

Written materials relating to an item on this agenda that are distributed to the legislative bodies within 72 hours before the item is to be considered at its regularly scheduled meeting will be made available for public inspection at the City Clerk's Office, 300 West Third Street 4th Floor during customary business hours. Agenda reports are also on the City of Oxnard web site at www.oxnard.org.



AMENDED AGENDA
Section G, Item 2 Added

AGENDA
OXNARD CITY COUNCIL
OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY
OXNARD FINANCING AUTHORITY
OXNARD HOUSING AUTHORITY
Council Chambers, 305 West Third Street
September 7, 2021
Closed Session - 5:00 PM
Regular Meeting - 6:00 PM

This meeting is held pursuant to the State Emergency Services Act, the Governor's Emergency Declaration, and Governor's Executive Order N-29-20 as extended by N-21-08 to allow members of the City Council or staff to participate via teleconference.

As a precautionary measure to help slow the spread of COVID-19, the City Council facilities are temporarily closed to the public. The public is encouraged to view the meeting from home on the City's website at Oxnard.org/city-meetings, Spectrum channel 10, Frontier channel 35, or YouTube at Youtube.com/oxnardnews. Video recordings are typically available online immediately following the meeting. *Please see the link for the Measure M pre-recorded presentation video for each agenda item below.

The public may provide comments to the City Council via email at cityclerk@oxnard.org no later than 2:00 p.m. on the day of the meeting. Please identify the meeting date and agenda item in the Subject line.

A telephone option for public comments is also available at this time. Requests to speak must be submitted no later than 2:00 p.m. on the day of the meeting. Use the form on the city's website to submit your request: Oxnard.org/city-meetings, or call the City Clerk's Office at (805) 385-7803, or email your request to cityclerk@oxnard.org.

*The City has filed pre-election and post-election lawsuits regarding the validity of Measure M. The judge has not yet ruled on the legal sufficiency of Measure M.

A. ROLL CALL, POSTING OF AGENDA

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council and the Oxnard Housing Authority.

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

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

C. CLOSED SESSION (5:00 PM)

1. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION (Government Code Section 54956.9(d)(1))

Name of case: City of Oxnard v. Brownstein, Hyatt, Farber, Schreck, LLP
Los Angeles County Superior Court, Case No. 20STCV19575
Legislative Body: City Council

2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS – (Government Code section 54956.8)

Properties: 715 South A Street, Oxnard, CA (APN 2020144240); 731 South A Street, Oxnard (APN 2020144280); 720 South B Street, Oxnard (APN 2020144220)
Agency Negotiators: Emilio Ramirez and Al Barkley

In compliance with the Americans with Disabilities Act, if you require special assistance to participate in a meeting, please contact the City Clerk's Office at 385-7803. Notice at least 72 hours prior to the meeting will enable the City to reasonably arrange for your accessibility to the meeting.

Agenda Item time estimates: (Presentation / Council Discussion / Public Comment)

Negotiating Parties: City of Oxnard and Heritage Square
Under Negotiation: Price and terms of payment
Legislative Body: City Council

D. OPENING CEREMONIES (6:00 PM)

Pledge of allegiance to the flag of the United States.

E. CEREMONIAL ITEMS

1. SUBJECT: Presentation of a Proclamation in Remembrance of the 20th Anniversary of 9/11.
2. SUBJECT: Presentation of a Proclamation Designating the Week of September 17 - 23, 2021 as "Constitution Week."
3. SUBJECT: Presentation of a Proclamation Designating September 18, 2021 as "Coastal Cleanup Day in the City of Oxnard."

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

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. Speaker requests shall be submitted as set forth on the first page of this agenda. Speakers are limited to three minutes. If the allotted 30 minute time period expires before all speakers have had the opportunity to speak, the remaining speakers will be given an opportunity to speak prior to adjournment of the meeting. The legislative body cannot enter into a detailed discussion or take 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.

G. 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. City Manager Department

SUBJECT: COVID-19 Update from Director of Emergency Services. (10/5/5)

RECOMMENDATION: That the City Council receive and file an update from the Director of Emergency Services on the COVID-19 Local Emergency.

Legislative Body: City Council

Contact: Alexander Nguyen, (805) 385-7430

2. City Manager Department

SUBJECT: Infrastructure Use Fee Refund and Utility Rate Reduction.

RECOMMENDATION: That the City Council receive a report regarding the Infrastructure Use Fee (IUF) credit and utility rate reduction, and approve and authorize the following:

1. The refund of IUF funds totaling \$7,112,897 paid by Oxnard utility customers during the period of January 1, 2020 through August 31, 2021, with Water customers receiving a credit

totaling \$3,208,214, Wastewater customers receiving a credit totaling \$2,015,000, and Environmental Resources customers receiving a credit totaling \$1,889,683;

2. The reduction of utility rates by a combined estimated total of \$3,556,448 (a 3.2 percent reduction) for the period September 1, 2021 through June 30, 2022 to reflect the elimination of the IUF for this time period. Water rates will be reduced by an estimated \$1,604,106, Wastewater rates by an estimated \$1,007,500, and Environmental Resources rates by an estimated \$944,842;

3. In Fiscal Year 2022-23 and beyond, the City's full and continued compliance with the Second Amended Final Judgment filed July 13, 2021 regarding utility rates and a new IUF consistent with this judgment. (Case No.: 56-2017-00494475-CU-WM-VTA); and

4. The Chief Financial Officer or designee to approve administrative budget adjustment for the impacted revenue reductions in the Water, Wastewater and Environmental Resources funds for Fiscal Year 2021-22.

Legislative Body: City Council

Contact: Alexander Nguyen, (805) 385-7430

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

At this time, a member of the legislative body may make a brief announcement, or make a brief report on his or her activities. Further, members of the legislative body may request to schedule consideration of whether to place an item on a future agenda. The legislative body cannot enter into detailed discussion or take action on any item presented during this report. The member's report shall not exceed three minutes, unless additional time is granted by the presiding officer.

1. City Manager Department

SUBJECT: League of California Cities Annual Conference Voting Delegate 2021.

RECOMMENDATION: That City Council designate Councilwoman Gabriela Basua as the voting delegate at the League of California Cities Annual Conference and determine the City's position on the League's resolutions regarding online sales tax equity and securing railroad property maintenance.

Legislative Body: City Council

Contact: Alexander Nguyen, (805) 385-7430

I. 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.

J. 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.

K. INFORMATION/CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the City Council approve the minutes of the April 6, 2021; April 20, 2021, April 29, 2021, and May 4, 2021 regular meetings as presented.

Legislative Body: City Council

Contact: Rose Chaparro, (805) 385-7805

2. Public Works Department

SUBJECT: Approval of Changes to Chapter 19: Public Works, Article I: Sewerage System; Wastewater Disposal of the Oxnard City Code.

RECOMMENDATION: That the City Council adopt Ordinance No. 2997 amending various sections of Chapter 19 (Public Works, Sewerage System; Wastewater Disposal) of the Oxnard City Code:

- 19-3 Abbreviations;
 - 19-4 Definitions;
 - 19-25 Prohibited; discharge standards;
 - 19-26 Local limits;
 - 19-36 Additional pretreatment measures;
 - 19-43 Discharges from food establishments, vehicle maintenance facilities, and commercial and industrial laundries; and
 - 19-51 Industrial wastewater discharge permit requirements
- (The Public Works and Transportation Committee approved 3-0.)

Legislative Body: City Council

Contact: Brian Yanez, (805) 200-5412

3. Housing Department

SUBJECT: Trade Services Agreement with Alltech Industries, Inc. for Security Services.

RECOMMENDATION: That the Board of Commissioners of the Housing Authority of the City of Oxnard approve and authorize the Executive Director to execute a firm-fixed price trade services agreement in the amount of \$106,055.04 with Alltech Industries, Inc. (Agreement No. 9292-21-HO) for the provision of security services at public housing sites.

(This item did not originate in Committee.)

Legislative Body: Housing Authority Board of Commissioners

Contact: Emilio Ramirez, (805) 385-8094

L. PUBLIC HEARINGS

1. Police Department

SUBJECT: Edward Byrne Memorial Justice Assistance Grant Program FY2021 Local JAG

RECOMMENDATION: That City Council conduct a public hearing and adopt a resolution:

1. Authorizing the City Manager a prior execution and submission of an application for U.S. Department of Justice (DOJ) grant funds in the amount of \$107,007 from the Edward Byrne Memorial Justice Assistance Grant (JAG) Formula Program's FY 2021 Local Solicitation with no matching fund requirement;
2. Authorizing the City Manager to execute a Memorandum of Understanding with the County of Ventura and the City of San Buenaventura designating the City of Oxnard as the lead agency and fiscal agent for the JAG;
3. Authorizing the City Manager or designee to execute grant agreements and appropriate funds upon notification of grant award;
4. Authorizing the Chief Financial Officer or designee to submit financial reports and grant claims and approve administrative budget appropriation for the use of JAG funds upon award; and
5. Authorizing the Chief of Police or designee to submit all program-related progress or status reports.

(This item did not originate in Committee.)

Please click the following link to view the required Measure M pre-recorded presentation video:

<https://youtu.be/kTeaHsVnNXo>

Legislative Body: City Council

Contact: Jason Benites, (805) 385-7624

M. REPORTS

1. City Treasurer

SUBJECT: Quarterly Investment Report for the Period Ending June 30, 2021

RECOMMENDATION: That the City Council receive and file the Quarterly Investment Report for the period ending June 20, 2021.

(This item did not originate in Committee.)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/d8unqRYW3fE>

Legislative Body: City Council

Contact: Phillip Molina, (805) 385-7808

2. Public Works Department

SUBJECT: Approval of Purchase Order #8164 with VAC-CON, Inc., for a New Sewer Cleaning Vehicle. (0/5/5)

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute Purchase Order #8164 with VAC-CON, Inc. for the purchase of a new VAC-CON sewer cleaning combination truck, model VPD4211HE/1300, mounted on a Freightliner 114SD truck chassis in the amount of \$558,637.71.

