizational models and narrowed the focus to four key directions thought to be most appropriate to Ventura County and refined evaluation criteria. These criteria included: keeping communities whole from a funding and service perspective; increased connectivity; improvement of local service and maintenance of a level of local influence and control.

May 6, 2011: Presented report to the full Commission on alternative for further exploration – Full Consolidation and a “Hybrid” approach of Moderate Consolidation with one or two operating entities. The Commission directed staff to work with the consultants on further analysis and to do community, city and operator consultations based on these potential models.

August 4, 2011: Received a report from staff and consultants on results of community and advisory consultations, policy issues raised by cities and operators. At the request of the City Managers, agreed to re-insert the Coordination Alternative for further consideration and to have a joint meeting between the City Managers and the Steering Committee.

December, 2011: Met with management representatives of the operators and provided the opportunity for the operators to present an alternative proposal for meeting the objectives identified by the Commission.

January, 2012: Met with management representatives of the operators and provided consensus endorsement for the organizational structure presented by the operators.

Key Stakeholder Interviews

To begin the study, the consultant team interviewed each of the Commissioners, representing each of the ten cities in Ventura County, the five County Supervisors and two citizen representatives. While interviewees expressed a wide variety of opinions, a few key themes emerged from the interviews.

Many of the obstacles to transit service are inherent to Ventura County's characteristics

Some of the major obstacles to providing more extensive service are intertwined with the County's dedication to slow growth, open space, medium- and small-size, well-separated cities and communities, a thriving agriculture industry, and a high quality of life, which its people appear to want to retain. Widely separated population, employment, educational, commercial and cultural centers are difficult to serve with public transit. Some street patterns are also difficult to serve with transit. These geographically separated communities often do not share common economic, development, social and, especially, transportation values and needs. Geographically separated regions (e.g. East County, coastal West County, and the Ojai and Heritage Valleys) may not believe they have enough in common to share a vision and a policy and operating structure for transit services.

Current transit service is good, but not great

This view reflects the problems in providing and funding extensive transit services in a difficult environment but there is also the widespread belief that agencies are trying hard to provide a good quality of service with the resources that they have.

There is a wide variety of opinion on organizing and improving transit service

There is no one preferred organizational structure for transit policy, management or service and a wide variety of options were suggested.

There is extensive support for quality transit service

Most believe that quality transit service in Ventura County is essential, has value beyond its direct utility to users, and should be maintained and if possible expanded. Most also believe that enhanced transit can help achieve other regional and community economic, social and environmental goals.

Operator Interaction

This interaction included initial individual meeting with each operator, briefings and discussions at TRANSCOM meetings and the development of an operator proposal, which will be discussed later in this report.

In order to obtain a better understanding of the transit operations provided within Ventura County as well as the people and agencies providing those services, the consultant team conducted a series of meetings with the local transit operators. Unlike the stakeholder interviews with VCTC Board members and other decision makers within Ventura County, which included policy related issues, these were focused more on operations and local jurisdiction issues.

The interviews began with the reinforcement that this study was not an operational review, but rather a way to increase our knowledge of services and offer interviewees the opportunity to communicate issues and ideas in confidence. Each interview contained the following broad topic areas:

- Agency history and background
- General summary of services provided
- Key service related issues
- Organizational, management, financial information
- Other current challenges or ideas
- Vision for future from both a jurisdictional and an overall county

Main points from these interviews were:

SB 716 is expected to have varied impacts

Impacts of SB 716, if unchanged, which would require all jurisdictions within Ventura County to spend their entire allocations of Transportation Development Act funds for transit purposes effective July 1, 2014, will vary from operator to operator. TRANSCOM members recommended discussing those impacts with their supervisors or other management representatives to get their input and any recommendations regarding potential financial impacts.

Service policies and arrangements can be simplified

There is an opportunity to untangle all the “hand shake” and inconsistent operating/funding agreements into a consistent set of policies. These included the variety of VISTA agreements as well as the existing ADA paratransit coordination procedures and agreements.

Communication with customers can be improved

Interviewees saw potential for more consistent communication, coordination, and understanding of various transit services offered in the county. There was recognition

that it would be difficult for potential or new transit users to be able to understand the services in the county, especially the demand responsive services.

Existing services have local support

There typically is strong local commitment to local services and understanding that the decision makers within the jurisdictions valued the presence of local services, especially for seniors and persons with disabilities. It was noted that many services had remained relatively constant over time and that few complaints or requests for change were received by technical staff or decision makers.

Demand for coordinated interjurisdictional services will increase

There is an understanding that there will logically be an increasing demand for more inter-jurisdictional services, including more senior connections in conjunction with more consistent ADA paratransit coordination as discussed above. There were thoughts that increased senior services to offer inter-jurisdictional trips would be well-received, but also would require additional, perhaps significant, resources.

Opinions on optimal structure for transit in Ventura County vary widely

There were varying perspectives regarding consideration of organizational options, including combined services and a single county agency. Although TRANSCOM members in general agreed that more inter-jurisdictional services would be beneficial to the customers, there was no perceived easy answer regarding the infrastructure to deliver those services. It was noted that services and structures in the western portion of the county were significantly different than those in the eastern portion. For example, the west has one primary operator while the east has several. In addition, there were some differences in opinion on whether Camarillo was more similar to eastern than western portions of the County.

VCTC performs a valuable service but there is not common agreement on the agency's role in public transportation

Similarly, there were also varying perspectives on the issue of whether there was a conflict of interest with the VCTC role as both funder and operator. Most agreed that VCTC provided valuable information and services to them regarding financial and policy issues, but some believed that inter-operator issues were not discussed sufficiently as part of the TRANSCOM process.

Public transit has a role but a common approach may be difficult to achieve

From a broader view perspective, there were thoughts that the diversity and variety of jurisdictions in the county may require different types of services, thus common goals may be difficult to develop. Many believed that jurisdictions tended to be independent and that transit, per se, was not a common issue of concern within the county. There

was recognition that transit had long term potential for improved inter-jurisdictional access, and better mobility options for the senior population. Further, public transportation could play a role in areas such as congestion relief, environmental quality and economic development.

The findings from these meetings were included in a report to the Steering Committee.

TRANSCOM Meetings

TRANSCOM, a VCTC advisory committee comprised of technical representatives of the cities operating transit and the Gold Coast Transit JPA were included in the study from an advisory perspective. In addition to meetings with the consultants, TRANSCOM members were engaged with their management representatives in review of materials and consideration of alternatives. VCTC staff also conducted periodic briefings of TRANSCOM on the progress of the study.

City Manager Briefings

The VCTC Executive Director met monthly throughout the study process with the county's ten City Managers, updating them on the study's progress and holding individual meetings on request. The City Managers were also actively engaged, along with transit agency management staff as the study entered into the recommendations phase. More specific and focused meetings and discussions were conducted later in the process.

Public Engagement and the Comprehensive Transportation Plan

Public engagement was multi-pronged and predominantly conducted in conjunction with public engagement for development of the parallel and complementary multimodal Comprehensive Transportation Plan. In an unprecedented level of outreach, VCTC has developed Ventura County's first comprehensive, multi-modal plan. Through this process, the Executive Director and staff met with over 40 organizations and groups. In addition, four Local Advisory Groups were established along with a Stakeholder Advisory Committee. These groups represented a cross-section of business (including agricultural), community, agency and interest groups. The Executive Director and staff also participated in a workshop hosted by CAUSE, a key stakeholder group involved in public transportation and social equity. A survey was conducted of transit riders and businesses in order to better understand their specific needs.

Through this outreach and engagement, the community articulated a vision of a better-connected and integrated transportation system. The prevailing view was that transit is

currently an afterthought, that the system needs to be integrated and that there are many underserved sectors. Specifically, they called for a system of public transportation that provided for seamless transportation among modes, minimizing transfers among systems and addressing the long wait times and inconsistent service hours and levels of service. Informational pieces on the Comprehensive Transportation Plan and the Regional Transit Study developed from these consultations is included in Appendix I.

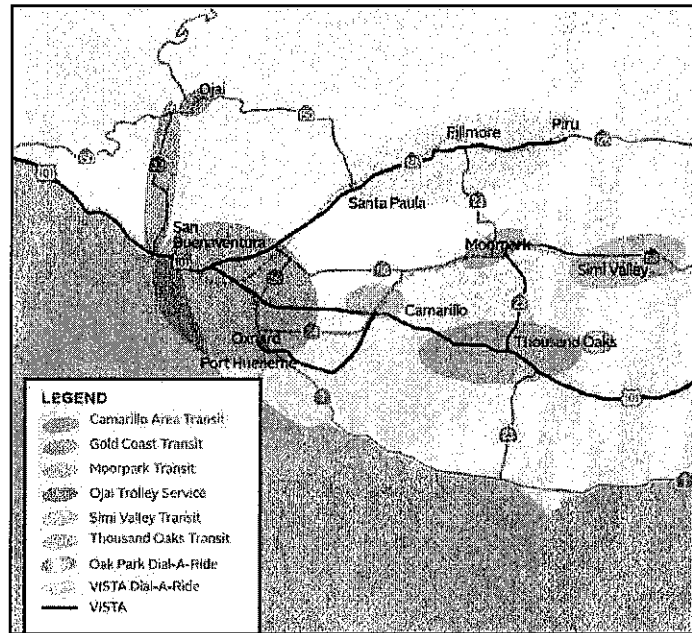
IV. Current State of Transit in Ventura County

At present, public transportation in Ventura County is provided by a variety of operators. Specifically, ten different agencies provide a combination of fixed route services and/or some form of demand response service, also known as dial-a-ride. Arguably, at present, public transit in Ventura County is not a system, but more resembles a series of stand-alone operations. The operations provide disparate levels of service that the public has indicated are not easily understood or accessed, including whether the services are interconnected.

Seven operators provide fixed route services in Ventura County: Gold Coast Transit (GCT), VISTA, City of Simi Valley, City of Thousand Oaks, City of Moorpark, City of Camarillo and City of Ojai. Additional transit services within the county include services provided by the County of Ventura, the City of Oxnard (as lead agency for the Harbors and Beaches service) and the Camarillo Health Care District (which is partially funded by VCTC for longer distance trips). Additional information regarding the various operators is presented in Appendix II.

The types of services vary considerably in terms of scale, scope, and cost. For example, the number of GCT vehicles deployed to provide fixed route services is roughly the same as the total fixed route fleet for the rest of the operators combined. In addition, almost all of the operators provide some form of demand response services for seniors and sometimes the general public. These operations also include those services required under the Americans with Disabilities Act (ADA) for persons with disabilities who cannot use fixed route services.

Fixed Route Transit Services



All operators offer different days and hours of service, based on localized policy decisions that could include financial, service area and other factors. Again, from a customer perspective, if transferring is required, then the varying days and hours can impact the accessibility and understanding of the transit network. Further, many services operate on different headways, or intervals between trips. These difficulties in inter-operator connections have been addressed somewhat in the area of ADA paratransit, where designated transfer points have been created. However, there are some current arrangements that can potentially cause confusion -- for example where one agency provides the outbound trip and another provides the return trip. To add further complexity, this arrangement can vary between operators and service areas.

In addition, many services are provided with varying days and hours of operation with a number of jurisdictions operating on Saturday, but fewer operating on Sunday. These differences in schedules also make it difficult to plan a multi-operator trip and to attract more new riders to the system. That is not to say that all transit agencies need to operate on precisely the same schedule but it does suggest that some consistency of service delivery in terms of days and hours of operation would make the service easier for customers to understand and use.

Based on a number of local and regional policy decisions, both administrative and direct operating costs associated with these services also varies considerably

depending on priorities, staffing, or whether services are operated by public employees or private contractors. In addition, due to the variances in size and type of operation, the methodologies for how these numbers are reported also vary.

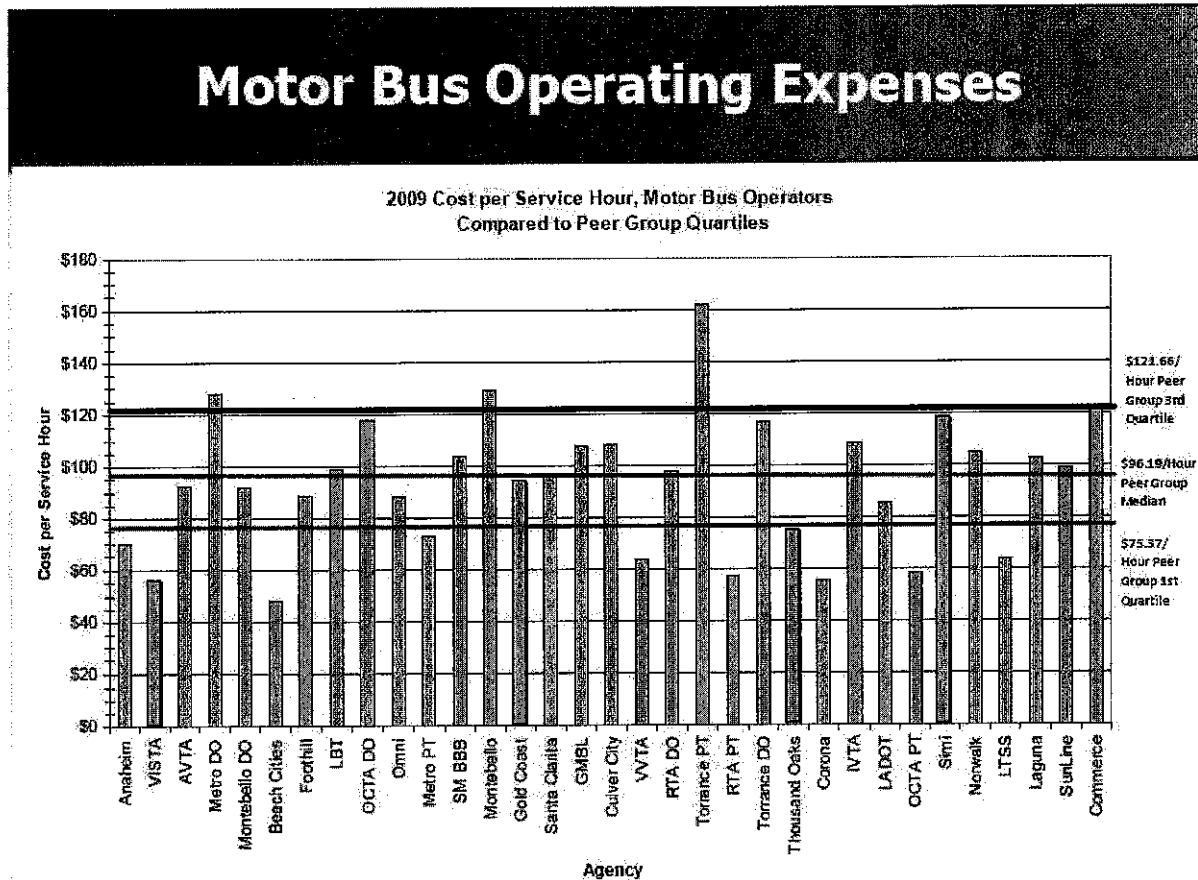
Within the multiple operator arrangement that currently exists, there is a wide range of costs. Because there have been many factors and ways of accounting, the Federal government has established a single database (the National Transit Database, or NTD) that has been used for decades to compare transit data including costs across operators. However, not all Ventura County operators are required to report data to the NTD, due to size of operations and other factors. However, in order to illustrate the range in size of operation and costs, the 2009 NTD as reported by Gold Coast Transit, VISTA, City of Simi Valley and City of Thousand Oaks are included below (see Appendix III for additional operating cost data and further explanation of NTD).

2009 NTD Data

	Gold Coast Transit	VISTA	City of Simi Valley	City of Thousand Oaks
FIXED ROUTE				
Number of Vehicles	39	25	8	6
Total Unlinked Trips	3,568,028	785,806	477,032	185,681
Annual Vehicle Rev. Miles	1,732,855	1,404,594	475,944	195,023
Annual Vehicle Rev. Hours	140,077	50,701	31,143	12,668
Operating Expenses	\$13,071,044	\$2,831,051	\$3,672,794	\$945,836
Unlinked Pass. Trips/Vehicle Rev. Mile	2.1	0.6	1.0	1.0
Unlinked Pass. Trips/Vehicle Rev. Hour	25.5	15.5	15.3	14.7
Operating Expense/Unlinked Pass. Trip	\$3.66	\$3.60	\$7.70	\$5.09
Operating Expense/Vehicle Rev. Mile	\$1.13	\$2.02	\$7.72	\$4.85
Operating Expense/Vehicle Rev. Hour	\$93.31	\$55.84	\$117.93	\$74.66
DEMAND RESPONSE				
Number of Vehicles	19	13	12	12
Total Unlinked Trips	82,655	206,051	48,141	71,664
Annual Vehicle Rev. Miles	494,424	337,171	218,421	473,019
Annual Vehicle Rev. Hours	38,192	29,670	17,974	33,704
Operating Expenses	\$2,483,714	\$1,143,865	\$2,233,037	\$1,430,194
Unlinked Pass. Trips/Vehicle Rev. Mile	0.2	0.6	0.2	0.2
Unlinked Pass. Trips/Vehicle Rev. Hour	2.2	6.9	2.7	2.1
Operating Expense/Unlinked Pass. Trip	\$30.05	\$5.55	\$46.39	\$19.96
Operating Expense/Vehicle Rev. Mile	\$5.02	\$3.39	\$10.22	\$3.02
Operating Expense/Vehicle Rev. Hour	\$65.03	\$38.55	\$124.24	\$42.43
TOTAL OPERATING EXPENSES	\$15,554,758	\$3,974,916	\$5,905,831	\$2,376,030

NOTE: Agencies use differing reporting methods and not all transit operating expenses are included. This data was developed at the commencement of the study and is for illustrative purposes.

Some additional information regarding costs for these operators is shown below compared with others in the SCAG region:



V. Organizational Options

Within the transit industry, there have typically been three concepts discussed regarding organizational changes and alternatives – collaboration, coordination and consolidation. There are many such organizational approaches, including a number in California; the Orange County Transportation Authority (OCTA) is an example of full consolidation and the San Diego Association of Governments (SANDAG) is an example of moderate consolidation, with its operating units the Metropolitan Transit System (MTS) and the North County Transit District (NCTD). An example of a coordination model from outside California includes the Triangle region of North Carolina. The participating agencies, including the various transit operators, MPOs and Councils of

Government have created an entity called "GoTriangle.com" to promote commuter services and benefits. A discussion of these and other organizational examples is included in Appendix IV. In addition, Appendix V illustrates specific attributes of the three models, including two variations of one of the models.

Collaboration

The first option, collaboration, suggests informal agreements by affected parties to modify or somewhat change the status quo. In a general sense, this is the model for how some aspects of transit programs in Ventura County are currently operated. Typical collaboration examples include: working cooperatively to develop an "800" information number; developing region-wide marketing ideas that can be shared by multiple agencies within the context of their own resources or entering into ad hoc agreements to "meet up" with paratransit or fixed route services.

As an example of Ventura County collaboration, VCTC has managed a number of cooperative efforts such as Smart Card, NextBus, Trapeze, and an "800" information number, and conducts some countywide marketing on a case-by-case basis. These efforts have met with varying degrees of cooperation among the operators. Also, a network has been developed by the various operators to connect ADA paratransit trips between multiple jurisdictions. The arrangement includes different agreements between operators regarding who provides the outbound and inbound trips, how those are coordinated with the service providers, etc. Based on experience of customers in Ventura County, these "ad hoc" connections may or may not work and are difficult to communicate and remember due to the number of scheduling and operational nuances. Because no one "owns" the whole trip, missed connections or "crossed wires" between operators can result in stranded customers. Also, the inconsistencies clearly confuse new customers.

In other studies around the country experience shows that collaboration has the benefit of retaining autonomy of the participating agencies but is dependent on these ad hoc arrangements, which can dissolve at any time, without a defined process and is thus unsustainable. Historically, while collaboration has worked on some levels in Ventura County, one of the limiting factors of these options is that these arrangements rely on the affected individuals to continue the collaboration. Staff and/or policy leadership changes may bring different perspectives and prior commitments may be modified or abandoned.

Coordination

Coordination is usually thought of as a series of formal agreements among parties that modify the existing ways of doing business. The level and nature of coordination arrangements vary in nature and scope. With regard to coordination alternatives, there are examples that range from minimal coordination, which might be represented by the VISTA agreements, to maximum coordination, which in other states have required participation by agencies in order to be eligible for federal, state or local funding.

As an example of minimum coordination, the current VISTA corridor and dial-a-ride connection agreements are more specific than the dial-a-ride to dial-a-ride "meet up" agreements described in the section on collaboration. For example, there is a VISTA agreement with the City of Camarillo to share funding responsibility for the Route 101 connector through that community. However, each VISTA arrangement is unique, under its own advisory structure and does not function as part of an overall system.

In Ventura County a potential example of more extensive coordination would be to develop a countywide ADA paratransit service operated under a single agreement with joint procurement of vehicles, equipment or even facilities for other types of service. While this could be a step in a more incremental overall process, the disadvantages to this include that, even with formalized agreements, as in a Joint Powers Authority, individual cities could opt out, and also that the services frequently fall to the "lowest common denominator", and can be affected by changes in local priorities and/or the ability of a single jurisdiction to fund its share of service costs.

In some areas of the country, agencies providing transportation services have worked together to develop information technology concepts, service coordination ideas, facilities and processes based on their collective interest in improving service to the customers. This example, which has been called "Moderate Consolidation", appears to have more sustainability since it brings people together to improve processes and services. This sustainability is created through the development of interlocal agreements or memoranda of understanding. The development of these agreements formalizes the relationship between entities and jurisdictions, moving beyond the "ad hoc" nature of collaboration, towards a more sustainable solution. This is demonstrated in the Go Triangle example, in which the partnering entities have created a website which is jointly branded and communicated, and provides information in a consistent format on schedules, fares and trip planning. In development of more formal relationships, finding common ground to initiate the coordination is essential. Additionally, within this structure, as changes in finances or pressure from policy makers

and customers occur, entities which previously did not participate can join in through similar interlocal agreements.

This concept could be implemented in Ventura County by greater commitment to coordination and would require the development of a formal agreement to work jointly on those areas of mutual interest in providing enhanced service to customers of the service. Under this arrangement services, such as the previously mentioned ADA paratransit, could be operated under a single contract, all IT purchases and programs could be coordinated through this coordinated process and that joint procurement could be used for vehicles, equipment and even facilities. Regarding ADA paratransit, currently several agencies contract for services with the same provider and the certification of eligibility for ADA paratransit is provided centrally under contract by VCTC. There appear to be opportunities to decrease some duplication and access some economies of scale from a cost standpoint and improve customer access and understanding by further coordination, restructuring and/or consolidation of ADA and senior paratransit services.

The information technology and intelligent transportation system components of ADA paratransit as well as other demand responsive services can also be facilitated by building onto current investments made in the county. VCTC has facilitated the development of a single vendor system for scheduling and dispatching of trips. This network has been implemented to different degrees by most jurisdictions in the County. With a more coordinated effort, the potential in Ventura County is to take current technology and use it to develop a coordinated system that involves more partnering agencies while retaining autonomy.

Another area of consideration in a model of coordination would be from a marketing and branding perspective. There is an opportunity to move towards the development of a joint website to include information from each of the partners to the coordination effort, to provide a consistent place and format to communicate information to the communities and the riders and customers of the services. As a complement to the branding and marketing, the development of a regional call center or trip planning concept can also be considered. While each of the operators currently has different service delivery methods, spans of services and infrastructure requirements, having a compilation of that information available through a uniform point of information would result in longer term consistencies that would benefit the customers and systems overall.

In the area of procurement, public transportation funds in Ventura County could be viewed from the perspective of regional priorities, as opposed to the procurement

processes developed by individual agencies. The joint procurement process has been used in several forms around the country, including statewide vehicle options, use of the General Services Administration specifications at the federal level and "piggyback" coordination where one agency uses the specifications of another to "add on" to their order. In many rural areas and several states, agencies have coordinated on maintenance plans and work, fueling and other aspects of public transportation. Gold Coast Transit has consistently take advantage of those practices. The current agreement between Moorpark and Simi Valley regarding the fueling of Moorpark-owned vehicles at the Simi Valley facility is another example in Ventura County.

The coordination alternatives, including those above, often relate to specific programs or projects. As a result, transitioning to these agreements from the current system can be less complex than other alternatives. In contrast, the consolidation alternatives listed below typically include more structural changes within organizations. Any structural change would offer new opportunities for doing business, but would also require a thorough retooling of many policies, programs and processes.

Consolidation

There are two general types of consolidation, full and moderate.

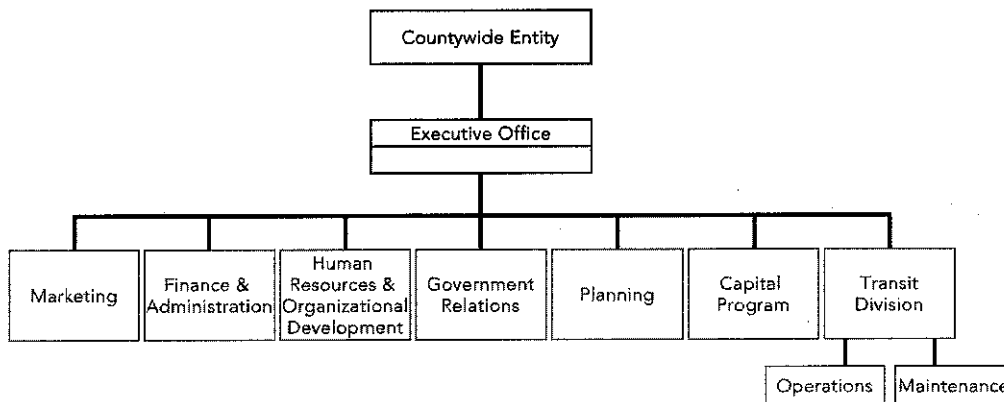
Full Consolidation typically means that a single agency offers all the services associated with public transportation including operation, policy, planning and funding. VCTC is the currently the only County-wide transportation agency, and as currently composed has representatives from all of the cities in Ventura County as well as the County itself; however a new countywide entity could be created for this purpose.

Considerations in the full consolidation approach include:

- The full range of decisions, from planning to operations, are centralized in one agency and inter-agency issues that often occur between planning and operating agencies can be addressed within one agency.
- The complex aspects of all processes are consolidated -- for example, interactions with all state and federal agencies are concentrated.
- The expanded range and complexity of issues can reduce the amount of time that the consolidated board could devote to specific operational, policy or funding issues.

- There is capacity for “belt tightening” and resource reallocation within a larger organization, which is more difficult with smaller systems.
- Adding all the aspects of public transportation can require many organizational and skill set changes. These would include areas of administration such as human resources focus and direction, employee benefits and collective bargaining. Also, there would be an added dimension of direct customer service and public interaction. Finally, the variety of operation and maintenance, service delivery and coordination and other issues would be added responsibilities.

Maximum Consolidation



An alternative approach is *Moderate Consolidation*, where there is a central policy, planning and funding entity with one or two consolidated operating entities. The closest example in Ventura County of a multi-jurisdictional approach to public transit is the Gold Coast Transit Joint Powers Authority (JPA). However, in the case of Gold Coast a jurisdiction can opt out, leaving a gap in funding and service to be filled by the other member entities.

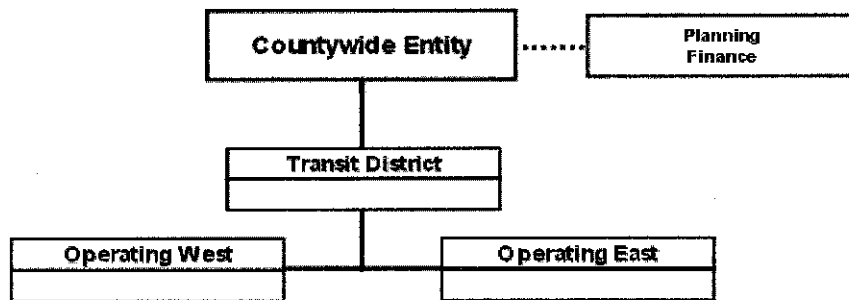
A true Moderate Consolidation approach provides stability and greater certainty for an operating entity.

Considerations include:

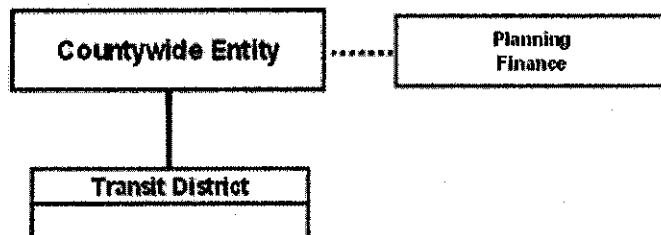
- There can be economies of scale in consolidated operations and opportunity for more seamless, connected service.

- As a statutorily created entity, a transit district, unlike a JPA, is enabled to perform as a permanent entity with the ability to bond and pursue revenue measures.
- While two separate operating entities (for example, East County and West County) have the potential to better meet the needs of each area, these needs could also be addressed through a sub regional planning and programming approach and/or more formalized sub regional participation in policy decisions.

Moderate Consolidation – Two Operating Entities



Moderate Consolidation – One Operating Entity



VI. Consideration of Alternatives

Steering Committee Direction

As outlined in Section III (Overview of the Study Process), the Commission-appointed Steering Committee was the touchstone for considering alternatives for delivering public transportation services in Ventura County. Throughout the study period, the Steering Committee guided an evolving process for considering alternatives. Progress is documented in status reports delivered to the Commission by the consultant team and staff.

Initial Vision

The Steering Committee identified elements of a vision for public transportation in Ventura County. Elements of this vision included a customer focus, creating a connected system that provided convenient service to key rider segments, minimizing travel time and required connections. The Steering Committee also envisioned a system that supported desired land use patterns, was feasible from an implementations standpoint as well as sustainable from a cost perspective

Evaluation Criteria

The Steering Committee identified potential system evaluation criteria. These included:

- **Affordability** – The system is both affordable for consumers and affordable to operate. Ideally, it should lead to improved farebox recovery and enhanced resources
- **Implementability** – The solution and design accounts for and addresses balance among costs, quality of service and efficiency, as well as barriers and opportunities related to policy, political realities and operational structures
- **Connectivity** – The alternative provides a more inter-connected approach that recognizes the challenges and costs in providing linkages among geographically-constrained areas (e.g., direct connections from Fillmore to Thousand Oaks)
- **Quality** – There is “no net loss” to existing customers, especially local and transit dependent riders. Both local and longer-distance services are focused on taking riders to where they need to go

- **Efficiency** – The system efficiently provides service for the greatest number of people at peak times. The operations structure is efficient and with the most effective oversight
- **Frequency** --Service provides reasonable frequencies

At this point, they asked the team to consider a range of models and what could be successful for Ventura County, including structures that delineated planning from operations, subregional organization and re-considering VCTC's role as operator of the VISTA service.

System Models and Alternatives

The Steering Committee progressed to consideration of models and alternatives as outlined in Section V. of this report. At this point the Committee requested that the consultants and staff further explore two alternatives with some variations:

- **Full Consolidation** with provisions for strong continued local influence, potentially through a strong advisory or subcommittee structure to address East County, West County, Rural community needs and issues.
- **Moderate Consolidation with Two Operating Entities:** The type of entity was to be determined – it could be combination of District(s), Joint Powers Authority, federation or other.

They also identified additional key principles for moving forward:

- Keep communities whole – parameters would be determined but generally have at least the level of service they have now (possibly measured in terms of hours of service)
- Increase connectivity
- Improve local service
- Maintain a level of local influence and control

Operator Input

As the study report moved forward, Consultants and staff received input from the county's operators. The Executive Director was asked to respond to a series of questions posed by the Simi Valley City Manager on behalf of some of the operators (see letter and response in Appendix VI). At a follow-up meeting of the Steering

Committee, the City Managers expressed concern with the level of engagement with the operators, asking that Coordination Alternative be added to the November, 2011 progress report on alternatives being considered and that top management-level representatives of the operators be included in a follow-up meeting with the Steering Committee. At this meeting, the Steering Committee asked the operators to present a specific proposal outlining their alternative concept.