(Public Works and Transportation Committee approved 3-0)

Please click the following link to view the required Measure M pre-recorded presentation video:

https://youtu.be/-5V86_mS2wQ

Legislative Body: City Council

Contact: Brian Yanez, (805) 200-5412

3. Public Works Department

SUBJECT: Proposed Formation of the City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay) and Approval of Deposit and Reimbursement Agreement and Special Tax Disbursement Agreement. (0/5/5)

RECOMMENDATION: That the City Council adopt the following resolutions:

1. A Resolution Approving a Deposit and Reimbursement Agreement A-8373 and Special Tax Disbursement Agreement A-8374 Relating to the Proposed City of Oxnard Community Facilities District No. 9 (Northshore At Mandalay Bay);
 2. A Resolution of Intention to Establish City of Oxnard Community Facilities District No. 9 (Northshore At Mandalay Bay); and
 3. A Resolution of Intention to Incur Bonded Indebtedness in the Amount Not to Exceed \$22,000,000 within the Proposed City of Oxnard Community Facilities District No. 9 (Northshore At Mandalay Bay).
- (Finance and Governance Committee approved 3-0.)

Please click the following link to view the required Measure M pre-recorded presentation video:

https://youtu.be/9Nde_zwZfTA

Legislative Body: City Council

Contact: Brian Yanez, (805) 200-5412

4. Community Development Department

SUBJECT: Peninsula Road Street Vacation and Acceptance of a Public Access Easement; Planning and Zoning (PZ) Permit No. 21-660-01 (Street Vacation)- A Resolution of Intention to vacate the southernmost 272 feet of Peninsula Road fronting 3605 Peninsula Road and acceptance of a public access easement to allow for the continuation of vehicular circulation. (0/10/10)

RECOMMENDATION: That the City Council:

1. Find the project Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3);
2. Adopt a Resolution declaring its intention to vacate its right, title and interest in the southernmost 272 feet of the right-of-way fronting 3605 Peninsula Road and accept a public access easement to allow for the continuation of vehicular circulation; and
3. Direct the City Clerk to schedule a public hearing in accordance with the vacation procedures contained in California Streets and Highway Code Section 8300 et seq to be held on Tuesday, October 5, 2021 at 6:00 p.m. at the at the City Council Chambers of the City of Oxnard located at 305 West Third Street in Oxnard, California.

(This item did not originate in Committee.)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/Dd6DOzxacEM>

Legislative Body: City Council

Contact: Vyto Adomaitis, (805) 385-7882

5. Community Development Department

SUBJECT: Encroachment Protection Agreement Amendment; Sixth Amendment to the Encroachment Protection Agreement Between the Department of the Navy, the Nature Conservancy, the Trust for Public Land, the Ventura Land Trust and the City of Oxnard. (0/5/5)

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a Sixth Amendment to the Encroachment Protection Agreement between the United States Department of the Navy, The Nature Conservancy, the Trust for Public Land, the Ventura Land Trust and the City of Oxnard (A-7734), for the purpose of acquiring long-term interests in lands, for a period of five (5) years beginning on September 30, 2021 and ending on September 29, 2026.

(This item did not originate in Committee.)

Please click the following link to view the required Measure M pre-recorded presentation video:

<https://youtu.be/1sU7iBSXXp8>

Legislative Body: City Council

Contact: Vyto Adomaitis, (805) 385-7882

6. Community Development Department

SUBJECT: First Amendment to Agreement Number 9041-20-CD for Consulting Services. (0/5/5)

RECOMMENDATION: That City Council approve and authorize the Mayor to execute a contract amendment to increase the contract amount by \$375,000 for a total contract amount of \$525,000 with Bureau Veritas North America, Inc., (Agreement Number 9041-20-CD) for on-call plan check and inspection services, ending on December 31, 2022.

(This item did not originate in Committee.)

Please click the following link to view the required Measure M pre-recorded presentation

video: <https://youtu.be/xaywa-NBchk>

Legislative Body: City Council

Contact: Vyto Adomaitis, (805) 385-7882

7. Public Works Department

SUBJECT: Water Infrastructure Finance and Innovation Act (WIFIA) Application Update. (0/5/5)

RECOMMENDATION: That the City Council adopt a resolution, and repeal Resolution 15,429, authorizing the City Manager to submit an application for an amount not to exceed \$49,792,000 from the Water Infrastructure Finance and Innovation Act Loan program administered by the U.S. Environmental Protection Agency; designating the amount of project expenditures to be reimbursed by proceeds from the Water Infrastructure Finance and Innovation Act loan; and dedicating and pledging revenues and funds for the repayment of the Water Infrastructure Finance and Innovation Act loan from the U.S. Environmental Protection Agency.

Please click the following link to view the required Measure M pre-recorded presentation video:

<https://youtu.be/F0IV94BEQ48>

Legislative Body: City Council

Contact: Brian Yanez, (805) 200-5412

N. ADJOURNMENT



CITY COUNCIL AGENDA REPORT
REPORT OF CITY MANAGER/EXECUTIVE
DIRECTOR/SECRETARY
AGENDA ITEM NO. G.2

DATE: September 7, 2021

TO: City Council

FROM: Alexander Nguyen, City Manager, (805) 385-7430, alexander.nguyen@oxnard.org

SUBJECT: Infrastructure Use Fee Refund and Utility Rate Reduction.

RECOMMENDATION

That the City Council receive a report regarding the Infrastructure Use Fee (IUF) credit and utility rate reduction, and approve and authorize the following:

1. The refund of IUF funds totaling \$7,112,897 paid by Oxnard utility customers during the period of January 1, 2020 through August 31, 2021, with Water customers receiving a credit totaling \$3,208,214, Wastewater customers receiving a credit totaling \$2,015,000, and Environmental Resources customers receiving a credit totaling \$1,889,683;
2. The reduction of utility rates by a combined estimated total of \$3,556,448 (a 3.2 percent reduction) for the period September 1, 2021 through June 30, 2022 to reflect the elimination of the IUF for this time period. Water rates will be reduced by an estimated \$1,604,106, Wastewater rates by an estimated \$1,007,500, and Environmental Resources rates by an estimated \$944,842;
3. In Fiscal Year 2022-23 and beyond, the City's full and continued compliance with the Second Amended Final Judgment filed July 13, 2021 regarding utility rates and a new IUF consistent with this judgment. (Case No.: 56-2017-00494475-CU-WM-VTA); and
4. The Chief Financial Officer or designee to approve administrative budget adjustment for the impacted revenue reductions in the Water, Wastewater and Environmental Resources funds for Fiscal Year 2021-22.

BACKGROUND

The City currently has between approximately 40,000 and 47,000 customer accounts, which varies based upon the specific utility. The average customer, across all classes, was billed \$274 per month, or \$5,480 over the 20-month period for all three utilities combined.

As part of the rate studies previously conducted to develop rates for the three utilities (Water, Wastewater and Environmental Resources), an IUF was incorporated into the rate models. Including the IUF resulted in an increase in total expenditures for each utility, thereby increasing the rates to a level that was higher than would have otherwise been calculated.

Consistent with the Court's order and pursuant to the recommended actions, the City will remove the IUF from the City's rate structure by reducing utility rates by a combined 3.2%, or an estimated \$3,556,448 million effective September 1, 2021 through June 30, 2022. These reductions are estimated to reduce the rates for Water by \$1,604,106, Wastewater by \$1,007,500, and Environmental Resources by \$944,842. The reduced rates will remain in effect until the City completes and adopts new IUF study(ies) and/or new rate study(ies). The total annual impact of the rate reductions is an estimated \$4,267,738. The actual reduction for each customer will depend on the usage of water and wastewater services, and the

type of Environmental Resources services that each customer receives from the City.

In addition, pursuant to the recommended action, all existing residential and commercial utility customers will receive a one-time credit in September that will appear on their October 2021 utility bill. This means that all existing customers will be credited for 20 months of IUF payments (January 2020 through August 2021) on their October 2021 utility bill. The City will credit a total of \$7,112,897 to its residential and commercial ratepayers of the three utilities. (Water - \$3,208,214, Wastewater - \$2,015,000, Environmental Resources - \$1,889,683). **The specific amount of the one-time credit will be calculated based on each customer's actual Water, Wastewater and Environmental Resources charges from January 2020 to August 2021.**

For former utility customers, one of three options will apply:

1. If a customer moved out and terminated their utility account between January 2020 and August 2021 and left their account balance at \$0 (i.e., paid the utility accounts in full), then the amount of one-time credit will be posted to their closed utility account, the account will show a credit balance, and a refund check will be mailed to the former customer at the mailing address on file.
2. If a customer moved out and terminated their utility account between January 2020 and August 2021 and left an outstanding balance, then the amount of the one-time credit will be posted to their closed utility account and the credit will be applied against the outstanding balance. If the credit amount is larger than the balance owed, the account will end up with a refund. A refund check will be mailed to the former customer at the mailing address on file.
3. If a customer moves out and terminated their utility account on or after September 1, 2021, the customer would have received the one-time credit and was charged the reduced rate prior to closing the account. No further refund would be due.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

This action involves authorizing the one-time credit of \$7,112,897, and reducing ongoing utilities rates by a combined 3.2% for FY 2021-22, resulting in a revenue decrease in FY 2021-22.