VII. Policy Considerations

Throughout the Study, a variety of policy areas and issues arose and were researched and discussed with staff, the Steering Committee and the Commission. The following summarizes a number of those issues and the discussion and resolution.

Feasibility

- *Is transit service consolidation feasible, given Ventura County's geography and demographics?*

Ventura County has a number of unique characteristics, including growth boundaries and limits, widely spaced communities with considerable open space, an extensive agriculture industry, suburban-type street patterns in a number of areas, and lack of county-wide cohesion and identity. However, from a transit operations perspective, there are also a number of similarities with other counties. Ventura County is not so unique that models from elsewhere are inapplicable. The primary goal of transit service restructuring is an integrated family of services, a common theme in many places. California alone has several examples of coordination, collaboration and consolidation. Orange County's single transportation agency and San Diego County's countywide planning and funding agency with two subregional operating agencies are examples of how these approaches could work in Ventura County. There appear to be no substantial obstacles to some form of transit restructuring.

- *Is there potential for cost savings and other efficiencies?*

Numerous business models are available for comparison. There is no definitive way to predict either cost savings or efficiencies resulting from a particular institutional arrangement until planning and execution is well under way; however, substantial savings have been realized in other consolidations. Savings

typically result from reduced overhead costs by eliminating duplicative functions (such as purchasing, human resources, financial, and the like) and efficiencies of scale.

- *Can transit operators continue to meet TDA farebox recovery requirements?*

Under the current organizational structure, it has been indicated that a number of the operators may not achieve the required farebox recovery rates, and will have to raise fares, decrease services, and/or use TDA revenues for eligible transit capital activities.

Under a fully or moderately consolidated service, with substantially the same mix of contract and non-contract services, it is likely that farebox recovery requirements would be met, since services can be aggregated, even if services are expanded to fully use all available TDA funds for new services.

With the partial consolidation proposed by the operators, the likelihood of some jurisdictions meeting farebox recovery requirements is less clear. Also unclear is the potential effect of allowing TDA funds to be used for streets and roads uses beyond July 1, 2014, assuming SB 716 is amended.

Funding

- *What would be the impact of SB 716 on TDA funding allocations?*

VCTC staff estimates that if SB 716 was in effect, using 2010-11 data (the latest available) slightly over \$3,000,000 out of a total TDA allocation of \$20,884,000 would be shifted from streets and roads uses to transit. Some cities, including Ventura and Oxnard, currently allocate all of their TDA funding to transit.

- *What would be the impact of transit service restructuring on transportation funding sources other than TDA?*

Streets and roads – SB 716 will require all TDA funds to be used for transit, so streets and roads funding would have to be derived from other sources. The local and regional decision processes for streets and roads funding will not change.

Federal funding eligibility and competitiveness – Restructuring will have no impact on eligibility for Federal funds but should make the region more competitive as there will be a more unified “voice” (or voices) seeking funding.

Metrolink – Funding policy and decisions will be made through the existing processes. If a new countywide organization were to be created, it would assume the current role of VCTC in Metrolink funding.

Authority

- *What would be the role of a consolidated agency and board in assuring responsiveness to citizens and communities?*

Clearer lines of authority should increase citizen knowledge of the management and decision-making processes and increase their access to them. If the VCTC Board or a similar successor assumed the role of a consolidated agency, or a planning and funding agency supervising subordinate operating agencies, the governing board would still consist of local officials who would be accessible as they are today.

Under the operators proposal, people would communicate with the operations and management of the services conducted under the Memorandum of Understanding through the local officials of cities that are parties to the MOU. Under the proposed Gold Coast Transit District, individuals and communities would communicate with the GCTD governing board and management. VCTC would not have a direct role in facilitating citizen input to these entities.

- *Would there be provisions for regional, subregional and local advisory committee structures?*

Under the full and moderate consolidation options, alternatives discussed and recommended by the Steering Committee include local and sub-regional input structures, and cities could also maintain local advisory bodies. Under the operators proposal the operating entities would determine advisory structures.

- *How would local jurisdictions be engaged, and what would be their role in service decisions?*

Under the full and moderate consolidation options, decisions would be made at the regional level, but still tailored to local needs with local input. Decisions would be more localized with independent operating entities under the operator proposal.

Impact

- *Would there be mandates on local jurisdictions for funding participation, levels of service or other performance?*

Under full and moderate consolidation options, local funding or service enhancements would be encouraged, but there will be no required local participation or funding contributions (and no authority to require them). The proposed GCTD would typically not have legal authority to do so either, and the MOU cities could determine such enhancements for themselves.

- *What would be the effect on for represented employees, including role of unions, and what transition plans would be needed?*

There are numerous rules and regulations to be followed, and a fairly complex transition can be anticipated. Organizational and employment transitions have been successfully implemented in many other jurisdictions, and there appear to be no inherent obstacles to doing so with any of the proposed organizational structures.

- *How would service and funding levels be balanced throughout the county?*

VCTC has a track record of county-wide balance that should not change with a consolidated organizational structure. Under the operators proposal, VCTC would continue to have a role in allocating county-wide and discretionary funding but would not have a direct voice in service levels, which would be determined by the GCTD and the MOU.

Further discussion of policy and operational outcomes, more specifically oriented to the operators proposal, is included in the "Organizational Alternatives Considerations" matrix beginning on page 38 of this report.

VIII. Operators Proposal

The “operators proposal” was developed by a subgroup of the operators including Gold Coast Transit, Moorpark, Simi Valley, and Thousand Oaks. VCTC staff was invited to participate in the meetings on behalf of VISTA but did not actively participate in development of the proposal. County staff also participated in the meeting but the County was not signatory to the proposal. This proposal was presented to the Steering Committee on January 13, 2012. This operational concept is presented in more detail in Appendix VIII. The basic concepts are:

- Create a Gold Coast Transit District to serve West County communities, including Heritage Valley (Santa Paula, Fillmore and Piru) with the District claiming TDA in West County
- Transition VISTA service (with the exception of VISTA East) to the new District
- Create an MOU to govern service coordination in East County
- Allow East County cities (Camarillo, Moorpark, Simi Valley and Thousand Oaks) to file for TDA Article 8 purposes (for streets and roads) if there are no unmet transit needs

While this proposal bears some relationship to the “Hybird Moderate Consolidation model”, it varies significantly in that it calls for the more informal structure of a Memorandum of Understanding (MOU) to implement the East County service concept. In addition, the proposed operating entities would not be subordinate to VCTC.

Final Proposal as Presented to the Steering Committee

The operators presented a consensus proposal signed by management representatives. Signatories included the city managers of cities responsible for operating transit systems. The Gold Coast Transit General Manager signed the proposal on behalf of communities served by Gold Coast Transit. VCTC as the operator of VISTA and the County of Ventura did not sign the proposal. As explained by the operators, this proposal was intended as a framework and would require further development and resolution of specific details. The full text of the operators proposal (including the Guiding Principles) is presented in the letter in Appendix VII. Essential concepts include:

- **Separate West County and East County Models:** A Gold Coast Transit District would be created to serve West County, including Heritage Valley, and a formal

Memorandum of Understanding (MOU) would be established in East County for operation and coordination of bus and ADA services, fares and hours of service.

- **VISTA Service Transition:** VISTA service (with the exception of VISTA East) would be transitioned to the new Gold Coast Transit District. VISTA services, with the exception of VISTA East will be transitioned from VCTC, with the expectation that Gold Coast Transit District would operate most or all of the service under contract.
- **TDA Allocation:** TDA would be apportioned to the Gold Coast Transit District in West County. TDA would be returned to individual jurisdictions in East County (unless individual jurisdictions chose to join the District).
- **Certain Exclusions from SB 716 Requirements:** Cities outside the Gold Coast Transit District (initially all East County cities) would be allowed to continue to file claims for Article 8 purposes (use TDA for streets and roads as long as there are not unmet transit needs that are determined to be reasonable to be met under the existing TDA Article 8 process).

The operators proposal was accompanied by recommended Guiding Principles for a Regional Transit Plan:

1. It is the fundamental right of local agencies to determine how to provide local services.
2. Existing TDA farebox requirements do not adequately account for the impacts of federal regulations and a lower farebox ratio should be proposed.¹
3. Transit funds locally generated (such as TDA and FTA funds) must be distributed to and controlled by the local agency.
4. Consolidation of local ADA and DAR operations into no more than two regions is a desirable outcome.

Steering Committee Recommendations on Proposal

After discussion with the operators, VCTC staff and the consultant team, the Steering Committee recommended the following:

¹ Subsequent to presenting their proposal, all operators have agreed that this is no longer an issue to be addressed in the Operators' Proposal but, as an issue for operators statewide, would be addressed at a later date.

- Include Customer Focus as a top priority in any Guiding Principles
- Express consensus support for the operators' structural proposal
- Further consolidation would be pursued at a future undetermined date

An open question remained as to the operators' proposal for use of TDA for street and road purposes, especially as it relates to a possible Commission position on seeking amendment to SB 716's provision that TDA is to be used exclusively for public transit in Ventura County starting in July 2014.

IX. Commission Direction and Recommendations

At the March 2, 2012 VCTC meeting the Commission received a report on the operators proposal and Steering Committee direction. After extensive discussion, the Commission acted to: *"Support the Operators proposal in concept with the understanding that all cities would have flexible use of TDA funds and further discussion of Heritage Valley Service would take place before a proposal is brought back to VCTC on April 13th with the specifics fleshed out and with the recognition that the concept of full consolidation will continue to be discussed as a long term goal. Staff was directed to work with City Managers to flesh out specifics."*

X. Considerations for Moving Forward

Impact on VISTA Funding and Operations

Subsequent to the March 2 VCTC meeting VCTC staff and the consultant team met with the operators, and VCTC staff met with the City Managers, to discuss several issues that have developed based on the VCTC action.

For example, the organizational model approved would affect service delivery by transitioning the responsibility for VISTA operations. Since VISTA is the major provider of interjurisdictional connector, intercounty commuter and Heritage Valley local service, a key area of discussion has been the future of VISTA and sustainability of this service

given anticipated shortfalls in funding. As of late March, the following proposed agreements have been developed between the jurisdictions and VISTA:

- Operation of VISTA service would transition over time to Gold Coast Transit and East County once the District has been created and the MOU has been finalized and is in operation. Transition of VISTA services to GCTD operation/management would be dependent on individual agreements being executed with the Santa Barbara County Association of Governments (SBCAG) for the Coastal Express, CSUCI for the University Shuttle services, and local agencies outside of the GCTD area for the local shares of the VISTA operating costs.
- VISTA would continue to be a contract operation for the foreseeable future.
- VISTA and Heritage Valley service levels would be maintained ("made whole") and, if possible, improved incorporating use of VCTC discretionary STA funding and Federal Transit Assistance funds from the Thousand Oaks UZA which are not attributable to the service or population of the Cities of Moorpark and Thousand Oaks.

Implementation Issues to be Resolved

Through the discussion of the West County/East County proposal, certain policy, operations and funding issues have been identified for resolution. While these issues have been a source of continuing discussion among the operators, VCTC and the consultant team, progress is being made. The initial implementation questions and issues are presented in the following table.

Organizational Alternatives Considerations

GOVERNANCE

Original Study Models				January, 2012 Operators Proposal and Outcomes	Issues In Operators Proposal for Future Resolution
Status Quo / Collaboration	Moderate Coordination	Moderate Consolidation	Full Consolidation		
Distributed among entities who have varying governance structures (e.g. RTPA, JPA, City Council, VISTA Committees)	Generally distributed but centralized for individual issues (e.g. Coordinating Committee for ADA paratransit)	At least two managing boards (e.g. one for planning, one or more for operations).	Countywide central entity including fully centralized staffing	VCTC as Regional Transportation Planning Agency (RTPA) Gold Coast Transit District in West County and Heritage Valley Individual operators with MOU for service coordination in East County	Role and responsibilities of VCTC Gold Coast Transit District board composition Governance of ADA paratransit operations – East County, West County and Countywide Role of Gold Coast Transit District in Heritage Valley

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FINANCIAL

Original Study Models				January, 2012 Operators Proposal and Outcomes	Issues In Operators Proposal for Future Resolution
Status Quo / Collaboration	Moderate Coordination	Moderate Consolidation	Full Consolidation		
Primary financial decisions made by individual agencies Some interaction with central agency for federal and state funds (e.g. grants) Some funding directly to individual entity If SB 716 is implemented without change, all TDA funds must be used for transit. This will be disruptive to some cities	Primary decisions made individually Centralized funding for coordinated issues typically require local match (e.g. Federal grants) Some reallocation of funds may be required to support coordinated functions	Different types of funds controlled by each entity Some collaboration of funding requests likely for larger projects Each entity can pursue financial opportunities (e.g. bonding, tax levies) Some reallocation of funds may be required to support consolidated functions Consolidated functions could result in greater efficiencies and effectiveness	Receives and manages all funding for public transportation Can bond for funding or pursue tax levies Some reallocation of funds may be required to support consolidated functions Consolidated functions could result in greater efficiencies and effectiveness	VCTC responsible for discretionary funds All cities would retain the option to use TDA funds for streets and roads. Cities could also provide TDA funds to Gold Coast Transit District as some do now* * Reflects change from operators proposal by VCTC 3/3/2012	Arrangements for joint procurement Potential remaining east/west imbalance between level of funding and needs Continued discretion for cities to use TDA for streets and roads is dependent on amendment to SB 716. Performance standards for discretionary funds

PLANNING

Original Study Models				January, 2012 Operators Proposal and Outcomes	Issues In Operators Proposal for Future Resolution
Status Quo / Collaboration	Moderate Coordination	Moderate Consolidation	Full Consolidation		
Individual agency and operator plans Some collaborative planning based on regional plans and other joint efforts (e.g. inter- agency transfers, VCTC programs)	Primary planning is still done locally, but coordinated planning required for specific coordinated agreement projects	More joint planning occurs (e.g. overall long- range planning responsibility of planning agency), but each operating agency does own planning	Conducts all long-range, short-range and operational planning	ADA services provided by no more than two entities VCTC conducts long- range planning. Gold Coast District performs own service planning East County cities plan own systems under MOU agreement	Planning and funding for ADA paratransit in East County Planning for coordination and services for ADA between East and West County Planning for VISTA services between East and West County and into Los Angeles and Santa Barbara Counties Extent of VCTC involvement in level of service and countywide coordination

OPERATIONS

Original Study Models				January, 2012 Operators Proposal and Outcomes	Issues In Operators Proposal for Future Resolution
Status Quo / Collaboration	Moderate Coordination	Moderate Consolidation	Full Consolidation		
Mix of individual operations, including contract and in-house Some collaborated opportunities for transfers, joint use of facilities, etc.	Coordination for specific projects (e.g. countywide ADA Paratransit) could expand to more agencies -- and projects if successful such as call center, procurement, etc.	Possible efficiencies/cost savings from consolidated operations consolidated under operating entity or entities (e.g. one or two Districts directly operate and/or contract for operations) May be limited number of continuing individual local operations in cities	Possible efficiencies/cost savings from consolidated operations, with directly operating and/or contracting for all public transportation services	Gold Coast District Operates all service for member jurisdictions and assumes operation of VISTA (except VISTA East) East County cities operate own systems and operate VISTA East under MOU	Potential for continued and/or expanded contract operation (e.g. VISTA, ADA Paratransit) Operating responsibility for ADA service between GCTD and East County MOU Nature of Gold Coast Transit District arrangements with non-member agencies for continued VISTA service (e.g., SBCAG and CSUCI)

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COMMUNICATIONS, MARKETING AND FARES

Original Study Models				January, 2012 Operators Proposal and Outcomes	Issues In Operators Proposal for Future Resolution
Status Quo / Collaboration	Moderate Coordination	Moderate Consolidation	Full Consolidation		
Some centralized information and marketing Central ADA paratransit eligibility	Combined marketing and call center could improve customer satisfaction by having a single source for information	Broader communications and marketing responsibilities coordinated between managing entity and District(s)	Countywide entity has all communications and marketing responsibilities	Communications and marketing responsibilities coordinated between VCTC, Gold Coast District and East County operators.	Role of VCTC in countywide communications, marketing and fare coordination Resolution of disparity of fare and eligibility requirements among operators

Operator Response to Implementation Questions

The operators are making progress in responding to these issues and further work is being done in parallel with submittal of this report to the Legislature. The initial operator response to implementation questions and requests for specifics on the proposed creation of a Gold Coast Transit District and the East County MOU is included in Appendix VIII.