Each of the three (3) utilities has sufficient funding in their respective fund balances to fund both the one-time credit and to absorb the impact to revenues of the current rate reduction in FY 2021-22.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Kenneth Rozell, Chief Assistant City Attorney, Juanita Guzman, Administrative Services Manager

ATTACHMENTS

None



CITY COUNCIL AGENDA REPORT
CITY COUNCIL/HOUSING AUTHORITY/SUCCESSOR
AGENCY/FINANCING AUTHORITY
BUSINESS/COMMITTEE REPORTS
AGENDA ITEM NO. H.1

DATE: September 7, 2021

TO: City Council

FROM: Alexander Nguyen, City Manager, (805) 385-7430, alexander.nguyen@oxnard.org

SUBJECT: League of California Cities Annual Conference Voting Delegate 2021.

RECOMMENDATION

That City Council designate Councilwoman Gabriela Basua as the voting delegate at the League of California Cities Annual Conference and determine the City's position on the League's resolutions regarding online sales tax equity and securing railroad property maintenance.

BACKGROUND

This year's League of California Cities Annual Conference is scheduled for Wednesday, September 22 through Friday, September 24, 2021, at the SAFE Credit Union Convention Center in Sacramento. The League's Annual Business Meeting will be held at 12:00 noon on Friday, September 24. At this meeting, the League membership considers and takes action on resolutions that establish League policy. At the request of the League, and in order to expedite the conduct of business at this policy-making meeting, a City Councilmember from each City is designated as the voting delegate. Only those individuals who are voting delegates (or alternates) may sign petitions to initiate a resolution pertaining to League policy.

This year, Councilwoman Basua will be attending the conference as a voting delegate. League bylaws provide that each city is entitled to one vote in matters affecting municipal or League policy.

The League will consider two resolutions at this year's annual conference.

1. Calling on the League of California Cities to request the Legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have fulfillment center within their jurisdiction. (Additional background information on the resolution is attached.)
2. Calling upon the Governor and the Legislature to provide necessary funding for the California Public Utilities Commission to fulfill its obligation to inspect railroad lines to ensure that operators are removing illegal dumping, graffiti and homeless encampments that degrade the quality of life and results in increased public safety concerns for communities and neighborhoods that abutt the railroad right-of-way. (Additional background information on the resolution is attached.)

The League requests that the City of Oxnard City Council discuss the resolutions ahead of time and determine the City's position so that the Council's designated voting delegate Councilwoman Basua can represent the City's position on the resolutions at the Annual Business Meeting.

STRATEGIC PRIORITIES

This agenda item supports Economic Development strategy. The purpose of Economic Development strategy is to focus on the retention and expansion of Oxnard businesses by increasing the skills and employability of our local workforce, invite new business investments, and target site-based redevelopment opportunities.

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

This agenda item supports Public Safety strategy. The purpose of the Public Safety strategy is to restore and modernize the delivery of public safety services to provide for the safety of our neighborhoods and health of our community.

FINANCIAL IMPACT

This action alone does not require funding.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Luly Lopez, Executive Assistant I

ATTACHMENTS

1. Annual Conference Voting Procedures
2. 2021 Annual Conference Voting Delegate Form
3. 2021 Annual Conference Resolutions

Council Action Advised by August 31, 2021

June 16, 2021

TO: City Managers and City Clerks

**RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES
League of California Cities Annual Conference & Expo – September 22-24, 2021**

Cal Cities 2021 Annual Conference & Expo is scheduled for September 22-24, 2021 in Sacramento. An important part of the Annual Conference is the Annual Business Meeting (during General Assembly) on Friday, September 24. At this meeting, Cal Cities membership considers and acts on resolutions that establish Cal Cities policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote if the designated voting delegate is unable to serve in that capacity.

Please complete the attached Voting Delegate form and return it to Cal Cities office no later than Wednesday, September 15. This will allow us time to establish voting delegate/alternate records prior to the conference.

Please note: Our number one priority will continue to be the health and safety of participants. We are working closely with the Sacramento Convention Center to ensure that important protocols and cleaning procedures continue, and if necessary, are strengthened. Attendees can anticipate updates as the conference approaches.

- **Action by Council Required.** Consistent with Cal Cities bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates must be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. Conference registration will open mid-June at www.cacities.org. In order to cast a vote, at least one voter must be present at the Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the Voting Delegate Desk. This will enable them to receive the special sticker on their name badges that will admit them into the voting area during the Business Meeting.
- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but

only between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the Business Meeting, they may *not* transfer the voting card to another city official.

- **Seating Protocol during General Assembly.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission to this area will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate. If the voting delegate and alternates wish to sit together, they must sign in at the Voting Delegate Desk and obtain the special sticker on their badges.

The Voting Delegate Desk, located in the conference registration area of the Sacramento Convention Center, will be open at the following times: Wednesday, September 22, 8:00 a.m. – 6:00 p.m.; Thursday, September 23, 7:00 a.m. – 4:00 p.m.; and Friday, September 24, 7:30 a.m. – 11:30 a.m. The Voting Delegate Desk will also be open at the Business Meeting on Friday, but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to the League's office by Wednesday, September 15. If you have questions, please call Darla Yacub at (916) 658-8254.

Attachments:

- Annual Conference Voting Procedures
- Voting Delegate/Alternate Form



Annual Conference Voting Procedures

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to Cal Cities policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the Cal Cities Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in their possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



CITY: OXNARD

2021 ANNUAL CONFERENCE
VOTING DELEGATE/ALTERNATE FORM

Please complete this form and return it to Cal Cities office by Wednesday, September 15, 2021. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

To vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

1. VOTING DELEGATE

Name: Gabriela Basua

Title: Councilwoman

2. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

3. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES OR

ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).

Name: _____

Email: _____

Mayor or City Clerk _____
(circle one) (signature)

Date _____ Phone _____

Please complete and return by Wednesday, September 15, 2021 to:

Darla Yacub, Assistant to the Administrative Services Director
E-mail: dyacub@cacities.org
Phone: (916) 658-8254



*Annual Conference
Resolutions Packet*

2021 Annual Conference Resolutions



September 22 - 24, 2021

INFORMATION AND PROCEDURES

RESOLUTIONS CONTAINED IN THIS PACKET: The League of California Cities (Cal Cities) bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, two resolutions have been introduced for consideration at the Annual Conference and referred to Cal Cities policy committees.

POLICY COMMITTEES: Three policy committees will meet virtually one week prior to the Annual Conference to consider and take action on the resolutions. The sponsors of the resolutions have been notified of the time and location of the meetings.

GENERAL RESOLUTIONS COMMITTEE: This committee will meet at 1:00 p.m. on Thursday, September 23, to consider the reports of the policy committees regarding the resolutions. This committee includes one representative from each of Cal Cities regional divisions, functional departments, and standing policy committees, as well as other individuals appointed by the Cal Cities president. Please check in at the registration desk for room location.

CLOSING LUNCHEON AND GENERAL ASSEMBLY: This meeting will be held at 12:30 p.m. on Friday, September 24, at the SAFE Credit Union Convention Center.

PETITIONED RESOLUTIONS: For those issues that develop after the normal 60-day deadline, a petition resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (48 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Closing Luncheon & General Assembly. This year, that deadline is 12:30 p.m., Thursday, September 23. Resolutions can be viewed on Cal Cities Web site: www.cacities.org/resolutions.

Any questions concerning the resolutions procedures may be directed to Meg Desmond mdesmond@calcities.org.

GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS

Policy development is a vital and ongoing process within Cal Cities. The principal means for deciding policy on the important issues facing cities is through Cal Cities seven standing policy committees and the board of directors. The process allows for timely consideration of issues in a changing environment and assures city officials the opportunity to both initiate and influence policy decisions.

Annual conference resolutions constitute an additional way to develop Cal Cities policy. Resolutions should adhere to the following criteria.

Guidelines for Annual Conference Resolutions

1. Only issues that have a direct bearing on municipal affairs should be considered or adopted at the Annual Conference.
2. The issue is not of a purely local or regional concern.
3. The recommended policy should not simply restate existing Cal Cities policy.
4. The resolution should be directed at achieving one of the following objectives:
 - (a) Focus public or media attention on an issue of major importance to cities.
 - (b) Establish a new direction for Cal Cities policy by establishing general principals around which more detailed policies may be developed by policy committees and the board of directors.
 - (c) Consider important issues not adequately addressed by the policy committees and board of directors.

KEY TO ACTIONS TAKEN ON RESOLUTIONS

Resolutions have been grouped by policy committees to which they have been assigned.

Number Key Word Index Reviewing Body Action

		1	2	3
--	--	---	---	---

1 - Policy Committee Recommendation
to General Resolutions Committee
2 - General Resolutions Committee
3 - General Assembly

HOUSING, COMMUNITY & ECONOMIC DEVELOPMENT POLICY COMMITTEE

		1	2	3
2	Securing Railroad Property Maintenance			

REVENUE & TAXATION POLICY COMMITTEE

		1	2	3
1	Online Sales Tax Equity			

TRANSPORTATION, COMMUNICATION & PUBLIC WORKS POLICY COMMITTEE

		1	2	3
2	Securing Railroad Property Maintenance			

KEY TO ACTIONS TAKEN ON RESOLUTIONS *(Continued)*

Resolutions have been grouped by policy committees to which they have been assigned.

KEY TO REVIEWING BODIES

1. Policy Committee
2. General Resolutions Committee
3. General Assembly

KEY TO ACTIONS TAKEN

- | | |
|-----|---|
| A | Approve |
| D | Disapprove |
| N | No Action |
| R | Refer to appropriate policy committee for study |
| a | Amend+ |
| Aa | Approve as amended+ |
| Aaa | Approve with additional amendment(s)+ |
| Ra | Refer as amended to appropriate policy committee for study+ |
| Raa | Additional amendments and refer+ |
| Da | Amend (for clarity or brevity) and Disapprove+ |
| Na | Amend (for clarity or brevity) and take No Action+ |
| W | Withdrawn by Sponsor |

ACTION FOOTNOTES

* Subject matter covered in another resolution

** Existing League policy

*** Local authority presently exists

Procedural Note:

The League of California Cities resolution process at the Annual Conference is guided by the Cal Cities Bylaws.

1. RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES ("CAL CITIES") CALLING ON THE STATE LEGISLATURE TO PASS LEGISLATION THAT PROVIDES FOR A FAIR AND EQUITABLE DISTRIBUTION OF THE BRADLEY BURNS 1% LOCAL SALES TAX FROM IN-STATE ONLINE PURCHASES, BASED ON DATA WHERE PRODUCTS ARE SHIPPED TO, AND THAT RIGHTFULLY TAKES INTO CONSIDERATION THE IMPACTS THAT FULFILLMENT CENTERS HAVE ON HOST CITIES BUT ALSO PROVIDES A FAIR SHARE TO CALIFORNIA CITIES THAT DO NOT AND/OR CANNOT HAVE A FULFILLMENT CENTER WITHIN THEIR JURISDICTION

Source: City of Rancho Cucamonga

Concurrence of five or more cities/city officials:

Cities: Town of Apple Valley; City of El Cerrito; City of La Canada Flintridge; City of La Verne; City of Lakewood; City of Moorpark; City of Placentia; City of Sacramento

Referred to: Revenue and Taxation Policy Committee

WHEREAS, the 2018 U.S. Supreme Court decision in *Wayfair v. South Dakota* clarified that states could charge and collect tax on purchases even if the seller does not have a physical presence in the state; and

WHEREAS, California cities and counties collect 1% in Bradley Burns sales and use tax from the purchase of tangible personal property and rely on this revenue to provide critical public services such as police and fire protection; and

WHEREAS, in terms of "siting" the place of sale and determining which jurisdiction receives the 1% Bradley Burns local taxes for online sales, the California Department of Tax and Fee Administration (CDTFA) determines "out-of-state" online retailers as those with no presence in California that ship property from outside the state and are therefore subject to use tax, not sales tax, which is collected in a countywide pool of the jurisdiction where the property is shipped from; and

WHEREAS, for online retailers that have a presence in California and have a stock of goods in the state from which it fulfills orders, CDTFA considers the place of sale ("situs") as the location from which the goods were shipped such as a fulfillment center; and

WHEREAS, in early 2021, one of the state's largest online retailers shifted its ownership structure so that it is now considered both an in-state and out-of-state retailer, resulting in the sales tax this retailer generates from in-state sales now being entirely allocated to the specific city where the warehouse fulfillment center is located as opposed to going into a countywide pool that is shared with all jurisdictions in that County, as was done previously; and

WHEREAS, this all-or-nothing change for the allocation of in-state sales tax has created winners and losers amongst cities as the online sales tax revenue from the retailer that was once spread amongst all cities in countywide pools is now concentrated in select cities that host a fulfillment center; and

WHEREAS, this has created a tremendous inequity amongst cities, in particular for cities that are built out, do not have space for siting a 1 million square foot fulfillment center, are not located along a major travel corridor, or otherwise not ideally suited to host a fulfillment center; and

WHEREAS, this inequity affects cities statewide, but in particular those with specific circumstances such as no/low property tax cities that are extremely reliant on sales tax revenue as well as cities struggling to meet their RHNA obligations that are being compelled by the State to rezone precious commercial parcels to residential; and

WHEREAS, the inequity produced by allocating in-state online sales tax revenue exclusively to cities with fulfillment centers is exasperated even more by, in addition to already reducing the amount of revenue going into the countywide pools, the cities with fulfillment centers are also receiving a larger share of the dwindling countywide pool as it is allocated based on cities' proportional share of sales tax collected; and

WHEREAS, while it is important to acknowledge that those cities that have fulfillment centers experience impacts from these activities and deserve equitable supplementary compensation, it should also be recognized that the neighboring cities whose residents are ordering product from that center now receive no revenue from the center's sales activity despite also experiencing the impacts created by the center, such as increased traffic and air pollution; and

WHEREAS, the COVID-19 pandemic greatly accelerated the public's shift towards online purchases, a trend that is unlikely to be reversed to pre-pandemic levels; and

NOW, THEREFORE, BE IT RESOLVED that Cal Cities calls on the State Legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction.

Background Information to Resolution

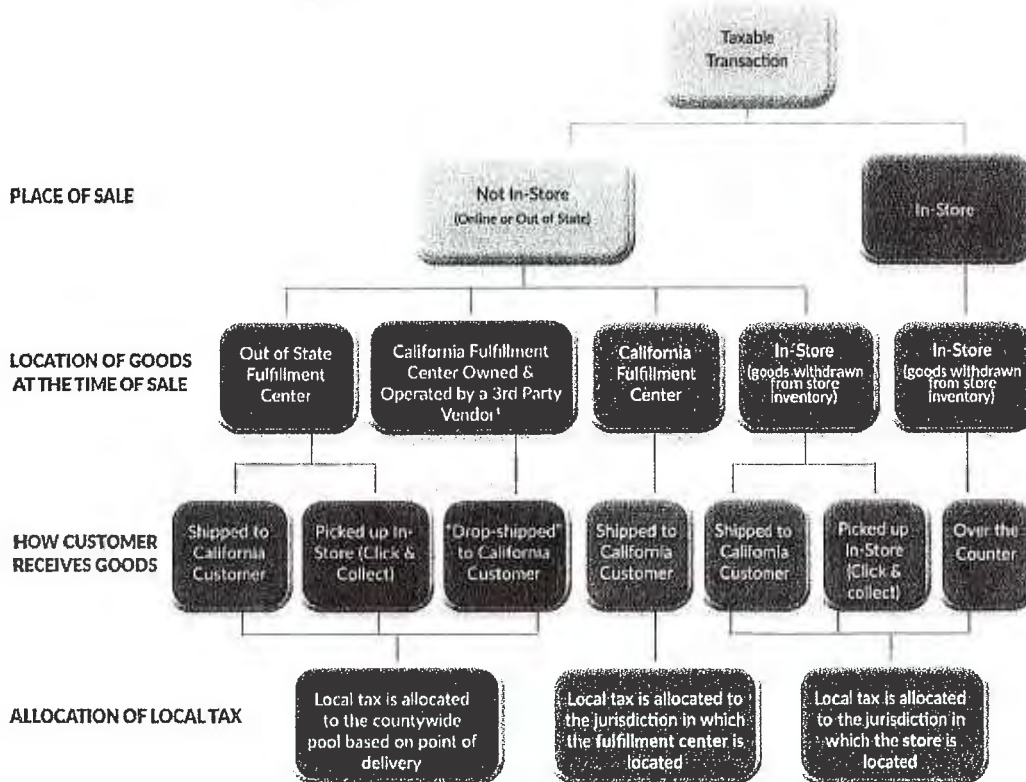
Source: City of Rancho Cucamonga

Background:

Sales tax is a major revenue source for most California cities. Commonly known as the local 1% Bradley-Burns tax, since the 1950's, cities have traditionally received 1 cent on every dollar of a sale made at the store, restaurant, car dealer, or other location within a jurisdiction's boundaries.

Over the years, however, this simple tax structure has evolved into a much more complex set of laws and allocation rules. Many of these rules relate to whether or not a given transaction is subject to sales tax, or to use tax – both have the same 1% value, but each applies in separate circumstances. The California Department of Tax and Fee Administration (CDTFA) is responsible for administering this system and issuing rules regarding how it is applied in our state.

The following chart created by HdL Companies, the leading provider of California sales tax consulting, illustrates the complex structure of how sales and use tax allocation is done in California, depending on where the transaction starts, where the goods are located, and how the customer receives the goods:



¹ In this scenario the retailer does not own a stock of goods in California and sales orders are negotiated/processed out of state. An out of state company is not required to hold a seller's permit for an in-state third party warehouse if they do not own a stock of goods at the time of sale.

With the exponential growth of online sales and the corresponding lack of growth, and even decline, of shopping at brick and mortar locations, cities are seeing much of their sales tax

growth coming from the countywide sales tax pools, since much of the sales tax is now funneled to the pools.

Recently, one of the world's largest online retailers changed the legal ownership of its fulfillment centers. Instead of having its fulfillment centers owned and operated by a third-party vendor, they are now directly owned by the company. This subtle change has major impacts to how the 1% local tax is allocated. Following the chart above, previously much of the sales tax would have followed the green boxes on the chart and been allocated to the countywide pool based on point of delivery. Now, much of the tax is following the blue path through the chart and is allocated to the jurisdiction in which the fulfillment center is located. (It should be noted that some of the tax is still flowing to the pools, in those situations where the fulfillment center is shipping goods for another seller that is out of state.)

This change has created a situation where most cities in California – more than 90%, in fact – are experiencing a sales tax revenue loss that began in the fourth quarter of calendar year 2021. Many cities may not be aware of this impact, as the fluctuations in sales tax following the pandemic shutdowns have masked the issue. But this change will have long-term impacts on revenues for all California cities as all these revenues benefiting all cities have shifted to just a handful of cities and counties that are home to this retailer's fulfillment centers.

This has brought to light again the need to address the issues in how sales and use taxes are distributed in the 21st century. Many, if not most cities will never have the opportunity have a warehouse fulfillment center due to lack of space or not being situated along a major travel corridor. These policies especially favor retailers who may leverage current policy in order to negotiate favorable sales tax sharing agreements, providing more money back to the retailer at the expense of funding critical public services.