XI. Conclusions and Next Steps

As the RTPA and operator of VISTA, VCTC will continue to have an integral role in development of a more customer-focused, coordinated and consolidated transit system in Ventura County. With final Commission action to forward this report to the Legislature, the operators and VCTC intend to implement the model presented in the operators proposal with potential for further consolidation of services. Gold Coast Transit will take further steps to create a transit district. This will include identifying a sponsor to carry forward the legislation needed to create a transit district.

As detailed in the letter of response from the operators, East County operators intend to develop the MOU for further coordination and potential future consolidation of services. A timeline has not yet been developed for the MOU and specifics, including arrangements for operation of VISTA East and responsibilities for a one- or two-operator ADA paratransit system.

VCTC staff will work with the operators on the needed funding, planning and operational arrangements required for transition VISTA service upon creation of the Gold Coast Transit District and transition VISTA East under the arrangements designated in the East County Memorandum of Understanding.



Meeting Date: 07 / 10 / 12

ACTION	TYPE OF ITEM
☐ Approved Recommendation	☐ Info/Consent
☐ Ord. No(s). _____	☒ Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☐ Other _____

Prepared By: Martin R. Erickson *MRE* Agenda Item No. 0-2
Reviewed By: City Manager *SEP* City Attorney *AK* Finance *MC* Other (Specify) _____

DATE: June 29, 2012

TO: City Council

FROM: Alan Holmberg, City Attorney *Ph. Holmberg*
City Attorney's Office

Martin R. Erickson, Special Assistant to the City Manager
City Manager's Office *Matti Erickson*

SUBJECT: Draft City Council Procedures Manual/Ethics Training Update

RECOMMENDATION

That City Council:

1. Receive a report and draft copy of the City of Oxnard City Council Procedures Manual.
2. Consider edits and proposed changes to the draft Procedures Manual submitted during the 14-day comment period, and adopt the Procedures Manual.
3. Receive a verbal update on ethics training options and provide direction to staff.

DISCUSSION

The City Council formed the Oxnard City Council Procedures Committee in January, 2011, and appointed Mayor Pro Tem Irene Pinkard and Councilman Tim Flynn to serve on the Committee. The committee adopted the following mission statement on March 3, 2011:

"It is the mission of the City Government to ensure Oxnard is a desirable, safe, and vibrant community in which to live and conduct business and to respond to the values and priorities of the residents in an open and transparent manner. In order to accomplish this mission, the Oxnard Council Procedures Committee has been created to develop guidelines and rules under which Council Members will operate and perform their role as legislators of the City of Oxnard."

The committee met on a monthly basis with meetings noticed in accordance with the Brown Act for over one year, producing the draft City Council Procedures Manual which is the subject of consideration this evening. City staff involved in the committee's work were: Alan Holmberg, City Attorney, Martin R. Erickson, Special Assistant the City Manager, Michelle Tellez, Human Resources Director, Christina Aerenlund, Public Information Officer, and LeAnne Daly, Law Office Manager. Meetings were held in the City's Human Resources Activity Room.

On May 15, 2012, the City Council received a presentation on the Procedures Manual and directed staff to establish a 14-day comment period. Comments were received from an Oxnard resident, and are summarized below. City Council may choose to include or not to include them in the final document. Comments of staff follow the italicized language. The resident's language is italicized.

1. On page 5, Annual Budget section, sentence reading, "[T]he document contains both a broad overview of the budget inclusive of descriptions of programs and services organized for convenience by lead department", *change "broad" to "detailed" so the ability to drill down for information is possible, and "lead departments" to "all departments."*
2. On page 12, Voting Procedures section, sentence reading, "[W]hen present, all Council Members are to vote unless prohibited by law or conflict of interest. Failure of a seated member to orally express a vote constitutes an affirmative vote," *change affirmative vote to negative vote.* The language should not be changed. California common law is that in general silence constitutes an affirmative vote.
3. On page 12, Voting Procedures section, sentence reading, "[N]o ordinance, resolution or motion approving the payment of money shall be passed or become effective without an affirmative vote by the majority with a quorum present," *add "of the city council" after the word majority.* [NO COMMENT]
4. On page 15, Correspondence from Council Members, add following language, "[A]ll correspondence by elected Council Members shall be placed on the next agenda under "info/consent" for the public to read. [NO COMMENT]
5. On page 18, Council roles, after sentence ending, "[A]nd to ensure proper responsiveness, Council Members are asked to "cc" both the department head and the City Manager on all correspondence with staff[.]" add following language, *"and share a copy with all other Councilmembers and the Mayor."* [NO COMMENT]
6. On page 19, Dissemination of Information section, in paragraph reading, "[I]n cases where a staff response to an individual Council Member request involves written materials that may be of interest to other Council Members, the City Manager will provide copies of the material to all other Council Members. In making this judgment, the City Manager will consider whether the information is significant, new, otherwise not available to the Council or of interest to the Council." *Recommendation to delete underlined portion.* Staff suggests the following: "In cases where a response to an individual Council Member's request involves written materials which are significant, new, otherwise not available to the Council or of interest to the Council, the City Manager will provide copies of the material to all Council Members."

7. On page 22, Expenditure Guideline section, after sentence ending, “[I]t is also inappropriate for City funds to pay for a meal or other expenses of a private citizen” add “*or spouse, or significant other*”. Spouse or significant other is a private citizen.

Staff has also included information from three ethics consultants and will present a verbal report on this information.

1. Judy Nadler, Senior Fellow in Government Ethics, Markkula Center for Applied Ethics.
2. Jan Perkins, Senior Partner Management Consultants, and Martha Perego, Director of Ethics for the International City/County Management Association.
3. Michael Josephson, Josephson Institute, Center for Public Service Ethics.

FINANCIAL IMPACT

There is no financial impact at this time.

Attachment #1 – Draft City Council Procedures Manual

Attachment #2 – Information from Judy Nadler, Senior Fellow in Government Ethics, Markkula Center for Applied Ethics, Santa Clara University

Attachment #3 – Information from Jan Perkins, Senior Partner Management Consultants, and Martha Perego, Director of Ethics for the International City/County Management Association

Attachment #4 – Information from Michael Josephson, Josephson Institute, Center for Public Service Ethics



Procedures Manual City of Oxnard City Council

DRAFT

CITY OF OXNARD
Mission Statement

It is the mission of the City government to ensure that Oxnard will have clean, safe, prosperous and attractive neighborhoods with open, transparent government.

Specifically, the City fulfills its function by:

- Addressing the needs of the residents through the City Council, the appointed commissions, and the City staff.
- Providing easy and open access to information and encouraging dialogue, enabling residents to actively engage in civic life.
- Providing for the safety of its residents, businesses, and visitors.
- Providing timely and responsive service.
- Providing special assistance to those in need.
- Functioning effectively, efficiently and with accountability.
- Creating a positive and desirable workplace environment for City employees.
- Managing change for the betterment of the City.
- Creating and maintaining a viable revenue stream, and providing for the unpredictable nature of our economy.
- Implementing and maintaining City infrastructure, facilities, and programs.
- Formulating sound environmental policies.
- Recognizing and supporting the City's diverse neighborhoods and population.
- Acting as a responsible member of the greater region.

The City Council formed the Oxnard City Council Procedures Committee in January 2011, and appointed Mayor Pro Tem Irene Pinkard and Councilman Tim Flynn to serve on the Committee. The committee adopted the following mission statement on March 3, 2011.

OXNARD CITY COUNCIL PROCEDURES COMMITTEE
Mission Statement

It is the mission of the City government to ensure Oxnard is a desirable, safe, and vibrant community in which to live and conduct business and to respond to the values and priorities of the residents in an open and transparent manner. In order to accomplish this mission, the Oxnard Council Procedures Committee has been created to develop guidelines and rules under which Council Members will operate and perform their role as legislators of the City of Oxnard.

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Introduction

The Oxnard City Council establishes policies and priorities for the community and is responsible for the fiscal health of a public corporation with an annual budget, including capital and general fund dollars of over \$330 million. Oxnard is a “full service” city, with its own police, fire, water and refuse departments and is an organization with over 1,600 employees that has assets valued in excess of \$1 billion (roads, buildings, parks, etc).

Purpose of the Procedures Manual

By developing and agreeing to adhere to the following guidelines and procedures, the effective administration of City Council affairs will be greatly enhanced. While attempting not to be overly restrictive, procedures are established so that expectations and practices can be clearly articulated to guide the Mayor and Council Members in their actions. It is anticipated that this Procedures Manual will be reviewed every two years by the City Council and may be revised from time to time.

Overview of City Documents

This procedures manual provides a summary of important aspects of City Council activities. However, it cannot incorporate all material and information necessary for undertaking the business of a city council. Many other laws, policies, plans and documents exist which bind the City Council to certain courses of action and practices. A summary of some of the most notable documents that establish City Council direction is provided below.

Municipal Code: The Municipal Code contains local laws and regulations adopted by ordinances. The Administrative Chapter of the Code shall incorporate by reference the rules and procedures established herein including the roles of the Mayor, Mayor Pro Tem and City Council. Included in the Administrative Chapter of the Code is appointment of certain city staff positions and the establishment, qualifications, appointment and terms applicable to certain advisory commissions. In addition to these administrative matters, the Municipal Code contains a variety of laws. The Municipal Code is available either on the City’s website or from the City Clerk.

California Government Code: The State Government Code contains many requirements for the operation of city government. Many of these requirements are also replicated within the Municipal Code to ensure there is broad awareness of such requirements. Oxnard is a “general law” city, which means it is organized in accordance with provisions of the State Government Code. The government code provides for Oxnard’s City Council-City Manager form of government, which was adopted as the City’s form of government by ordinance. Basically, this form of government prescribes that a city council’s role is to establish policies and priorities, while the role of the City Manager is to oversee the operations of the city government.

Annual Budget: The City’s annual budget provides a description of City services and the resources used to provide services. The document contains both a broad overview of the budget, inclusive of descriptions of program’s and services, organized for convenience by lead departments. The City operates on a July 1st through June 30th fiscal year with a budget that includes the following funds: general, capital, enterprise and internal services.

General Plan: The General Plan is comprised of a number of elements, such as land use, transportation, open space, sea walls, sites, and housing, all in accordance with state requirements, and provides a policy framework for various matters that fall within these areas.

Orientation of New Council Members

It is important that members of the Council have an understanding of the full range of services and programs provided by the organization. As new members join the City Council the City Manager arranges for new member training, conferences and familiarization with all facets of City government.

League of California Cities Guide

A publication that provides additional useful information is the *Mayors and Council Members Resource Guide* published by the League of California Cities. The Guide contains general information on the role and responsibilities of city council members and on the specific requirements and laws that govern Council actions. The Guide is available from the City Clerk.

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Oxnard City Council: Powers and Responsibilities

City Council Generally

The powers of a city council in California to establish policy are quite broad. Essentially, councils may undertake any action related to the establishment of city policies that affect city affairs other than those that are denied by the California Constitution and general laws or are preempted by state or federal law. Specifically, *the Council shall have the power, in the name of the city, to do and perform all acts and things appropriate to a municipal corporation and the general welfare of its inhabitants, subject to statutory limitations and which are not specifically forbidden by the Constitution and laws of the State of California (California Government Code).*

It is important to note that the City Council acts as a body. No member has any extraordinary powers beyond those of other members. While the Mayor and Mayor Pro Tem have some additional ceremonial and administrative responsibilities as described below, in the establishment of policies, voting and in other significant areas, all members are equal. It is also important to note that policy is established by at least a majority vote of the Council. While individual members may disagree with decisions of the majority, a decision of the majority does bind the Council to a course of action. In turn, it is staff's responsibility to ensure the policy of the Council is upheld. Actions of staff to pursue the policy direction established by a majority of Council does not reflect any bias against Council Members who held a minority opinion on an issue.

The City Council has occasionally debated whether it should take positions of a broader nature or limit itself to purely municipal functions. Historically, Oxnard City Councils have chosen to not take positions on issues outside of their immediate authority to effect. The propensity of the City Council to involve itself in such issues reflects the personalities and outlooks of the members who make up the four-year Council sessions.

Limitations are imposed on a Council Member's ability to serve on appointed boards of the city. State law expresses that no member of the Council shall serve as a voting member of any city board, committee, or commission, whether composed of citizen volunteers, city employees, or a combination of both. This is not construed as prohibiting members of the Council from serving on committees or subcommittees of the Council itself, or of agencies representing other levels of government. In fact, Council Members often participate and provide leadership in regional and state programs and meetings. Council Members are strongly encouraged to provide a written report to the Council on matters discussed at subcommittees and other regional or state board/agency/group activities in which they have been involved.

Role of Mayor & Mayor Pro Tempore

Mayor: The Mayor is to preside at all meetings of the City Council. The Mayor does not possess any power of veto. As presiding officer of the Council, the Mayor is to faithfully communicate the will of the Council majority in matters of policy. The Mayor is also recognized as the official head of the City for ceremonial purposes only.

The Mayor, unless unavailable, shall sign all ordinances, and other documents that have been adopted by the City Council and require an official signature; except in those instances when the City Manager, or other staff, have been authorized by Council action to sign documents. In the event the Mayor is unavailable, the Mayor Pro Tempore's signature will be used.

Mayor Pro Tempore: The City Council has specified that the Mayor Pro Tempore shall perform the duties of the Mayor during the Mayor's absence or disability. The Mayor Pro Tempore shall serve in this capacity at the pleasure of the City Council.

Appointment of City Manager and City Attorney

The City Council only has the authority to appoint two positions within the City organization: the City Manager and the City Attorney. Both positions serve at the will of the City Council. The City Manager is an employee of the City and has an employment agreement that specifies certain terms of employment including an annual evaluation by the City Council. The City Manager is responsible for all other personnel appointments within the City. The current City Attorney is an employee of the City and has an employment agreement that specifies certain terms of employment including an annual evaluation by the City Council.

Role in Disaster

In consultation with the City Manager, the City Council may be asked to participate at the City's Emergency Operations Center (EOC), located within the Fire Department, to provide policy guidance and to receive information in an emergency. Should the City Council not be available during an emergency, state law specifies a hierarchy of others who may serve in place of the City Council.

Appointment of Advisory Bodies

The City has a number of standing advisory bodies, the rules, regulation and requirements of which can be found in the Administrative Chapter of the City Code.

City Council Meetings

General Procedures

Resolution number 13,126 states that the City Council has agreed to adhere to the latest revised edition of Roberts Rules of Order.

Presiding Officer: The Mayor is the presiding officer and acts as chair at Council meetings. In the absence or incapacity of the Mayor, the Mayor Pro Tempore serves as presiding officer.

Seating arrangement of the Council: The Mayor Pro Tempore is seated immediately next to the Mayor. The Mayor, with the approval of individual Council Members, shall establish the seating arrangement for regular Council meetings.

Quorum: Three-fifths of the Council Members constitute a quorum for the transaction of business.

Meeting Schedule

Regular meetings are usually held in the Council Chambers, at 305 West Third Street, on Tuesdays at 7:00 p.m. Closed sessions are generally convened, as needed, prior to or at the end of a regularly scheduled meeting.

No Council meeting will typically be held in the event that a regular meeting of the Council falls on a legal holiday or in the same week of a legal holiday. Council does not meet on the fifth Tuesday of the month. Other meetings throughout the year may be cancelled. The Mayor and Council Members should inform the City Manager's secretary as soon as possible if they intend to be out of town on a set meeting date.

Special Meetings

Special meetings may be called by a majority of the City Council in compliance with the Brown Act (California Government Code). Written notice must be given to the public and to the media twenty-four (24) hours prior to a special meeting. No business other than that officially noticed may be discussed. The City Council may call a special meeting to discuss goals and priorities for the upcoming year.

Public Comment: At all regular and special meetings, public comments must be permitted before or during consideration of any agenda item. Public comment is appropriate on any matter within the jurisdiction of the City Council.

Meeting Notices and Minutes: Notice requirements of the Brown Act are complied with for all meetings; minutes of the meeting are taken by the City Clerk or designee and made available for public inspection.

Development of Agenda

By Ordinance number 2,368 the City Council has established their meeting calendar. A copy of the agenda is transmitted to the Council on the Thursday prior to the scheduled meeting. All agenda materials are available during normal business hours, after 6:00 p.m. on the Thursday before the Tuesday Council meeting, or on Monday when offices are closed on Friday at the Main Branch of the Public Library and after 8:00 a.m. on Friday in the Office of the City Clerk. Website posting of the agenda concurs with the Council calendar.

Placing Items on Agenda

City Council: A Council Member may request an item be considered on a future agenda and, upon agreement of a majority of Council, staff will prepare a staff report if formal Council action is required. Council Members may make this request verbally during a public meeting or may submit written requests by and through the City Manager. Normally, the process involves two steps: (1) initial consideration of the request considering information provided by the City Manager regarding the potential impact the request will have on established priorities and staff workload before expenditure of significant staff resources, by the full Council at the soonest possible regularly scheduled meeting; and (2) if a majority agrees, the matter is then scheduled for further consideration on an upcoming meeting agenda; however, if a majority of the Council so agrees the matter may be scheduled without the initial consideration described above.

Emergency and Non-Agendized items: Emergency and non-agendized items may be added to an agenda only in accordance with state law. Emergency items are only those matters affecting public health or safety such as work stoppages, disasters and other severe emergencies. Adding an emergency item requires a majority vote. Emergency items are very rare. More likely, after the agenda has been posted an item arises that the Council would like to act on. Non-agendized items may be added to the agenda only if the Council makes findings that (1) the need to consider the item if it arose after the posting of the agenda, and; (2) there is a need to take immediate action at this meeting of the City Council. These findings must be approved by a four-fifths vote; if less than five members of Council are present, the findings require a unanimous vote of those present.

Notification and Advertising

The City will continue to publicize matters of significant neighborhood or community public interest that appear on a City Council agenda, as well as all matters where advertising is required by law.

Order of Business

Per Council Resolution number 13,126 the City Council has established the Rules of Procedure for the Conduct of City Council meetings.

Public Comment: A block of thirty (30) minutes time is set aside at the beginning of the meeting to receive general public comment about issues not on the agenda. Public comments not heard during this thirty-minute period will be heard just prior to adjournment. Comments on agendized items are not heard until the appropriate item is called. Individuals desiring to speak are to address the Council from the speaker podium. Speaker cards should be filled out and given to the City Clerk prior to Public Comment.

Comments should focus on a specific matter within the Council's jurisdiction. Members of the public are encouraged to present written comments, preferably in advance of the meeting, as a way to fully communicate their thoughts on agenda items or non-agenda items. When written materials are presented, they should be submitted to the City Clerk for distribution and record keeping ahead of time. Comments are typically limited to three minutes per speaker so that all may have an opportunity to address the Council.

Videos, PowerPoint or similar presentations during public comment ordinarily are not permitted. Prior notice and coordination with the City Clerk is strongly encouraged and the Mayor reserves the privilege to limit such requests as necessary for the effective conduct of the meeting. Speakers are to address their comments to the City Council from the podium.

Public Comment on regular business items normally follows staff's presentation of the staff report, clarifying questions from Council members and applicant comments as necessary and appropriate.

Discussion Rules

To assist the City Council in the orderly discussion of items, rules are followed which represent accepted practices for the management of Council meetings.

1. **Obtaining the Floor:** A member of the City Council or staff shall first address the presiding officer to gain recognition. Comments and questions should be directed through the Chair and limited to the issue before the Council. Cross-exchange between Council Members and public should be avoided.
2. **Questions to Staff:** A Council Member shall, after recognition by the presiding officer, address questions to the City Manager, City Attorney, department head or designated staff member. If a Council Member has questions on an agenda item, that member should preferably contact the City Manager prior to the meeting in order to allow the City Manager to direct staff with enough time to research a response for the meeting.
3. **Interruptions:**
 - a. Once recognized, a Council Member is considered to have the floor, and another Council Member may not interrupt the speaker except to make a point of order or point of personal privilege. In such a circumstance, the Council Member holding the floor shall cease speaking until the point of order or privilege is resolved.
 - b. Upon being recognized by the Chair, members of the staff shall hold the floor until completion of their remarks or until recognition is withdrawn by the Chair.
4. **Discussion:** A Council Member should not speak more than once on a particular subject until every other Council Member has had the opportunity to speak. Council Members are encouraged to discuss items during the decision-making process and may ask staff to respond when appropriate. The Mayor normally allows other members to speak first, then will give his/her views and summarize.
5. **Tabling Procedure:** Tabling an item immediately stops discussion and causes a vote to postpone a matter indefinitely or to a time and date certain. A motion to "continue" an agenda item has the same effect, but is generally used when a scheduling problem arises or when insufficient time is available to address the matter thoroughly.

6. **Right of Protest:** A Council Member is not required to state reasons for a dissenting vote.
7. **Calling for the Question:** The purpose of calling for the question is to disallow further debate and put an issue to an immediate vote. A Council Member may move to "call for the question" on an item which is being considered. The motion requires a second, is not debatable, and must pass by a four-fifths vote. If the motion carries, the item is no longer debatable and the City Council must vote on it.
8. **Conducting Business at a Late Hour.** According to Council policy, no new items will be taken up by the City Council after 11:00 p.m. unless there is a three-fourths vote taken to extend the meeting.

Voting Procedures

When present, all Council Members are to vote unless prohibited by law or conflict of interest. Failure of a seated member to orally express a vote constitutes an affirmative vote.

No ordinance, resolution or motion approving the payment of money shall be passed or become effective without an affirmative vote by the majority with a quorum present.

A conflict of interest shall be declared whenever appropriate and in compliance with state law. The affected Council Member will step down from the dais and leave the Chambers.

Council Members may declare general consensus at the discretion of the presiding officer, if there are no negative votes or objections.

Upon the request of any Council Member, a roll call vote will be taken and recorded.

Tie Vote: A tie vote is equivalent to a motion that has failed. The presiding officer may publicly explain the effect of the tie vote for the audience or may direct the City Attorney to do so.

Motions: There are a number of types of motions, each of which must meet certain requirements before a vote can be taken. Enactment of an ordinance, adoption of a resolution, as well as approval of a motion or order involving a payment of money require the vote of three Council Members. Other motions or action require a vote in favor of the action or motion by a majority of a quorum of Council Members present.

Reconsideration: Reconsideration of an item shall be allowed in accordance with the following Council guidelines. A member of the prevailing majority when the previous vote was taken must make a motion for reconsideration. The City Council has determined that any motion for reconsideration should be made at the meeting immediately following that at which the action was taken. No motion for reconsideration will be entertained after this time unless the City Council determines significant new information has arisen which warrants such action.

Other Guidelines

Other guidelines have been developed to ensure that meetings of the Council are conducted in a civil and professional manner. Council Members and staff shall:

1. Work to preserve appropriate order and decorum during all meetings.
2. Discourage side conversations, disruptions, interruptions or delaying efforts.
3. Inform the presiding officer before departing from a meeting.
4. Limit disruptive behavior. The presiding officer will call persons demonstrating rude, boisterous, or profane behavior to order. If such conduct continues, the presiding officer may call a recess, request the removal of such person(s) from the Council Chambers, adjourn the meeting, or take such other appropriate action. The Council has a policy to discourage applause, booing or other similar behaviors from the public during meetings.
5. Recognize that only the City Council, staff, advisory body chairs or designated representatives, and those authorized by the presiding officer shall be permitted to sit at the Council or staff tables.
6. Limit breaks of the City Council to 5-10 minutes. The Mayor will resume the meeting if a quorum exists and other members have not returned from the break within the announced time period.
7. Impose time limits on speakers. While the City Council encourages and embraces the need for and right of public participation, it acknowledges that public comments must, at times, be limited. The Mayor, as presiding officer, may poll the audience for an indication of the number of people wishing to speak on a particular item, and to impose time limits per speaker. Typically, speakers are limited to three minutes but a shorter time limit may be established as deemed necessary; however, project applicants, developers of a project under consideration, representatives of affected homeowners associations, neighborhood councils or similar groups may, at the discretion of the presiding officer be granted a longer time period for comment. After the time limit, Council may ask questions of the speaker for clarification, if needed. Each speaker will be thanked for his or her participation.
8. Meetings outside the City of a majority of City Council, even if permissible under the Brown Act, are discouraged, so as to maximize public participation.

Values of Respect: The City Council has also recognized the importance of approaching the public's business in an environment of personal respect and courtesy, which places emphasis on the consideration of policy and avoids personalization of comments. Some guidelines utilized by the City Council include:

1. Discussion should focus on policy matters
2. Personal criticism of members is inappropriate
3. Proper decorum should be displayed as other members express their views
4. Treat members of the public equally, applying rules in a fair and consistent manner

Enforcement of Order: The Police Chief or his designee acts as the Sergeant-At-Arms. Any Council Member may request the presiding officer to enforce the rules of protocol. Upon motion and majority vote, the presiding officer shall be required to do so.

Open Meeting Laws (the "Brown Act")

Operations and procedures of the City and City Council incorporate requirements of the State's open meeting laws (commonly referred to as the Brown Act). Because this law is such an important part of local government operations, some specific requirements of the law are highlighted below.

Applicability and Penalties: The entire City organization conducts its business in compliance with the Ralph M. Brown Act, State Government Code Section 54950. The intent of the Act is to ensure that deliberation and actions of local public agencies are conducted in open and at public meetings.

- A. Applicability: The Act applies to Council and all commissions, boards and Council appointed subcommittees (except if comprised entirely of two Council Members) and task forces that advise Council. Staff cannot promote actions that would violate the Act.
- B. Meetings: All meetings shall be open and public. A City Council meeting takes place whenever a quorum (3 or more members) is present and information about the business of the body is received; discussions qualify as a meeting. Social functions (e.g., receptions, dinners) do not fall under the Act unless City business is discussed.

Serial meetings take place when any member of Council or City staff contact more than two Council Members for the purpose of deliberating or acting upon an item pending before the City Council. This restriction does not apply to the public or media who may contact Council Members. Correspondence that merely takes a position on an issue is acceptable. Note that the Brown Act applies to City Council Members immediately after their election and prior to their swearing-in ceremony.

- C. Agendas: Agendas for regular meetings must be posted 72 hours in advance of the meeting and must meet various requirements.
- D. Actions: No action can be taken on any item not appearing on the posted agenda.

Exceptions: 1) An emergency situation exists (determined by a majority of the Council). 2) The need to take action arose subsequent to the agenda being posted and there is a need for immediate action (determined by two-thirds vote of the Council; or if less than two-thirds are present, by unanimous vote). 3) The item was continued to another meeting that was scheduled and posted within 5 days of the original agenda.

- E. Public Input: The Brown Act contains provisions concerning Public Comment on matters within the City Council's jurisdiction and particular matters on the agenda, summarized elsewhere in this manual. These provisions will be followed by the City Council.
- F. Public Disruptions: A portion or all of the public may be removed if willful disruption makes conducting the meeting "unfeasible"; the press may remain unless they participate in the disruption.
- G. Correspondence: All writings distributed for discussion or consideration at a public meeting are public records.
- H. Special Meetings: Special meetings may be called by the Mayor or a majority of the Council with strict notification requirements for delivery to the media and Council twenty-four (24) hours before the time of the meeting.

- I. Emergency Meetings: Emergency meetings may be called without notification due to the disruption or threatened disruption of public facilities. Only work stoppages or crippling disasters that impair the public health and/or safety qualify for emergency meetings.
- J. Other Provisions: The Brown Act provides many other restrictions and requirements; this chapter is intended merely as a Council summary and overview of the Brown Act, and nothing in this Chapter supersedes the provisions of the Brown Act. Please check with the City Attorney and/or the City Clerk for more information.

CHAPTER 4

Council Communications

Overview

Perhaps the most fundamental role of a Council Member is communication—communication with the public to assess community opinions and needs—communication with staff to provide policy direction and to gain an understanding of the implications of various policy alternatives. Because the City Council performs as a body (that is, acting based on the will of the majority as opposed to individuals), it is important that general guidelines be understood when speaking as a Council Member. Equally important, when members are expressing personal views and not those of the Council, the public should be so advised.

Correspondence from Council Members

Members of the City Council may occasionally be called upon to write letters to citizens, businesses or other public agencies. Typically, the City Manager will be charged with transmitting the City's position on policy matters to outside agencies on behalf of the City Council. Correspondence sent on behalf of the Council is placed on official City letterhead and is signed by the Mayor or City Manager. Individual members of Council may prepare letters to constituents in response to inquiries or to provide requested information. Individualized City Council Member letterhead is available for this purpose, and staff can assist in the preparation of such correspondence. Council Members are encouraged to provide copies of any correspondence on City letterhead to every Council Member and the City Manager.

On occasion, Council Members may wish to transmit correspondence on an issue upon which the Council has yet to take a position or about an issue for which the Council has no position. In these circumstances, Council Members should use their personalized letterhead and clearly indicate within letters that they are not speaking for the City Council as a whole, but for themselves as one member of Council.

After the City Council has taken a position on an issue, official correspondence should reflect this position. While Council Members who may disagree with a position are free to prepare correspondence on such issues as private citizens, City letterhead, official Council title, and staff support should not be utilized in order to avoid confusion. In addition, City letterhead and staff support cannot be utilized for personal or political purposes.

Council Members may be asked to prepare letters of recommendation for students and others seeking appointment. Council Members may utilize City letterhead and their Council titles, but should indicate that the views expressed are those of the Council Member (as opposed to the City Council). No review by the full Council is required; however, copies will be kept on file.

Speaking for "the City"

Similar to written correspondence, when Council Members are requested to speak to groups or are asked the Council's position on an issue, the response should reflect the position of the Council as a whole. Of course, a Council Member may clarify their vote on a matter by stating, for example, "While I voted against "X", the City Council voted in support of it." When representing the City at meetings or other venues, it is important that those in attendance gain an understanding of the City Council's position rather than that of an individual member.

Local Ballot Measures

At times measures that affect City Council policy may be placed on the ballot. There are restrictions regarding what actions a City Council or individual Council Members may take on ballot measures. Guidelines as to what is permissible are available from the City Clerk or City Attorney upon request.

State Legislation, Propositions

In 2007 the City adopted a Legislative Program to enable the City to respond the pending state and federal legislation in a proactive manner (the 2011-2012 Legislative Program is included as Appendix B). The Mayor (or Mayor Pro Tem in the Mayor's absence) would be authorized to sign correspondence expressing the City Council's position on legislation consistent with the Legislative Program and/or other positions approved by the City Council.

Staff maintains direct and consistent contact with contracted state and federal lobbyists and monitors the League of California Cities' Priority Focus, California Water Association and other sources to identify pending legislation that may impact the City. Letters expressing the City's position will be drafted for the Mayor's signature, with copies distributed to each Council Member. Pending legislation not addressed by the Legislative Program, or staff recommendations that deviate from the Legislative Program, would be agendaized for City Council consideration.

Interaction with City Staff

Overview

City Council policy is implemented on a daily basis through staff. Therefore, it is critical that the relationship between Council and staff be well understood by all parties so that policies and programs may be implemented successfully. The City of Oxnard has a long tradition of positive relationships between members of the City Council and staff. To maintain these effective relationships it is important that roles are clearly recognized.