With that stated, it is important to note the many impacts to the jurisdictions home to the fulfillment centers. These centers do support the ecommerce most of us as individuals have come to rely on, including heavy wear and tear on streets – one truck is equal to about 8,000 cars when it comes to impact on pavement – and increased air pollution due to the truck traffic and idling diesel engines dropping off large loads. However, it is equally important that State policies acknowledge that entities without fulfillment centers also experience impacts from ecommerce and increased deliveries. Cities whose residents are ordering products that are delivered to their doorstep also experience impacts from traffic, air quality and compromised safety, as well as the negative impact on brick-and-mortar businesses struggling to compete with the sharp increase in online shopping. These cities are rightfully entitled to compensation in an equitable share of sales and use tax. We do not believe that online sales tax distribution between fulfillment center cities and other cities should be an all or nothing endeavor, and not necessarily a fifty-fifty split, either. But we need to find an equitable split that balances the impacts to each jurisdiction involved in the distribution of products purchased online.

Over the years, Cal Cities has had numerous discussions about the issues surrounding sales tax in the modern era, and how state law and policy should be revisited to address these issues. It is a heavy lift, as all of our cities are impacted a bit differently, making consensus difficult. We believe that by once again starting the conversation and moving toward the development of laws and policies that can result in seeing all cities benefit from the growth taxes generated through online sales, our state will be stronger.

It is for these reasons, that we should all aspire to develop an equitable sales tax distribution for online sales.

LETTERS OF CONCURRENCE
Resolution No. 1

July 19, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The Town of Apple Valley strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at Cal Cities 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the one percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas, all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool. Now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities who have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents.

We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the Town of Apple Valley concurs that the resolution should go before the General Assembly. If you have any questions regarding the Town's position in this matter, please do not hesitate to contact the Town Manager at 760-240-7000 x 7051.

Sincerely,

A handwritten signature in dark ink, appearing to read "Curt Emick", written in a cursive style.

Curt Emick
Mayor

July 21, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Letter of Support for the City of Rancho Cucamonga's Resolution for Fair and Equitable Distribution of the Bradley Burns 1% Local Sales Tax

Dear President Walker:

The City of El Cerrito supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the Cal Cities 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1 percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Previously, all sales tax revenue generated by this retailer's sales went into a countywide pool and was distributed amongst the jurisdictions in the pool; now the revenue from in-state sales goes entirely to the city where the fulfillment center is located and the packages are shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution, and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities such as El Cerrito who have no chance of ever obtaining a fulfillment center as we are a built out, four square mile, small city. Additionally, cities not situated along major travel corridors and no/low property tax cities that rely on sales tax revenue are especially impacted, as well as cities struggling to build much needed affordable housing that may require rezoning commercial parcels in order to meet their RHNA allocations.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies serve to divide local agencies, exacerbate already difficult municipal finances, and in the end results in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better, and we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of El Cerrito concurs that the resolution should go before the General Assembly.

Sincerely,

A handwritten signature in dark ink, appearing to read "Paul Fadelli". The signature is fluid and cursive, with the first name "Paul" being more prominent than the last name "Fadelli".

Paul Fadelli, Mayor
City of El Cerrito

cc: El Cerrito City Council
City of Rancho Cucamonga



City Council
Terry Walker, Mayor
Keith Eich, Mayor Pro Tem
Jonathan C. Curtis
Michael T. Davitt
Richard B. Gunter III

July 14, 2021

Ms. Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of La Cañada Flintridge strongly supports the City of Rancho Cucamonga's effort to introduce a resolution for consideration by the General Assembly at CalCITIES' 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1% Bradley Burns local tax revenue (sales tax) from in-state online retailers be allocated to the jurisdiction from which the package was shipped, as opposed to going into a countywide pool, as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as an out-of-state online retailer. Whereas all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the jurisdiction where the fulfillment center is located and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state transactions even though their packages are delivered to locations within those cities' borders and paid for by residents in those locations. Cities that abut jurisdictions with fulfillment centers experience fulfillment centers' impacts just as much, such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers, that was once spread amongst all cities in countywide pools, is now concentrated in select cities fortunate enough to host a fulfillment center. This benefits only those few hosting jurisdictions and is particularly unfair to cities who have no chance of ever hosting a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely heavily on sales tax revenue are especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably eager to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances and, in the end, result in a net loss of local government sales tax proceeds that simply serve to make private

Ms. Cheryl Viegas Walker, President

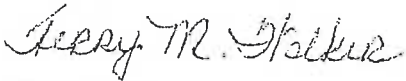
July 14, 2021

Page 2

sector businesses even more profitable at the expense of cities' residents. We should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of La Cañada Flintridge concurs that the proposed resolution should go before the General Assembly.

Sincerely,

A handwritten signature in cursive script that reads "Terry M. Walker".

Terry Walker

Mayor



CITY OF LA VERNE CITY HALL

3660 "D" Street, La Verne, California 91750-3599
www.cityoflaverne.org

July 19, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of La Verne strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1 percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution, and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities which have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are



General Administration 909/596-8726 • Water Customer Service 909/596-8744 • Community Services 909/596-8700
Public Works 909/596-8741 • Finance 909/596-8716 • Community Development 909/596-8706 • Building 909/596-8713
Police Department 909/596-1913 • Fire Department 909/596-5991 • General Fax 909/596-8737

especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exacerbate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end, result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of La Verne concurs that the resolution should go before the General Assembly.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Bob Russi', with a stylized flourish at the end.

Bob Russi
City Manager
City of La Verne

Steve Craft
Council Member

David P.
Council Member

Vicki L. Stuck
Council Member

Inda Rogers
Council Member



Jeff Wood
Mayor

July 15, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of Lakewood strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1 percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas, all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities that have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of Lakewood concurs that the resolution should go before the General Assembly.

Sincerely,

Jeff Wood
Mayor

Lakewood



CITY OF MOORPARK

799 Moorpark Avenue, Moorpark, California 93021
Main City Phone Number (805) 517-6200 | Fax (805) 532-2205 | moorpark@moorparkca.gov

July 14, 2021

TRANSMITTED ELECTRONICALLY

Cheryl Viegas-Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of Moorpark strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies of the California Department of Tax and Fees (CDTFA) require that the one percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates both as an in-state online retailer and as an out-of-state online retailer. Whereas all sales tax revenues generated by this retailer's sales previously went into countywide pools and were distributed amongst the jurisdictions in the pool, sales tax revenues from in-state sales now go entirely to the city where the fulfillment center is located and the package is shipped from. Cities that do not have a fulfillment center now receive no sales tax revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution, and deteriorating road conditions.

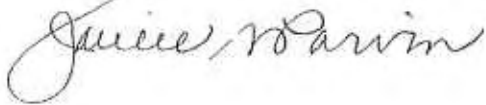
This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenues from large online retailers that were once spread amongst all cities in countywide pools are now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities who have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted, as well as

cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone limited commercial properties for residential land uses.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and ultimately result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses more profitable at the expense of everyone's residents. We can do better than this, and we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of Moorpark concurs that the resolution should go before the General Assembly at the 2021 Annual Conference in Sacramento.

Sincerely,

A handwritten signature in dark ink, appearing to read "Janice S. Parvin". The signature is fluid and cursive, with the first name "Janice" being more prominent than the last name "Parvin".

Janice S. Parvin
Mayor

cc: City Council
City Manager

The People are the City

Mayor
CRAIG S. GREEN

Mayor Pro Tem
CHAD P. WANKE

Councilmembers:
RHONDA SHADER
WARD L. SMITH
JEREMY B. YAMAGUCHI



City Clerk:
ROBERT S. MCKINNELL

City Treasurer
KEVIN A. LARSON

City Administrator
DAMIEN R. ARRULA

401 East Chapman Avenue – Placentia, California 92870

July 14, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of Placentia strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1 percent (1%) Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas, all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities who have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

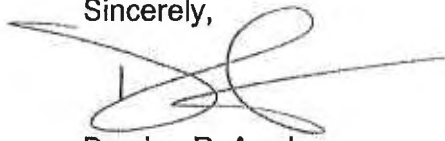
The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The

Letter of Support: City of Rancho Cucamonga
July 14, 2021
Page 2 of 2

current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of Placentia concurs that the resolution should go before the General Assembly. Should you have any questions regarding this letter, please contact me at (714) 993-8117 or via email at administration@placentia.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Damien R. Arrula', with a long horizontal line extending to the right.

Damien R. Arrula
City Administrator

SACRAMENTO
Office of the City Manager

Leyne Milstein
Assistant City Manager

City Hall
915 I Street, Fifth Floor
Sacramento, CA 95814-2604
916-808-5704

July 19, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of Sacramento strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the one percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities who have no chance of ever obtaining a fulfillment

SACRAMENTO
Office of the City Manager

Leyne Milstein
Assistant City Manager

City Hall
915 I Street, Fifth Floor
Sacramento, CA 95814-2604
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The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end, result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of Sacramento concurs that the resolution should go before the General Assembly.

Sincerely,


Leyne Milstein July 10, 2023 14:50 EDT

Leyne Milstein
Assistant City Manager

League of California Cities Staff Analysis on Resolution No. 1

Staff: Nicholas Romo, Legislative Affairs, Lobbyist

Committee: Revenue and Taxation

Summary:

This Resolution calls on the League of California Cities (Cal Cities) to request the Legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction.

Background:

The City of Rancho Cucamonga is sponsoring this resolution to “*address the issues in how sales and use taxes are distributed in the 21st century.*”

The City notes that “*sales tax is a major revenue source for most California cities. Commonly known as the local 1% Bradley-Burns tax, since the 1950’s, cities have traditionally received 1 cent on every dollar of a sale made at the store, restaurant, car dealer, or other location within a jurisdiction’s boundaries. Over the years, however, this simple tax structure has evolved into a much more complex set of laws and allocation rules. Many of these rules relate to whether or not a given transaction is subject to sales tax, or to use tax – both have the same 1% value, but each applies in separate circumstances.*”

Recently, one of the world’s largest online retailers changed the legal ownership of its fulfillment centers. Instead of having its fulfillment centers owned and operated by a third-party vendor, they are now directly owned by the company. This subtle change has major impacts to how the 1% local tax is allocated.