Council-Manager Form of Government

Like most California cities, Oxnard has adopted a City Council-City Manager form of government. The Council appoints a City Manager to implement policy, enforce its laws, to direct the daily operations of city government, and to prepare and monitor the municipal budget. The Municipal Code specifies roles and responsibilities and requires that Council Members work through the City Manager in dealing with City staff unless simply requesting information from department heads or other staff members. The City Manager is responsible to the City Council as a body rather than to individual Council Members.

Council-Manager Relationship

The employment relationship between the City Council and City Manager reflects the fact that the City Manager is the chief executive officer of the City. The City Manager has an employment agreement with the City Council. Regular communication between the City Council and City Manager is important in maintaining effective interpersonal relations. All dealings with the City Manager, whether in public or private, should be consistent with the authority of the City Manager in administrative and personnel matters. Council Members should avoid situations that can result in City staff being directed, intentionally or unintentionally, by one or more members of the City Council. Further, Council Members should avoid involving themselves in matters regarding individual City employees or related affairs.

The City Council evaluates the City Manager's performance annually to ensure that both the City Council and City Manager are in agreement about organizational performance and priority goals that are based on mutual trust and common objectives which are put forth in the mandatory annual strategic summit.

As in any professional relationship, it is important that the City Manager keep the City Council informed. The City Manager respects that the final responsibility for establishing the policy direction of the City is held by the City Council. The City Manager communicates with City Council in various ways. In addition to the formal Council meetings, there are periodic briefing meetings with individual Council members and written memoranda and email. Communication must be undertaken in such a way that all Council Members are treated similarly and kept equally informed and provided with updates on significant fiscal matters, major projects, or other critical issues. It is also important that the Council provide ongoing feedback, information and perceptions to the City Manager including responses to written communications and surveys requesting feedback.

City Manager Code of Ethics

The City Manager is subject to a professional code of ethics that binds the City Manager to certain practices that are designed to ensure his or her actions are in support of the City's best interests. Violations of such standards can result in censure. Appendix A is a copy of the City Manager's Code of Ethics.

City Council-City Attorney Relationship

The City Attorney is the legal advisor for the Council, City Manager and departments. The general legal responsibilities of the City Attorney are to: 1) provide legal assistance necessary for formulation and implementation of legislative policies and projects; 2) represent the City's interest, as determined by the City Council, in litigation, administrative hearings, negotiations and similar proceedings; 3) prepare ordinances, resolutions, contracts and other legal documents to best reflect and implement the purposes for which they are prepared; and 4) keep City Council and staff apprised of court rulings and legislation affecting the legal interest of the City. It is important to note that the City Attorney does not represent individual members of Council, but the City Council as a whole.

Roles and Information Flow

Objectives: It is the intent of staff to ensure Council Members have free and easy access to information from the City and to ensure that such information is communicated completely, with candor and without bias. Individual Council Members may not intervene in staff decision-making, the development of staff recommendations, scheduling of work, or executing department priorities without the prior knowledge and approval of the City Council as a whole. This is necessary to protect staff from undue influence and pressure from individual Council Members, and to allow staff to execute the priorities given by management and the Council as a whole without fear of reprisal. Undue influence exercised by Council Members may result in censure.

Council roles: The full City Council retains power to accept, reject, amend, influence, or otherwise guide and direct staff actions, decisions, recommendations, service levels, work loads and schedules, departmental priorities, and the performance of City business. If a Council Member wishes to influence the actions, decisions, recommendations, workloads, work schedule, and priorities of staff, that member must prevail upon the Council in accordance with the Brown Act, preferably in open session, to do so as a matter of Council business.

Should a Council Member become dissatisfied about a department, he/she should always talk it over with the City Manager and/or the Assistant City Manager, not the department head. Concerns about a department head must be taken to the City Manager only.

To assist the City Manager in his/her ability to monitor the flow of information, requests for information are best tracked if submitted in writing, either in memorandum form or through email. And to ensure proper responsiveness, Council Members are asked to "cc" both the department head and the City Manager on all correspondence with staff.

Staff roles: The Council recognizes the primary functions of staff as serving the community, executing Council policy and actions and keeping the Council informed. Staff is obligated to take guidance and direction only from the Council as a whole or from the appropriate

management supervisors. Staff is directed to report to the City Manager any attempts by individual members of the Council to unduly direct or otherwise pressure them into making, changing or otherwise influencing recommendations.

City staff will make every effort to respond in a timely and professional manner to all requests made by individual Council Members for information or assistance; provided that, in the judgment of the City Manager, the request is not of a magnitude, either in terms of workload or policy, which would require that it would be more appropriately assigned to staff through the direction of the full City Council. If a request by an individual Council Member is determined by the City Manager to take one hour or more of staff time to complete, that request may be included on the formal Council agenda for full Council discussion.

Dissemination of Information

In cases where a staff response to an individual Council Member request involves written materials that may be of interest to other Council Members, the City Manager will provide copies of the material to all other Council Members. In making this judgment, the City Manager will consider whether the information is significant, new, otherwise not available to the Council or of interest to the Council.

Staff Relationship with Advisory Bodies

Staff support and assistance is typically provided to commissions and task forces. However, advisory bodies do not have authority over City employees. While staff may work closely with advisory bodies, staff members remain responsible to their immediate supervisors and ultimately the City Manager and City Council. The members of the commission/ board/committee are responsible for the functions of the advisory body, and the chairperson is responsible for committee compliance with City policies and practices.

Staff support often includes preparation of an agenda and its posting in compliance with the Brown Act. Staff may also prepare reports providing background on the issue, alternatives, a recommendation, and appropriate backup materials, if necessary. Advisory body members should have sufficient information to reach decisions based upon a clear explanation of the issues. The assigned staff person may serve as secretary, taking minutes as needed. Staff members are to assist the advisory body chair to ensure appropriate compliance with state and local laws and regulations.

It is important that advisory bodies wishing to communicate recommendations to the City Council do so through approved Council agenda procedures. In addition, if a commission wishes to correspond with an outside agency, that correspondence will be prepared by staff for review by the City Manager and possible approval by the City Council. Individuals who would like staff to perform research or for the commission to review a particular issue must gain the approval for such a request from the full City Council before any work is planned or done.

Support Provided to City Council

Staff Support

General administrative support to members of the City Council is provided through the City Manager's Office. Secretarial services including scheduling of appointments, receipt of telephone messages, and word processing are available as needed. Sensitivity to the workload of support staff members in the City Manager's Office is appreciated. Should requested tasks require significant time commitments, prior consultation with the City Manager is requested.

Office Equipment

To enhance Council Members' ability to communicate with staff and the public, the City Council office is equipped with a computer and telephones with voicemail. The Council can also receive and send faxes.

Council Members may be connected from their home to the City's computer network. Information Services staff will provide initial assistance in setting up necessary software and hardware. While staff will maintain those computer applications related to City affairs, staff cannot provide assistance for personal computer applications. When individual Council Members have completed their term of office, any installed software and external modems must be returned to the City.

These technologies facilitate efficient communication by Council Members. However, their use also raises important legal issues to which Council Members must pay special attention. First, the Brown Act prohibits members from using "technological devices" to develop a concurrence by a majority regarding an action to be taken by the Council. "Technological devices" under the Brown Act include phones, faxes, computer email, public access cable TV and video. Council Members should not use e-mail, faxes or phones for communicating with other Council Members in order to develop a majority position on any particular issue that may come before the full Council.

Second, be aware that most emails sent by Council Members probably are public records under the Public Records Act. Even though it does not create paper, sending email is more similar to mailing a letter than placing a telephone call. The information in the email is stored on the computer network until deleted, and may continue to exist on the network's back-up systems even after being deleted. As a result, emails can become records of the City maintained in the course of business, and thus available for public disclosure under the Public Records Act.

Finally, the City's email system is intended for the conduct of official business, and not for political reasons. See Chapter 8 for a detailed discussion on the prohibition against using City property and funds for personal or political purposes.

Meeting Rooms

Conference rooms are available in the City Manager's Office for shared use by members of the City Council. Council Members can also reserve larger meeting space for use by contacting the City Manager's Office staff.

Mail, Deliveries

Members of the City Council receive a large volume of mail and other materials from the public, private interests and staff. The City Manager's Office staff maintains a mailbox for each member. Meeting agenda materials are available for pick up Thursday evenings at 5:30 p.m. and are posted on the City's website. Members are encouraged to return unwanted reports and documents to staff for distribution to the public or for recycling.

DRAFT

Financial Matters

Council Compensation

State law and the Municipal Code provide for modest compensation to members of the City Council. State law limits an increase in City Council salaries to 5 percent per year, effective only following the next election after adoption. Currently, Council Members receive a monthly stipend. Council Members are also eligible for participation in group insurance benefits including retirement, medical, dental, vision, and life insurance plans available at the level provided to management employees.

Expenditure Allowance

The annual City budget includes limited funding for members to undertake official City business. Eligible expenses include travel for attendance at conferences or educational seminars, and the purchase of publications and annual subscriptions. Donations to organizations are not eligible nor are meals for individuals other than Council Members.

Expenditure Guidelines

It is important to note that any expense must be related to City affairs. Public property and funds may not be used for any private or personal purpose. Courts have ruled that this prohibition includes personal political purposes. For example, reimbursement could not be allowed to pay for meals at a meeting designed to discuss political or campaign strategies. It is also inappropriate for City funds to pay for a meal or other expenses of a private citizen.

City budgetary practices and accounting controls apply to expenditures within the City Council budget. Reimbursement requests should be made through the City Manager's Office monthly with receipts. Expenditure records are public information.

Conflicts & Liability

Conflict of Interest

State laws are in place to prevent an action by a Council Member that would or may constitute a conflict of interest. The purpose of such laws and regulations is to ensure that all actions are taken in the public interest. At any time a Council Member believes a potential for conflict of interest exists, he/she is encouraged to consult with the City Attorney or private legal counsel for advice. Staff may also request an opinion from the City Attorney regarding a member's potential conflict. Laws that regulate conflicts are very complicated. Violations may result in significant penalties including criminal prosecution.

There are two primary laws that govern conflicts of interest for public officials in California - the Political Reform Act and Government Code section 1090. In general terms, the Political Reform Act prohibits a public official from having a financial interest in a decision before the official; section 1090 prohibits a public official from having an interest in government contracts.

The Political Reform Act prohibits public officials from making, participating in, or in any way attempting to use their official position to influence a governmental decision in which they know, or have reason to know, that they have a financial interest. Therefore, if a public official has a conflict of interest, the official must disqualify himself or herself from acting on or participating in the decision before the City. Once a year Council Members and certain staff are required to file statements of economic interests.

Government Code section 1090 is similar to the Political Reform Act, but applies only to City contracts in which a public official has a financial interest. The financial interests covered by section 1090 are different from those in the Political Reform Act. A Council Member having an interest in a contract may preclude the City from entering into the contract at all. In addition, the penalties for violating section 1090 are severe. If a Council Member believes that he or she may have any financial interest in a contract that will be before the Council, the Council Member should immediately seek advice from the City Attorney or the Council Member's personal attorney.

There are a number of other restrictions placed on Council actions that are highlighted in the *League of California Cities' Guide*. Such restrictions include prohibitions on secrecy and discrimination as well as assurance that all city funds are spent for public purposes. Violations of these restrictions may result in personal liability for individual Council Members.

City Attorney Advice

The City Attorney has an affirmative duty to protect the City and City Council from conflicts of interest wherever possible. It is critical to note that while the City Attorney can render advice on the interpretation of State laws and regulations on conflict matters, such advice is solely an interpretation of the law. The only authority that can provide binding interpretations on such matters is the State Fair Political Practices Commission (FPPC). Council Members or the full Council may also solicit opinions on such matters directly from the FPPC; however, such opinions often take time to develop and may not readily respond to urgent matters. It is

important to note that the City Attorney does not represent individual members of Council, but the City Council as a whole.

Conflict of Interest Forms

Annual disclosure statements are required of all Council Members, designated commissioners and senior staff which indicate potential conflicts of interest including sources of income, ownership of property and receipt of loans and gifts. Council Members and the City Manager often serve on the governing board of other agencies as a result of their positions. These agencies also require submittal of disclosure forms. These forms require information including income, loans, receipt of gifts, and interest in real property among other items.

Liability

The City is a large institution offering a variety of services and may occasionally find itself subject to legal actions through lawsuits. For example, those involved in automobile accidents sometimes choose to take actions against a City since the accident occurred on a City roadway. The City must always approach its responsibilities in a manner that reduces risk to all involved; however, with such a wide variety of high-profile services all risk cannot be eliminated. The City belongs to an agency with other governments to manage insurance and risk activities.

It is important to note that violations of certain laws and regulations by individual members of the City Council may result in that member's being personally liable for damages which would not be covered by the City's insurance. Examples may include discrimination, harassment or fraud.

Additional Training & Resource Materials

League of California Cities

The League is an association of virtually all cities in California. It provides many services including the production of educational conferences for local officials, publication of various newsletters and the monthly magazine *Western City*. The League has lobbyists on staff to represent the interest of cities before the state legislature and federal government and supports committees having local officials as members that are organized to address issues as they arise. The League has an Internet web site at www.cacities.org. The City of Oxnard participates in League activities through the Channel Counties Division.

Local Government Commission

The Commission is a California-based organization that focuses largely on planning and resource conservation issues. It conducts workshops, offers periodic seminars, and publishes newsletters.

International City/County Management Association (ICMA)

ICMA is a professional association of local government chief executives/city managers. The association has an extensive list of publications to assist local officials.

Other Reference Material Available

The Brown Act - Open Meetings for Local Legislative Bodies

Report on City Participation in Ballot Measure Campaigns

A Guide to the Political Reform Act

Elected Officials Handbooks:

Setting Goals for Action: An Overview of Policy Development

Building a Policy-Making Team.

Setting Policies for Service Delivery

Pursuing Personal Effectiveness

City of Oxnard Municipal Code

APPENDIX A
International City Manager's Association (ICMA) Code of Ethics

The mission of ICMA is to create excellence in local governance by developing and fostering professional local government management worldwide. To further this mission, certain principles, as enforced by the Rules of Procedure, shall govern the conduct of every member of ICMA, who shall:

Tenet 1

Be dedicated to the concepts of effective and democratic local government by responsible elected officials and believe that professional general management is essential to the achievement of this objective.

Tenet 2

Affirm the dignity and worth of the services rendered by government and maintain a constructive, creative, and practical attitude toward local government affairs and a deep sense of social responsibility as a trusted public servant

Tenet 3

Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order that the member may merit the respect and confidence of the elected officials, of other officials and employees, and of the public.

Tenet 4

Recognize that the chief function of local government at all times is to serve the best interests of all people.

Tenet 5

Submit policy proposals to elected officials; provide them with facts and advice on matters of policy as a basis for making decisions and setting community goals; and uphold and implement local government policies adopted by elected officials.

Tenet 6

Recognize that elected representatives of the people are entitled to the credit for the establishment of local government policies; responsibility for policy execution rests with the members.

Tenet 7

Refrain from all political activities which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.

Tenet 8

Make it a duty continually to improve the member's professional ability and to develop the competence of associates in the use of management techniques.

Tenet 9

Keep the community informed on local government affairs; encourage communication between the citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.

Tenet 10

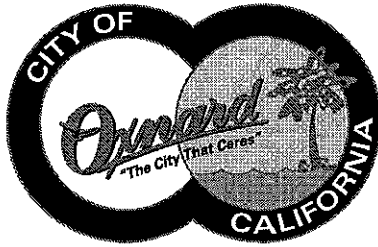
Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.

Tenet 11

Handle all matters of personnel on the basis of merit so that fairness and impartiality govern a member's decisions, pertaining to appointments, pay adjustments, promotions, and discipline.

Tenet 12

Seek no favor; believe that personal aggrandizement or profit secured by confidential information or by misuse of public time is dishonest.



APPENDIX B

City of Oxnard 2011-2012 Legislative Program

The foundation for the City's legislative priorities is based in the mission statement adopted by the Oxnard City Council in January of 2005:

"The City of Oxnard will have clean, safe, prosperous and attractive neighborhoods with open, transparent government."

The following Legislative Program was developed to enable the City to respond to pending state and federal legislation in a proactive manner. The Mayor (or Mayor Pro Tem in the Mayor's absence) would be authorized to sign correspondence expressing the City Council's position on legislation consistent with this Legislative Program and/or other positions approved by the City Council.

Staff would maintain direct and consistent contact with contracted state and federal lobbyists and monitor the League of California Cities' *Priority Focus*, California Water Association, and other sources to identify pending legislation that may impact the City. Letters expressing the City's position will be drafted for the Mayor's signature, with copies distributed to each Councilmember. Pending legislation not addressed by the Legislative Program or staff recommendations that deviate from the Legislative Program would be agendaized for City Council consideration.

Basic Principles

A. Local Control

1. Support legislation mandating that the state and federal governments provide full cost reimbursement to cities for all required programs and for all programs resulting in revenue loss to cities.
2. Support legislation that protects the ability of cities to recover the costs of mandated programs through fees that are exempt from Proposition 218.
3. Advocate legislation that enhances local control of resources and tools that assist the City Council to address the needs of City residents.
4. Oppose legislation that limits or interferes with City Council authority over local municipal affairs.
5. Oppose legislation that eliminates or restricts the taxing authority of cities over development; weakens existing Government Code section 66000 fee authority; or redefines any development tax, condition, or other monetary charge as development fees.

6. Oppose legislation that mandates changes that interrupt the City's operations, services to the community, or impairs or weakens its infrastructure.

B. Local Budget

1. Advocate for state and federal funding supporting City infrastructure projects and City programs.
2. Support reforming the local government finance structure in a way that establishes long-term financial stability to assure future growth and provide needed public facilities and services.
3. Support discretionary revenue sources to cities over directed and limited sources.
4. Advocate for fair implementation and distribution of state infrastructure bond funds to assure the City has access to receiving an adequate share for local improvements and programs.
5. Oppose legislation that negatively impacts the City's fiscal viability by adding further financial burden through unfunded mandates.
6. Oppose legislation that reduces the City's revenue base.
7. Oppose legislation that cuts state or federal grant funding for existing programs and services, e.g., Community Development Block Grant (CDBG).

Time Sensitive/Specific Issues

A. Telecommunications

1. Oppose legislation that negatively impacts the City Council's authority to manage and control the public right-of-way and for the City to receive compensation for its use.
2. Oppose legislation that diminishes or eliminates the collection of local franchise fees or diverts its collection by the federal or state governments.
3. Oppose legislation that authorizes "redlining" or "cherry picking" and precludes equal access to affordable cable television, Internet and digital services.

B. Transportation Needs

1. Advocate for state and federal transportation funding to construct critical transportation projects in the City of Oxnard, including the projects in the Port Intermodal Corridor (Rice Avenue/5th Street Grade Crossing, Hueneme Road Widening), and the Del Norte/101 Freeway Interchange.
2. Support increased funding to enhance existing public transportation programs.
3. Advocate for state and federal funding for street, road, and alleyway repair within the City of Oxnard.
4. Advocate for state and federal funding for Transit Oriented Development (TOD)

projects that support the goals of SB 375 (Steinberg).

5. Advocate that fundamental responsibility for transportation decision making should be at the local level.
6. Oppose any state or federal reductions to existing transportation grants and programs, including Americans with Disabilities Act funding.
7. Oppose legislation that limits and/or decreases the existing amount of retention proceeds withheld from any payment by a public entity to a contractor on a public project.

C. Waste Management

1. Support legislation that provides cities with financial assistance for programs designed to provide for the safe disposal of solid, hazardous, and special waste.
2. Support legislation that strengthens cities' ability to direct municipal solid waste flow to designated solid waste facilities.
3. Support legislation that streamlines AB 939 tracking and reporting requirements.
4. Support legislation that promotes recycling and expands the market for recycled materials.
5. Support legislation that encourages the innovative use of biosolids for regional beneficial uses, including, but not limited to alternative daily cover for landfills and soil amendments.
6. Oppose legislation that would restrict or limit the City Council's authority to franchise refuse and recycling collection services, to direct municipal solid waste flow, or to contractually require haulers to guarantee achievement of AB 939 goals.

D. Water Resources

1. Support legislation and funding to clean up contaminated soil and/or polluted water wherever found, including but not limited to, surface water, ground water, estuaries, or near shore ocean areas.
2. Support legislation and funding to abate sources of soil and/or water pollution wherever found, including septic systems, leaking underground fuel tanks, and agricultural and residential applications of fertilizers and pesticides.
3. Support legislation and funding to develop recycled water as an alternate water source, including treatment, storage, and distribution.
4. Support legislation and funding to develop brackish groundwater.
5. Support legislation and funding to manage groundwater and surface water salinity.
6. Support legislation and funding that encourages innovative and cooperative

water resources projects that will be of regional benefit.

7. Support legislation that provides a mechanism to fund the construction, operations, maintenance, and administration of stormwater programs and projects that improve quality, minimize runoff, maximize infiltration and beneficial uses, maximize flooding protection, and minimizes negative environmental impacts, and exempt fees and charges supporting these programs and projects from Proposition 218 restrictions.
8. Support legislation that prohibits the use of numeric criteria for stormwater discharges until the State Water Resources Control Board develops a policy for same.
9. Support legislation that encourages the development of consistent statewide water quality policies for the development and implementation of standards for impaired water bodies (303(d) listed), including Total Maximum Daily Loads (TMDL) allocations, National Pollutant Elimination System (NPDES) permits, and monitoring programs.
10. Support legislation that establishes a fee-sharing program for general stormwater permits issued by the State Water Resources Control Board.
11. Advocate for amendments to the existing California Water Code to support local collection and discharge of groundwater.
12. Oppose legislation that would establish drinking water quality standards or treated water quality discharge standards without sound scientific basis.

E. Redevelopment/Economic Development

1. Oppose legislation that would prohibit or limit the establishment of new redevelopment project areas and/or the expansion of existing project areas.
2. Oppose legislation that reduces the amount of gross tax increment allocable to redevelopment agencies.
3. Oppose measures that would diminish the current authority or financing capabilities of redevelopment agencies.
4. Support actions that fully fund CDBG as a direct allocation to cities, with the broad objective of helping low and moderate income people.

F. Affordable Housing

1. Support legislation that provides financial support and incentives for programs that provide affordable housing for disabled and low-income residents, families, and senior adults.
2. Support legislation that protects and maintains existing affordable housing opportunities for disabled and low income residents, families, and senior adults.

G. Public Safety

1. Support legislation that allows use of state and federal public safety grants for intervention and prevention efforts to curb gang crime and youth violence.
2. Support legislation that would provide cities with a greater share of fines and forfeitures.
3. Support legislation that promotes the efforts of the Oxnard Police Department in its role to serve and protect the community with relevance to local enforcement.
4. Support legislation that allows law enforcement to better combat gun violence through investigation, interdiction, and prevention of firearm related crimes.
5. Support legislation that allows use of state and federal public safety grants for maintenance efforts in addition to service increases.

H. Land Use Planning

1. Support legislation that provides for shared land use determinations among counties and cities when the general plan of the city establishes a planning area consistent with Government Code provisions.
2. Support efforts that are consistent with the doctrine of "home rule" and the local exercise of police powers, through planning and zoning processes, over local land use.

I. General Government

1. Support legislation that provides financial assistance for local public libraries without the imposition of new taxes
2. Advocate for federal stimulus funding to support City infrastructure projects and City programs.
3. Support legislation that limits libraries' contributions to the Educational Revenue Augmentation Fund.
4. Support legislation that makes funds available to refurbish and improve parks.
5. Oppose legislation that reduces funding for libraries including public library funds.
6. Support legislation that makes funds available to upgrade, remodel existing libraries, and build new libraries.
7. Support legislation that improves library services.
8. Support legislation and programs that maintains or enhances funding for the Oxnard School District's school safety and intervention and preventions; oppose legislation which reduces funding to these programs.
9. Oppose legislation that reduces or restricts local authority to regulate public right-of-way.
10. Support legislation and funding for energy-efficiency projects and programs for

public buildings and facilities.

11. Support legislation and seek funding for the needed construction, repair, and enhancement of the Santa Clara River levee system, *including SCR-3 Reach 4, the "GAP"*.
12. Support legislation and seek funding for the complete remediation of the EPA Superfund Site located on Perkins Road in Oxnard (former Halaco site).

J. Military Bases

1. Support legislation that provides funding or additional missions to the military bases in Ventura County.
2. Support the legislative efforts of the Ventura County Regional Defense Partnership for the 21st century (RDP-21).
3. Support legislation to add aircraft for the firefighting capability of the Air National Guard within Ventura County.

**Proposal to the City of Oxnard, California
for Ethics and Public Confidence Program**

Submitted by

Judy Nadler

Senior Fellow in Government Ethics

Markkula Center for Applied Ethics

Santa Clara University

Goal: To engage the public officials of Oxnard in an interactive discussion about creating and strengthening a culture of ethics. To identify common ethical dilemmas facing elected and non-elected officials and to provide practical tools for ethical decision making. To present best practices associated with public service and public confidence in local government.

Format: Workshop. Date and length to be determined.

Materials: Electronic copies of materials will be provided to the City of Oxnard for reproduction. Materials will include "A Framework for Ethical Decision Making," worksheets, and case studies illustrating key issues.

Faculty: Judy Nadler, Senior Fellow in Government Ethics, Markkula Center for Applied Ethics, and adjunct faculty in the department of political science, Santa Clara University. Ms. Nadler's experience in government has spanned 25 years, serving as a councilmember and directly-elected mayor of the City of Santa Clara, California. She is a member of the Council on Governmental Ethics Laws (COGEL), and has served on the League of California Cities Ethics Education Task Force. Nadler has been a featured speaker on ethics and public confidence for the League of California Cities, U.S. Conference of Mayors, and has presented workshops for municipal government as well as governmental agencies and special districts.

Scope of work: Judy Nadler will develop the workshop program, write and publish materials to deliver to the elected officials and leadership team. She will meet with each council member and key executive staff as part of the research process, and to coordinate and tailor content.

The City of Oxnard will provide administrative support and cover the costs for gathering pertinent background materials, securing the workshop location, arranging for refreshments, notifying participants, and other associated details. The City of Oxnard will also provide access to city officials or staff, as needed, to assist in the development and delivery of materials.

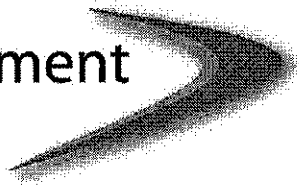
Continued on page two

Projected costs:

Meet with city manager, city attorney, city clerk, other senior staff as necessary	
5 hours at \$375/hour	\$1,875
Meet with elected officials	
5 hours at \$375/hour	\$1,875
Research and writing	
2 days at \$3,000/day	\$6,000
Workshop including travel	
1.5 days @ \$3,000/day	\$4,500
Analysis, final report, and recommended action plan	
1/2 day at \$3,000/day	\$1,500
Program cost (reflects government discount)	\$15,750

Note: Does not include airfare, ground transportation, hotel, or meals. It is anticipated that there will be a minimum of two trips to Oxnard associated with this project. These will be billed as reimbursement costs.

Management Partners



July 2, 2012

Mr. Martin Erickson
Special Assistant to the City Manager
City of Oxnard
305 W. Third Street
Oxnard, CA 93030

Dear Mr. Erickson:

Thank you for the opportunity to submit a proposal to design and conduct an ethics workshop for the City Council and management team. We understand the importance of taking time to having an open dialogue about ethical principles and practices, along with values and expectations, as a way to strengthen the foundation of local government. We have the experience and skills to organize and conduct such a workshop and would be pleased to work with the City of Oxnard.

We are proposing a partnership between Management Partners and the International City/County Management Association (ICMA) to conduct the desired ethics workshop for the City. Jan Perkins, Senior Partner with Management Partners and an ICMA Senior Advisor, and Martha Perego, Director of Ethics for ICMA, will serve as the team for this engagement. Brief qualifications for each are provided below.

Management Partners is a professional management consulting firm specializing in helping local government leaders. The firm is staffed with 50 professionals who are experienced public service managers as well as qualified management consultants. Our consultants carry out a full range of projects for local government leaders including teambuilding, strategic planning, organization reviews, executive coaching, performance management, and development process reviews. Each assignment we undertake receives careful, professional attention and we take pride in the quality of our work.

ICMA is a professional association devoted to creating excellence in local governance by developing and fostering professional local government management worldwide. At the core of ICMA is the mission to promote an ethical culture in local government. Since the development of the ICMA Code of Ethics in 1924, the organization has built an extensive collection of advice on ethics issues, case studies and model local government documents. This knowledge base has

been translated into training courses, consulting services and ethics textbooks and other educational publications designed to further the organization's mission throughout the world.

Approach

To make the best use of Council members' and management team members' time and to ensure that the workshop is focused on the issues pertinent to the City of Oxnard, careful advance planning will be done. This planning will include reviewing background materials, conducting interviews, preparing an agenda and reviewing it with the City, and coordinating with your staff on workshop logistics. Following the workshop we will prepare a report that documents the direction provided by the Council.

The ethics workshop will be planned using a collaborative approach between Jan Perkins and you to ensure that the session is productive and meets the Council's and your objectives. Jan will coordinate the schedule with you. The following describes the plan of work anticipated for the engagement.

Activity 1 – Prepare for the Ethics Training Workshop

We will start by reviewing background materials that will provide context for the workshop to be designed and conducted. We will prepare a schedule and work plan and review it over the phone with you. Jan Perkins will then conduct in-person interviews with the Mayor, each Council member, the Interim City Manager, the City Attorney and you. During the interviews, Jan will ask about objectives for the workshop and issues each person would like to have included. Jan will also facilitate a meeting of the management team to hear their objectives for the workshop. The results of the interviews and management team meeting will be a critical part of the workshop design.

Jan and Martha will then design the workshop and prepare a draft agenda. The agenda will be focused on the interests and needs identified during the interviews and management team meeting and will be designed in a way to achieve the desired outcomes. An ethics workshop involves a discussion of values, norms and expectations of the City, and ethical principles and practices.

We will review the draft agenda with the City and finalize it based on feedback. Typical outcomes include reaching agreements about a set of values and norms and a clear understanding of ethical ways of dealing with dilemmas and situations that occur in a municipal government. We will prepare appropriate materials and handouts, including a PowerPoint presentation. We will coordinate with designated City staff about workshop logistics.

Activity 2 – Facilitate the Session

Jan and Martha will co-facilitate the workshop. The session will be engaging and interactive involving a combination of small and large group discussions. The workshop will be facilitated in a way that enables participants to productively discuss the issues, reach agreement on values, norms and expectations, and determine the follow up steps to be taken.

Activity 3 – Summarize Results

After the workshop, we will prepare a report summarizing the agreements made by workshop participants and subsequent actions to be taken.

Facilitators

Jan Perkins, Senior Partner, has nearly 30 years of management experience in local government. Before joining Management Partners in 2005 she served in several California and Michigan jurisdictions, including as city manager in Fremont and Morgan Hill, California. She also served the cities of Santa Ana, California; Grand Rapids, Michigan; and Adrian, Michigan. She provides assistance to government leaders in organizational analysis, leadership development, facilitation, strategic planning, teambuilding, executive coaching and performance evaluation, workforce and succession planning, and policy board/staff effectiveness. Jan has authored a number of articles, including "Hiring 2.0: 23 Creative Ways to Recruit and Keep Great Staff," which appeared in the January/February 2011 issue of *Public Management* magazine; "Successful Leadership," March 2005, *Public Management* magazine; and "The Value of Going Back to the Basics," co-authored with former Fremont Mayor Gus Morrison, June 2005, *Western City* magazine. Jan is an ICMA Credentialed Manager, is an ICMA Senior Advisor and teaches ethics for ICMA.