This change has created a situation where most cities in California – more than 90%, in fact – are experiencing a sales tax revenue loss that began in the fourth quarter of calendar year 2021. Many cities may not be aware of this impact, as the fluctuations in sales tax following the pandemic shutdowns have masked the issue. But this change will have long-term impacts on revenues for all California cities as all these revenues benefiting all cities have shifted to just a handful of cities and counties that are home to this retailer’s fulfillment centers.”

The City’s resolution calls for action on an unspecified solution that “*rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction,*” which aims to acknowledge the actions taken by cities to alleviate poverty, catalyze economic development, and improve financial stability within their communities through existing tax sharing and zoning powers.

Ultimately, sponsoring cities believe *“that by once again starting the conversation and moving toward the development of laws and policies that can result in seeing all cities benefit from the growth taxes generated through online sales, our state will be stronger.”*

Sales and Use Tax in California

The Bradley-Burns Uniform Sales Tax Act allows all local agencies to apply its own sales and use tax on the same base of tangible personal property (taxable goods). This tax rate currently is fixed at 1.25% of the sales price of taxable goods sold at retail locations in a local jurisdiction, or purchased outside the jurisdiction for use within the jurisdiction. Cities and counties use this 1% of the tax to support general operations, while the remaining 0.25% is used for county transportation purposes.

In California, all cities and counties impose Bradley-Burns sales taxes. California imposes the sales tax on every retailer engaged in business in this state that sells taxable goods. The law requires businesses to collect the appropriate tax from the purchaser and remit the amount to the California Department of Tax and Fee Administration (CDTFA). Sales tax applies whenever a retail sale is made, which is basically any sale other than one for resale in the regular course of business. Unless the person pays the sales tax to the retailer, they are liable for the use tax, which is imposed on any person consuming taxable goods in the state. The use tax rate is the same rate as the sales tax rate.

Generally, CDTFA distributes Bradley-Burns tax revenue based on where a sale took place, known as a *situs-based system*. A retailer’s physical place of business—such as a retail store or restaurant—is generally the place of sale. “Sourcing” is the term used by tax practitioners to describe the rules used to determine the place of sale, and therefore, which tax rates are applied to a given purchase and which jurisdictions are entitled to the local and district taxes generated from a particular transaction.

California is primarily an origin-based sourcing state – meaning tax revenues go to the jurisdiction in which a transaction physically occurs if that can be determined. However, California also uses a form of destination sourcing for the local use tax and for district taxes (also known as “transactions and use taxes” or “add-on sale and use taxes”). That is, for cities with local add-on taxes, they receive their add-on rate amount from remote and online transactions.

Generally, allocations are based on the following rules:

- The sale is sourced to the place of business of the seller - whether the product is received by the purchaser at the seller’s business location or not.
- If the retailer maintains inventory in California and has no other in state location, the source is the jurisdiction where the warehouse is situated. *This resolution is concerned with the growing amount of online retail activity being sourced to cities with warehouse/fulfillment center locations.*
- If the business’ sales office is located in California but the merchandise is shipped from out of state, the tax from transactions under \$500,000 is allocated

via the county pools. The tax from transactions over \$500,000 is allocated to the jurisdiction where the merchandise is delivered.

- When a sale cannot be identified with a permanent place of business in the state, the sale is sourced to the allocation pool of the county where the merchandise was delivered and then distributed among all jurisdictions in that county in proportion to ratio of sales. *For many large online retailers, this has been the traditional path.*

Online Sales and Countywide Pools

While the growth of e-commerce has been occurring for more than two decades, led by some of the largest and most popular retailers in the world, the dramatic increase in online shopping during the COVID-19 pandemic has provided significant revenue to California cities as well as a clearer picture on which governments enjoy even greater benefits.

In the backdrop of booming internet sales has been the steady decline of brick-and-mortar retail and shopping malls. For cities with heavy reliance on in-person retail shopping, the value of the current allocation system has been diminished as their residents prefer to shop online or are incentivized to do so by retailers (during the COVID-19 pandemic, consumers have had no other option but to shop online for certain goods). All the while, the demands and costs of city services continue to grow for cities across the state.

As noted above, the allocation of sales tax revenue to local governments depends on the location of the transaction (or where the location is ultimately determined). For in-person retail, the sales tax goes to the city in which the product and store are located - a customer purchasing at a register. For online sales, the Bradley Burns sales tax generally goes to a location other than the one where the customer lives – either to the city or county where an in-state warehouse or fulfillment center is located, the location of in-state sales office (ex. headquarters) or shared as use tax proceeds amongst all local governments within a county based on their proportionate share of taxable sales.

Under current CDTFA regulations, a substantial portion of local use tax collections are allocated through a countywide pool to the local jurisdictions in the county where the property is put to its first functional use. The state and county pools constitute over 15% of local sales and use tax revenues. Under the pool system, the tax is reported by the taxpayer to the countywide pool of use and then distributed to each jurisdiction in that county on a pro-rata share of taxable sales. If the county of use cannot be identified, the revenues are distributed to the state pool for pro-rata distribution on a statewide basis.

Concentration of Online Sales Tax Revenue and Modernization

Sales tax modernization has been a policy goal of federal, state, and local government leaders for decades to meet the rapidly changing landscape of commercial activity and ensure that all communities can sustainably provide critical services.

For as long as remote and internet shopping has existed, policy makers have been concerned about their potential to disrupt sales and use tax allocation procedures that underpin the funding of local government services. The system was designed in the early twentieth century to ensure that customers were paying sales taxes to support local government services within the community where the transactions occurred whether they resided there or not. This structure provides benefit to and recoupment for the public resources necessary to ensure the health and safety of the community broadly.

City leaders have for as long been concerned about the loosening of the nexus between what their residents purchase and the revenues they receive. Growing online shopping, under existing sourcing rules, has led to a growing concentration of sales tax revenue being distributed to a smaller number of cities and counties. As more medium and large online retailers take title to fulfillment centers or determine specific sales locations in California as a result of tax sharing agreements in specific cities, online sales tax revenue will be ever more concentrated in a few cities at the control of these companies. Furthermore, local governments are already experiencing the declining power of the sales tax to support services as more money is being spent on non-taxable goods and services.

For more on sales and use tax sourcing please see Attachment A.

State Auditor Recommendations

In 2017, the California State Auditor issued a report titled, "The Bradley-Burns Tax and Local Transportation Funds", noting that:

"Retailers generally allocate Bradley Burns tax revenue based on the place of sale, which they identify according to their business structure. However, retailers that make sales over the Internet may allocate sales to various locations, including their warehouses, distribution center, or sales offices. This approach tends to concentrate Bradley Burns tax revenue into the warehouses' or sales offices' respective jurisdictions. Consequently, counties with a relatively large amount of industrial space may receive disproportionately larger amounts of Bradley Burns tax, and therefore Local Transportation Fund, revenue.

The State could make its distribution of Bradley Burns tax revenue derived from online sales more equitable if it based allocations of the tax on the destinations to which goods are shipped rather than on place of sale."

The Auditor's report makes the following recommendation:

"To ensure that Bradley-Burns tax revenue is more evenly distributed, the Legislature should amend the Bradley-Burns tax law to allocate revenues from Internet sales based on the destination of sold goods rather than their place of sale."

In acknowledgement of the growing attention from outside groups on this issue, Cal Cities has been engaged in its own study and convening of city officials to ensure pursued solutions account for the circumstances of all cities and local control is best protected. These efforts are explored in subsequent sections.

Cal Cities Revenue and Taxation Committee and City Manager Working Group

In 2015 and 2016, Cal Cities' Revenue and Taxation Policy Committee held extensive discussions on potential modernization of tax policy affecting cities, with a special emphasis on the sales tax. The issues had been identified by Cal Cities leadership as a strategic priority given concerns in the membership about the eroding sales tax base and the desire for Cal Cities to take a leadership role in addressing the associated issues. The policy committee ultimately adopted a series of policies that were approved by the Cal Cities board of directors. Among its changes were a recommended change to existing sales tax sourcing (determining where a sale occurs) rules, so that the point of sale (situs) is where the customer receives the product. The policy also clarifies that specific proposals in this area should be carefully reviewed so that the impacts of any changes are fully understood. See "Existing Cal Cities Policy" section below.

Cal Cities City Manager Sales Tax Working Group Recommendations

In the Fall of 2017, the Cal Cities City Managers Department convened a working group (Group) of city managers representing a diverse array of cities to review and consider options for addressing issues affecting the local sales tax.

The working group of city managers helped Cal Cities identify internal common ground on rapidly evolving e-commerce trends and their effects on the allocation of local sales and use tax revenue. After meeting extensively throughout 2018, the Group made several recommendations that were endorsed unanimously by Cal Cities' Revenue and Taxation Committee at its January, 2019 meeting and by the board of directors at its subsequent meeting.

The Group recommended the following actions in response to the evolving issues associated with e-commerce and sales and use tax:

Further Limiting Rebate Agreements: The consensus of the Group was that:

- Sales tax rebate agreements involving online retailers should be prohibited *going forward*. They are inappropriate because they have the effect of encouraging revenue to be shifted away from numerous communities and concentrated to the benefit of one.
- Any type of agreement that seeks to lure a retailer from one community to another within a market area should also be prohibited *going forward*. Existing law already prohibits such agreements for auto dealers and big box stores.

Shift Use Tax from Online Sales, including from the South Dakota v. Wayfair Decision Out of County Pools: The Group's recommendation is based first on the principle of "situs" and that revenue should be allocated to the jurisdiction where the use occurs. Each city and county in California imposed a Bradley Burns sales and use tax rate

under state law in the 1950s. The use tax on a transaction is the rate imposed where the purchaser resides (the destination). These use tax dollars, including new revenue from the South Dakota v. Wayfair decision, should be allocated to the destination jurisdiction whose Bradley Burns tax applies and not throughout the entire county.

- Shift of these revenues, from purchases from out of state retailers including transactions captured by the South Dakota v. Wayfair decision, out of county pools to full destination allocation on and after January 1, 2020.
- Allow more direct reporting of use taxes related to construction projects to jurisdiction where the construction activity is located by reducing existing regulatory threshold from \$5 million to \$100,000.

Request/Require CDTFA Analysis on Impacts of Sales Tax Destination Shifts: After discussion of numerous phase-in options for destination sourcing and allocation for sales taxes, the Group ultimately decided that a more complete analysis was needed to sufficiently determine impacts. Since the two companies most cities rely on for sales tax analysis, HdL and MuniServices, were constrained to modeling with transaction and use tax (district tax) data, concerns centered on the problem of making decisions without adequate information. Since the CDTFA administers the allocation of local sales and use taxes, it is in the best position to produce an analysis that examines:

- The impacts on individual agencies of a change in sourcing rules. This would likely be accomplished by developing a model to examine 100% destination sourcing with a report to the Legislature in early 2020.
- The model should also attempt to distinguish between business-to-consumer transactions versus business-to-business transactions.
- The model should analyze the current number and financial effects of city and county sales tax rebate agreements with online retailers and how destination sourcing might affect revenues under these agreements.

Conditions for considering a Constitutional Amendment that moves toward destination allocation: Absent better data on the impacts on individual agencies associated with a shift to destination allocation of sales taxes from CDTFA, the Group declined to prescribe if/how a transition to destination would be accomplished; the sentiment was that the issue was better revisited once better data was available. In anticipation that the data would reveal significant negative impacts on some agencies, the Group desired that any such shift should be accompanied by legislation broadening of the base of sales taxes, including as supported by existing Cal Cities policy including:

- Broadening the tax base on goods, which includes reviewing existing exemptions on certain goods and expanding to digital forms of goods that are otherwise taxed; and
- Expanding the sales tax base to services, such as those commonly taxed in other states.

This Resolution builds upon previous work that accounts for the impacts that distribution networks have on host cities and further calls on the organization to advocate for changes to sales tax distribution rules.

The Resolution places further demands on data collected by CDTFA to establish a “fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases.” Such data is proposed to be collected by SB 792 (Glazer, 2021). More discussion on this topic can be found in the “Staff Comments” section.

Staff Comments:

Proposed Resolution Affixes Equity Based, Data Driven Approach to Existing Cal Cities Policy on Sales Tax Sourcing

The actions resulting from this resolution, if approved, would align with existing policy and efforts to-date to modernize sales tax rules. While not formalized in existing Cal Cities policy or recommendations, city managers and tax practitioners generally have favored proposals that establish a sharing of online sales tax revenues rather than a full destination shift. City leaders and practitioners across the state have acknowledged during Cal Cities Revenue and Taxation and City Manager’s working group meetings that the hosting of fulfillment centers and ancillary infrastructure pose major burdens on local communities including detrimental health and safety impacts. This acknowledgement has moved mainstream proposals such as this one away from full revenue shifts towards an equity-based, data driven approach that favors revenue sharing. This Resolution would concretely affix this approach as Cal Cities policy.

More Data is Needed to Achieve Equity Based Approach

A major challenge is the lack of adequate data to model the results of shifting in-state online sale tax revenues. Local government tax consultants and state departments have limited data to model the effects of changes to sales tax distribution because their information is derived only from cities that have a local transactions and use tax (TUT). Tax experts are able to model proposed tax shifts using TUTs since they are allocated on a destination basis (where a purchaser receives the product; usually a home or business). However, more than half of all cities, including some larger cities, do not have a local TUT therefore modeling is constrained and incomplete.

Efforts to collect relevant sales tax information on the destination of products purchased online are ongoing. The most recent effort is encapsulated in SB 792 (Glazer, 2021), which would require retailers with online sales exceeding \$50 million a year to report to CDTFA the gross receipts from online sales that resulted in a product being shipped or delivered in each city. The availability of this data would allow for a much more complete understanding of online consumer behavior and the impacts of future proposed changes to distribution. SB 792 (Glazer) is supported by Cal Cities following approval by the Revenue and Taxation Committee and board of directors.

Impact of Goods Movement Must Be Considered

As noted above, city leaders and practitioners across the state acknowledge that the hosting of fulfillment centers and goods movement infrastructure pose major burdens on local communities including detrimental health, safety, and infrastructure impacts. Not least of which is the issue of air pollution from diesel exhaust. According to California Environmental Protection Agency (Cal EPA):

"Children and those with existing respiratory disease, particularly asthma, appear to be especially susceptible to the harmful effects of exposure to airborne PM from diesel exhaust, resulting in increased asthma symptoms and attacks along with decreases in lung function (McCreanor et al., 2007; Wargo, 2002). People that live or work near heavily-traveled roadways, ports, railyards, bus yards, or trucking distribution centers may experience a high level of exposure (US EPA, 2002; Krivoshto et al., 2008). People that spend a significant amount of time near heavily-traveled roadways may also experience a high level of exposure. Studies of both men and women demonstrate cardiovascular effects of diesel PM exposure, including coronary vasoconstriction and premature death from cardiovascular disease (Krivoshto et al., 2008). A recent study of diesel exhaust inhalation by healthy non-smoking adults found an increase in blood pressure and other potential triggers of heart attack and stroke (Krishnan et al., 2013). Exposure to diesel PM, especially following periods of severe air pollution, can lead to increased hospital visits and admissions due to worsening asthma and emphysema-related symptoms (Krivoshto et al., 2008). Diesel exposure may also lead to reduced lung function in children living in close proximity to roadways (Brunekreef et al., 1997)."

The founded health impacts of the ubiquitous presence of medium and heavy-duty diesel trucks used to transport goods to and from fulfillment centers and warehouses require host cities to meet increased needs of their residents including the building and maintenance of buffer zones, parks, and open space. While pollution impacts may decline with the introduction of zero-emission vehicles, wide scale adoption by large distribution fleets is still in its infancy. Furthermore, the impacts of heavy road use necessitate increased spending on local streets and roads upgrades and maintenance. In addition, many cities have utilized the siting of warehouses, fulfillment centers, and other heavy industrial uses for goods movements as key components of local revenue generation and economic development strategies. These communities have also foregone other land uses in favor of siting sales offices and fulfillment networks.

All said, however, it is important to acknowledge that disadvantaged communities (DACs) whether measured along poverty, health, environmental or education indices exist in cities across the state. For one example, see: California Office of Environmental Health Hazard Assessment (OEHHA) CalEnviroScreen. City officials may consider how cities without fulfillment and warehouse center revenues are to fund efforts to combat social and economic issues, particularly in areas with low property tax and tourism-based revenues.

The Resolution aims to acknowledge these impacts broadly (this analysis does not provide an exhaustive review of related impacts) and requests Cal Cities to account for them in a revised distribution formula of the Bradley Burns 1% local sales tax from in-state online purchases. The Resolution does not prescribe the proportions.

Clarifying Amendments

Upon review of the Resolution, Cal Cities staff recommends technical amendments to provide greater clarity. *To review the proposed changes, please see Attachment B.*

Fiscal Impact:

Significant but unknown. The Resolution on its own does not shift sales tax revenues. In anticipation and mitigation of impacts, the Resolution requests Cal Cities to utilize online sales tax data to identify a fair and equitable distribution formula that accounts for the broad impacts fulfillment centers involved in online retail have on the cities that host them. The Resolution does not prescribe the revenue distribution split nor does it prescribe the impacts, positive and negative, of distribution networks.

Existing Cal Cities Policy:

- Tax proceeds collected from internet sales should be allocated to the location where the product is received by the purchaser.
- Support as Cal Cities policy that point of sale (situs) is where the customer receives the product. Specific proposals in this area should be carefully reviewed so that the impacts of any changes are fully understood.
- Revenue from new regional or state taxes or from increased sales tax rates should be distributed in a way that reduces competition for situs-based revenue. (Revenue from the existing sales tax rate and base, including future growth from increased sales or the opening of new retail centers, should continue to be returned to the point of sale.)
- The existing situs-based sales tax under the Bradley Burns 1% baseline should be preserved and protected.
- Restrictions should be implemented and enforced to prohibit the enactment of agreements designed to circumvent the principle of situs-based sales and redirect or divert sales tax revenues from other communities, when the physical location of the affected businesses does not change. Sales tax rebate agreements involving online retailers are inappropriate because they have the effect of encouraging revenue to be shifted away from numerous communities and concentrated to the benefit of one. Any type of agreement that seeks to lure a retailer from one community to another within a market area should also be prohibited going forward.
- Support Cal Cities working with the state California Department of Tax and Fee Administration (CDTFA) to update the county pool allocation process to ensure that more revenues are allocated to the jurisdiction where the purchase or first use of a product occurs (usually where the product is delivered). Use Tax collections from online sales, including from the South Dakota v Wayfair Decision, should be shifted out of county pools and allocated to the destination jurisdiction whose Bradley Burns tax applies and not throughout the entire county.