Martha Perego, Director of Ethics for the International City/County Management Association, has been in this role since 1998. Martha provides advice, guidance and training to ICMA members on applying the principles of the ICMA Code of Ethics to the local government profession. She oversees the ethics enforcement process and provides support to the ICMA Committee on Professional Conduct. In addition, Martha conducts training sessions for appointed and elected officials on ethical issues. She also writes about ethical issues and is the author of the monthly column *Ethics Matter!* in ICMA's *PM Magazine*. Martha serves as the Team Leader for ICMA's Membership, Professional Development and Member and Customer Services and is part of ICMA's Leadership Team. Prior to joining ICMA, Martha worked in local government for 17 years including serving as a city manager, assistant manager, and finance director. She holds an undergraduate degree in public service from The Pennsylvania State University, a MPA from the University of North Carolina at Chapel Hill and completed the Senior Executive Institute at the University of Virginia.

References

Three workshop references are provided for which Jan Perkins served as facilitator, along with some of the organizations for which Jan has conducted ethics training. Additionally, several cities are listed for which Martha Perego has provided ethics training and facilitation.

San Luis Obispo, California

Management Partners designed and facilitated a workshop for the City's boards, commissions, Council and management team. The purpose was to foster greater effectiveness among the boards and commissions and to assist members in dealing with challenging situations. The workshop was interactive, involving both small and large group discussions, case studies, and a PowerPoint Presentation.

Client Contact: Mr. Ken Hampian, Former City Manager
kchampian@charter.net

Laguna Hills, California

The City of Laguna Hills engaged Management Partners to conduct a workshop with the City Council and City Manager to confirm the City's mission, vision and values; confirm or modify Council procedures and practices; and determine biannual goals. The day-long session was interactive, engaging all Councilmembers in a dialogue of each of these items. The result was consensus on mission, vision, values, procedures and goals. Management Partners conducted individual interviews with each Councilmember and the City Manager, created an agenda, facilitated the workshop and prepared a report summarizing the results of the workshop.

Client Contact: Mr. Bruce Channing, City Manager
City Hall
24035 El Toro Road
Laguna Hills, CA 92653
(949) 707-2610

Santa Barbara County Association of Governments, California

Management Partners facilitated a strategic planning process for the Santa Barbara County Association of Governments (SBCAG), a regional planning agency responsible for transportation, housing and the development of a sustainable communities strategy to reduce greenhouse gases. The project included conducting interviews with SBCAG's Board of Directors, facilitating a focus group with County and city managers, and facilitating a staff workshop to develop a draft mission, vision, values and goals for the Board to consider. In spite of the extremely diverse interests and needs of participating agencies, Management Partners was able to help the SBCAG reach consensus on the strategic plan and priority goals for the next five to ten years.

Client Contact: Mr. Jim Kemp, Executive Director
260 N. San Antonio Road, Suite B
Santa Barbara, CA 93110
(805) 961-8908
jkemp@sbcag.org

Ethics Training Workshops and Presentations (Jan Perkins):

- City of Lancaster, California (ethics training for entire City staff)
- City of Beverly Hills, California (ethics training for management team)
- City of Thousand Oaks (ethics training for management team)
- City of Redondo Beach (ethics training for management team)
- City of West Hollywood (ethics training for management team)
- International City/County Management Association (ethics training at annual conferences)
- California Society of Municipal Finance Officers (annual conference presentations and other workshops on ethics)
- Municipal Management Association of Northern California (annual conference presentations on ethics)
- Municipal Management Association of Southern California (annual conference presentations on ethics)
- California Municipal Treasurers' Association (annual conference presentation on ethics)
- New Mexico City Management Association (annual conference presentations on ethics)

Ethics Training Workshops and Presentations (Martha Perego)

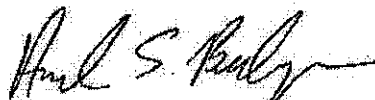
- Fairfax County, Virginia (developed an ethics training video for 12,000 employees)
- Cedar Rapids, Iowa (designed an ethics training program to be delivered by city staff via a train the trainer program; conducted train the trainer workshops)
- Arlington County, Virginia (conducted training for the County's executive leadership)
- City of Shoreline Washington (conducted training for elected officials, board and commission appointees and all staff)
- City of Manhattan, Kansas (provided technical assistance to work with and guide a team of city staff members responsible for developing a code of ethics, promoting the code and conducting regular training for staff and officials)
- City of Oregon City, Oregon (conducted training for elected officials, board and commission appointees and all staff)
- City of Plano, Texas (conducted training for the City's leadership academy)

Project Hours and Cost

Management Partners estimates 52 hours will be required for the ethics workshop. We will complete the plan of work described above for a fixed fee of \$12,900, which includes our expenses and those of ICMA.

We would enjoy working with you on this important undertaking. Please feel free to contact either Jan Perkins at 949-202-8870 or me if you have any questions.

Sincerely,



Andrew Belknap
Regional Vice President

Accepted for the City of Oxnard by:

Name: _____

Title: _____

Date: _____

CUSTOMIZE A PROGRAM

Build a program targeted to your organization's needs with our forums, trainings, and seminars.

Josephson Institute provides numerous approaches for community- or organization-based ethics training along with ongoing consulting. The Institute's ultimate goal is to help organizations develop ethical initiatives that are meaningful, measurable, and sustainable. The Institute will work with you to customize a program that meets your specific needs and addresses your challenges. The cost of customized services varies according to program.

The Importance of Ethics: An Inspirational Introduction

The importance of ethics is brought to life by our passionate speakers. This is the perfect way to build buy-in from the people in your organization who may not see the personal, professional, and societal value in ethics education. This forum can vary from 1-3 hours in length with no audience-size limits.

Crisis Management: Planning for a More Ethical Future

This ½-day working session is designed for a small group of your organization's leaders to develop an ethics program in response to an immediate crisis or long-term problem. If you have experienced a lawsuit, recall of an elected official, or company scandal, this session is essential. A small group of leaders will work with Institute staff to assess the state of the organization, develop strategies for repairing damage in the aftermath of a disruptive crisis, and determine strategies for strengthening the culture. Most of the work is completed through discussion. Pre-program interviews and research are required.

Ethical Decision Making: Risk Management at Its Best

No one can simply read about ethics and become ethical. Ethics involves making decisions every day – in every context. This introductory program raises awareness about the importance of ethical decision making and provides an overview of how a well-defined and practiced value system can improve your

organization. This forum can be used as a jumping-off point for more extensive training. The number of participants is unlimited.

Creating an Ethical Work Culture: A Highly Focused Leadership Training

This one-day training will be custom designed to equip leaders in your organization to address your most pressing issues, learn to manage risk, and create an ethical work culture. Pre-program interviews and research will be conducted. Class size is limited to 25 to allow for participation and exercises.

Train-the-Trainer Seminar

Through highly interactive individual and group exercises, this two-day program provides the skills for a select group in your organization to train others about ethical decision making and climate change. Utilizing universal values, we show you how to incorporate customizable tools to begin your own ethics initiative. To ensure the best learning environment, the two-day program is limited to 40 participants and includes pre- and post-training materials.

Ethical Climate Assessment

This anonymous survey will measure the alignment of actual behaviors, beliefs, and attitudes with stated organizational values. It will reveal areas of vulnerability in your organization and opportunities for improvement and risk management.

For more information on customized services, please contact us at **800.711.2670**.

www.JosephsonInstitute.org
800.711.2670



From: Chris Feely <cfeely@jiethics.org>
To: Martin.Erickson@ci.oxnard.ca.us
Date: 7/2/2012 12:22:01 PM
Subject: Article by Michael Josephson

Hi Martin:

Below is the article that Michael mentioned on our call last week. Thanks for your patience.

Chris

Elements of an Exemplary Corporate Ethics Program - Check-the-Box Compliance Programs Won't Meet New Federal Standards
by Michael Josephson
FEBRUARY 16, 2012

Serious and sincere efforts to understand and create strategies to deal with the extensive and complex legal dimensions of a growing body of Federal and state legislation has consumed so much time and resources that very few companies have devoted adequate attention to the challenge of creating policies, practices and procedures that actually meet government standards.

These are precarious times.

Corporate vulnerability to criminal prosecution, civil liability, regulatory sanctions, debarment from government contracts and reputation damaging, resource-draining morale destroying public accusations has never been higher. And the trend toward greater regulation and more aggressive and hostile media coverage (including an ever expanding, unregulated and unruly army of bloggers) is likely to continue.

Most corporations are still struggling to develop and implement adequate processes and procedures to deal with current interpretations of the Federal Foreign Corrupt Practices Act, Sarbanes-Oxley and Dodd-Frank as well as continually evolving state variations of these laws.

Serious and sincere efforts to understand and create strategies to deal with the extensive and complex legal dimensions of a growing body of federal and state laws has consumed so much time and resources that almost none of them have devoted adequate attention to the challenge of creating policies, practices and procedures that actually meet government standards.

These standards, articulated most extensively in the U.S. Justice Department's Principles of Federal Prosecutions of Business Organizations and the 2010 Federal Sentencing Guidelines Manual are profoundly important to every corporation. The standards and guidelines establish minimum requirements of an effective compliance program. This is crucial for many reasons:

1. The ability of corporate lawyers to convince prosecutors that the company had an effective program in place at the time of a violation is a major factor prosecutors will use in determining whether the government brings charges against a corporation (as opposed to merely prosecuting the offending individuals).
2. Under the Federal Sentencing Guidelines, demonstrating the existence of a program that meets Federal standards has a huge impact on the range of penalties the company will be subjected to if convicted.
3. Establishing a program that meets or exceeds Federal standards is likely to be a condition imposed by Federal Agencies regarding efforts to re-instate a company that had been debarred because of past misconduct.

4. It is very likely that state prosecutors and judges will adopt the standards in their own prosecution and sentencing standards.

5. Civil attorneys filing suits against corporations and journalists writing about scandals will use the Federal guidelines as a "standard of care" to establish liability for the misconduct of corporate employees.

In the end, all the efforts to technically comply with the law will not make any difference unless they actually change the attitudes and conduct that produce or condone misconduct. Often this misconduct is committed by employees who, in the pursuit of corporate goals and a desire to preserve their jobs, deliberately or inadvertently violate the laws and company policy against violating laws. It is these actions that result in criminal prosecution, civil liability and damaging allegations.

The legal value of meeting the Federal standards is very substantial but the burden is on the accused corporation to prove its efforts to detect and prevent intentional and careless violations meet the guidelines established by the Department of Justice.

The simple fact is that traditional "check the box" on line compliance programs, cursory rules-oriented training efforts and expanded codes of conduct provide no meaningful protection from reputation-damaging, resource-draining and morale-withering attacks and accusations. They may even increase exposure.

I have never seen a single credible study that shows that the traditional ethics programs - usually consisting of minimal generic (not functionally specific) training, extensive codes of conduct and on-line reviews of policies and code - has had any discernible impact on increasing detection or reducing misconduct.

A general consensus has emerged among prosecutors, educators and corporate ethics and compliance officers that rules-based compliance programs have little chance of preventing serious misconduct unless they are anchored in core ethical values advocated, modeled and enforced by the corporation. This insight is the basis of work the Josephson Institute of Ethics has done with the Department of Defense to help them move from a rules-based compliance culture to a values-based ethical culture.

The U.S. Justice Department's Principles of Federal Prosecutions of Business Organizations (Title 9-28.800 Corporate Compliance Programs) explicitly instructs prosecutors to: "determine whether a corporation's compliance program is merely a "paper program" or whether it was designed, implemented, reviewed, and revised, as appropriate, in an effective manner. . . . This will enable the prosecutor to make an informed decision as to whether the corporation has adopted and implemented a truly effective compliance program that, when consistent with other federal law enforcement policies, may result in a decision to charge only the corporation's employees and agents or to mitigate charges or sanctions against the corporation."

Other statements in the document reinforce the vital importance of establishing a truly effective program.

"[T]he critical factors in evaluating any program are whether the program is adequately designed for maximum effectiveness in preventing and detecting wrongdoing by employees and whether corporate management is enforcing the program or is tacitly encouraging or pressuring employees to engage in misconduct to achieve business objectives.

"The fundamental questions any prosecutor should ask are: Is the corporation's compliance program well designed? Is the program being applied earnestly and in good faith? Does the corporation's compliance program work?

"In addition, prosecutors should determine whether the corporation has provided for a staff sufficient to audit, document, analyze, and utilize the results of the corporation's compliance efforts.

"Prosecutors also should determine whether the corporation's employees are adequately informed about

the compliance program and are convinced of the corporation's commitment to it.

"Compliance programs should be designed to detect the particular types of misconduct most likely to occur in a particular corporation's line of business."

Basic Elements of an Effective Compliance-Plus Values-Based Ethical Business Culture Program

Building on several decades of experience designing and administering vulnerability assessments and comprehensive strategies to restore or strengthen the ethical culture of Fortune 500 companies and major government agencies, the Josephson Institute of Ethics has created a model for creating an exemplary ethics and compliance culture. This model provides the framework for a new cluster of integrated services providing state-of-the-art tools and strategies to help companies increase public and employee trust and insulate themselves from reputation-damaging and resource-draining litigation and controversy.

We are not suggesting that a company cannot create a sustainable exemplary ethical culture without the assistance of the Institute, but we do contend this is not a process that a company can credibly handle alone. For one thing, the effort must start with an independent comprehensive audit with respect to: 1) the current culture of the company and 2) the content, scope and effectiveness of its efforts to detect or prevent misconduct.

Assessing the Company's Ethical Culture. How does one assess the ethical culture of an organization? The Josephson Institute's model assessment is designed to develop data regarding: 1) workforce and executive knowledge of and commitment to legal, policy and values-based requirements; 2) the level of confidence the workforce has that the leaders of the corporation want, expect and personally model ethical behavior; 3) the frequency and nature of illegal, unethical or questionable conduct; and 4) the opinions of employees re: the operational values at the respondent's work location and the company as a whole.

This information will yield reliable data on which to base a description of the company's current culture.

Assessing the design, implementation and impact of all the components of the company's ethics and compliance strategy. Government standards of minimal effectiveness explicitly require examination of three aspects of a company's values and compliance efforts:

1. Is the program well designed?
2. Is the program being applied earnestly and in good faith?
3. Does it work?

These three questions should provide the structure of the assessment: design (content), implementation and effectiveness (impact). The Josephson Institute's model identifies nine focal points that correlate to government standards of effectiveness:

Seminal Documents (such as a mission and/or vision statement; a statement of philosophy, guiding principles, values or core beliefs; a Credo; or any combination of these) - review documents and websites to determine if they consistently and effectively articulate core ethical values;

Standards of Conduct - review to determine if the standards clear (easy to understand), practical (realistic to apply), comprehensive (they cover all know risk areas), credible (employees believe the company wants and expects them to comply) and relevant (functionally specific);

Written Policies and Employee Manuals to determine if they are clear, easily accessible, consistent and integrated;

Company Communications to determine if they remind internal and external stakeholders that its business decisions and relationships are governed by its values;

Policies and Practices Governing Personnel Decisions - review to determine if the company employs systems and strategies designed to assure that it acquires, retains and develops people with the competency and character to advance the organization's mission and objectives in a manner that honors ethical values; that the people who represent the organization in implementing its human resource policies and practices conscientiously model ethical values, and that implementation assures application of the company's values in all aspects of the HR process (from hiring to termination).

Reporting Channel - determine if the company provides employees and external stakeholders with a safe (trusted) easily accessible channel to report suspected improper actions of any Board member, executive, manager, supervisor, employee or business partner of the organization and whether employees know about, have confidence in and use the reporting channel.

Training Materials- review to determine if they are prominently grounded in the company's values and whether all suggested answers to discussion questions are consistent with the organization's values, standards of conduct and policies;

Training Activities - assess each of the following aspects of the company's training activities regarding ethics and compliance: a) Content design, b) Delivery method, c) Duration, d) Selection, training and evaluation of instructors, e) Consistency of implementation, f) Level of participation, g) Effectiveness (impact on attitudes and behavior);

Risk Assessments - determine if the company has an effective method of assessing risks including periodic all-employee surveys to determine the level of knowledge and compliance with laws, policies and organizational values and identify risks and vulnerabilities of illegal or unethical conduct. This assessment of each of these components of the program should yield a comprehensive set of findings and recommendations presented to leadership for action.

These recommendations invariably require the company to fortify its policies, practices and procedures so that they at least satisfy the government standards. Often this requires revision of current materials and the creation of new materials and training strategies.