Support:

The following letters of concurrence were received:

Town of Apple Valley
City of El Cerrito
City of La Canada Flintridge
City of La Verne
City of Lakewood

City of Moorpark
City of Placentia
City of Sacramento

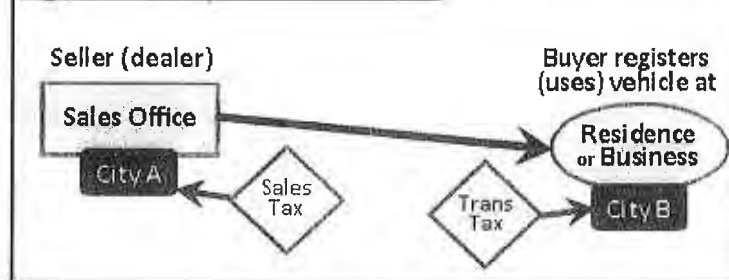
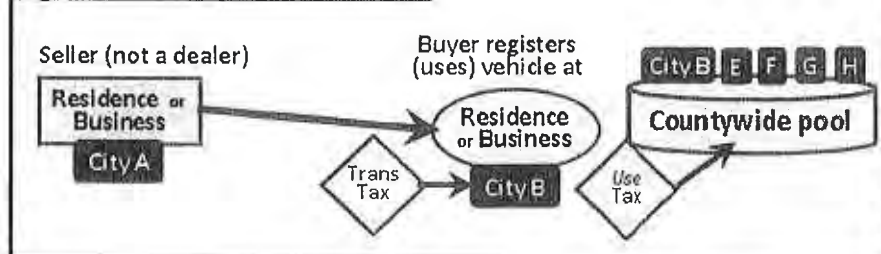
Fig1: Typical "Over the Counter" Transaction**Fig2: Dealership Automobile Sale****Fig3: Private Party Automobile Sale**

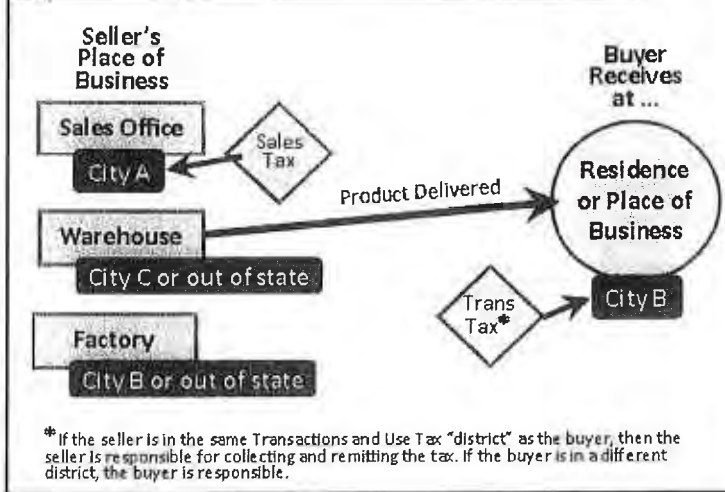
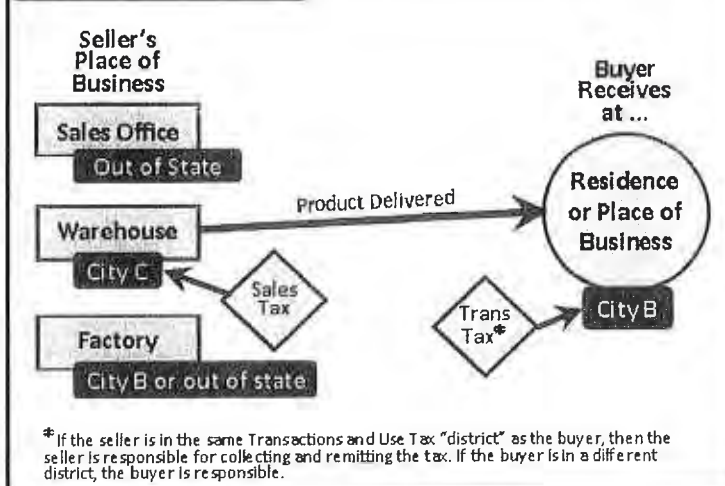
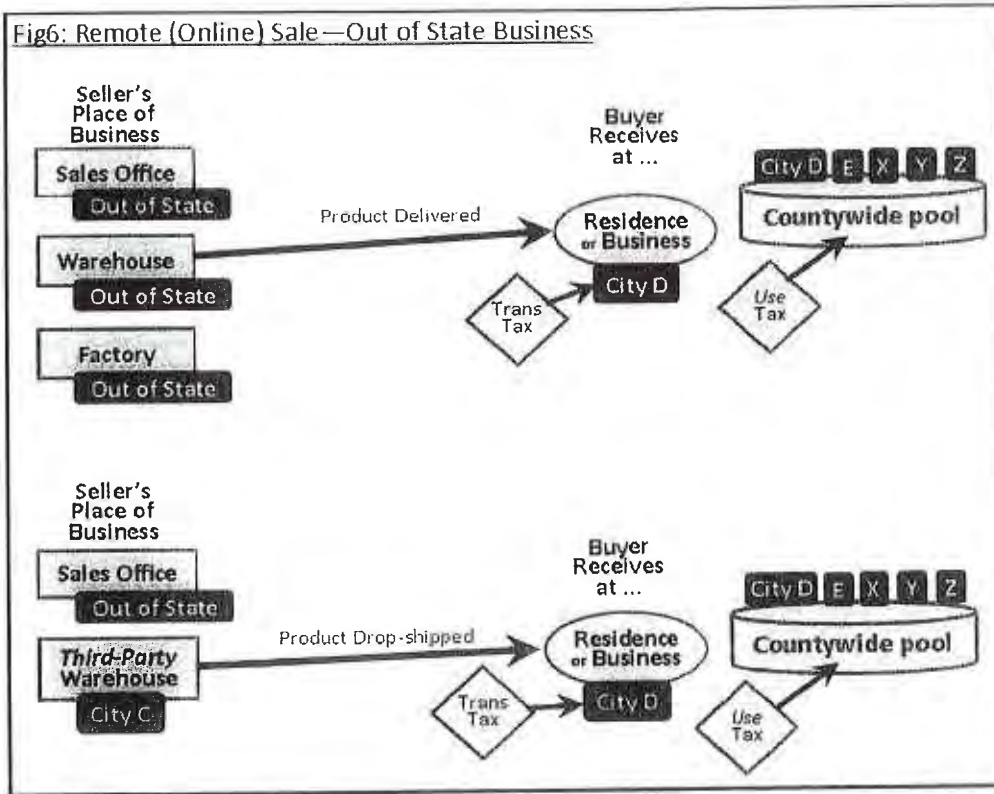
Fig4: Remote (Online) Sale — In-State Business Office**Fig5: Remote (Online) Sale — In-State Warehouse, Out-of-State Sales Office**

Fig6: Remote (Online) Sale—Out of State Business



GUIDELINES FOR ALLOCATION OF LOCAL TAX - ONLINE AND IN-STORE			
Place of Sale	Location of Goods at the Time of Sale	How Customer Receives Goods	Allocation of Tax
Online - Order is placed or downloaded outside California	California Fulfillment Center	Shipped to California Customer	Local tax is allocated to the jurisdiction in which the fulfillment center is located
Online - Order is placed or downloaded in California	California Fulfillment Center	Shipped to California Customer	Per CDTFA Regulation 1802, local tax is allocated to the jurisdiction where the order is placed
Online	Out of State Fulfillment Center	Shipped to California Customer	Local tax is allocated to the countywide pool based on point of delivery
Online	Out of State Fulfillment Center	Picked Up In-Store (Click & Collect)	Local tax is allocated to the countywide pool based on point of delivery
Online	California Fulfillment Center Owned and Operated by Third Party Vendor	Drop-Shipped to California Customer	Local tax is allocated to the countywide pool based on point of delivery
Online	In-Store (Goods withdrawn from store inventory)	Shipped to California Customer	Local Tax is allocated to the jurisdiction where the store is located
Online	In-Store (Goods withdrawn from store inventory)	Picked Up In-Store (Click & Collect)	Local Tax is allocated to the jurisdiction where the store is located
In-Store	In-Store (Goods withdrawn from store inventory)	Over the Counter	Local Tax is allocated to the jurisdiction where the store is located

Courtesy of HdL Companies

CaliforniaCityFinance.com

Tax Incentive Programs, Sales Tax Sharing Agreements

In recent years, especially since Proposition 13 in 1978, local discretionary (general purpose revenues) have become more scarce. At the same time, options and procedures for increasing revenues have become more limited. One outcome of this in many areas has been a greater competition for sales and use tax revenues. This has brought a rise in arrangements to encourage certain land use development with rebates and incentives which exploit California's odd origin sales tax sourcing rules.

The typical arrangement is a sales tax sharing agreement in which a city provides tax rebates to a company that agrees to expand their operations in the jurisdiction of the city. Under such an arrangement, the company generally agrees to make a specified amount of capital investment and create a specific number of jobs over a period of years in exchange for specified tax breaks, often property tax abatement or some sort of tax credit. In some cases, this has simply taken the form of a sales office, while customers and warehouses and the related economic activity are disbursed elsewhere in the state. In some cases the development takes the form of warehouses, in which the sales inventory, owned by the company, is housed.⁶

Current sales tax incentive agreements in California rebate amounts ranging from 50% to 85% of sales tax revenues back to the corporations.

Today, experts familiar with the industry believe that between 20% to 30% of local Bradley-Burns sales taxes paid by California consumers is diverted from local general funds back to corporations; over \$1 billion per year.

The Source of Origin Based Sourcing Problems

Where other than over-the-counter sales are concerned origin sourcing often causes a concentration of large amounts of tax revenue in one location, despite the fact that the economic activity and service impacts are also occurring in other locations.

The large amounts of revenue concentrated in a few locations by California's "warehouse rule" origin sourcing causes a concentration of revenue far in excess of the service costs associated with the development.

In order to lure jobs and tax revenues to their communities, some cities have entered into rebate agreements with corporations. This has grown to such a problem, that 20% to 30% of total local taxes paid statewide are being rebated back to corporations rather than funding public services.

Moving to Destination Sourcing: The Concept⁷

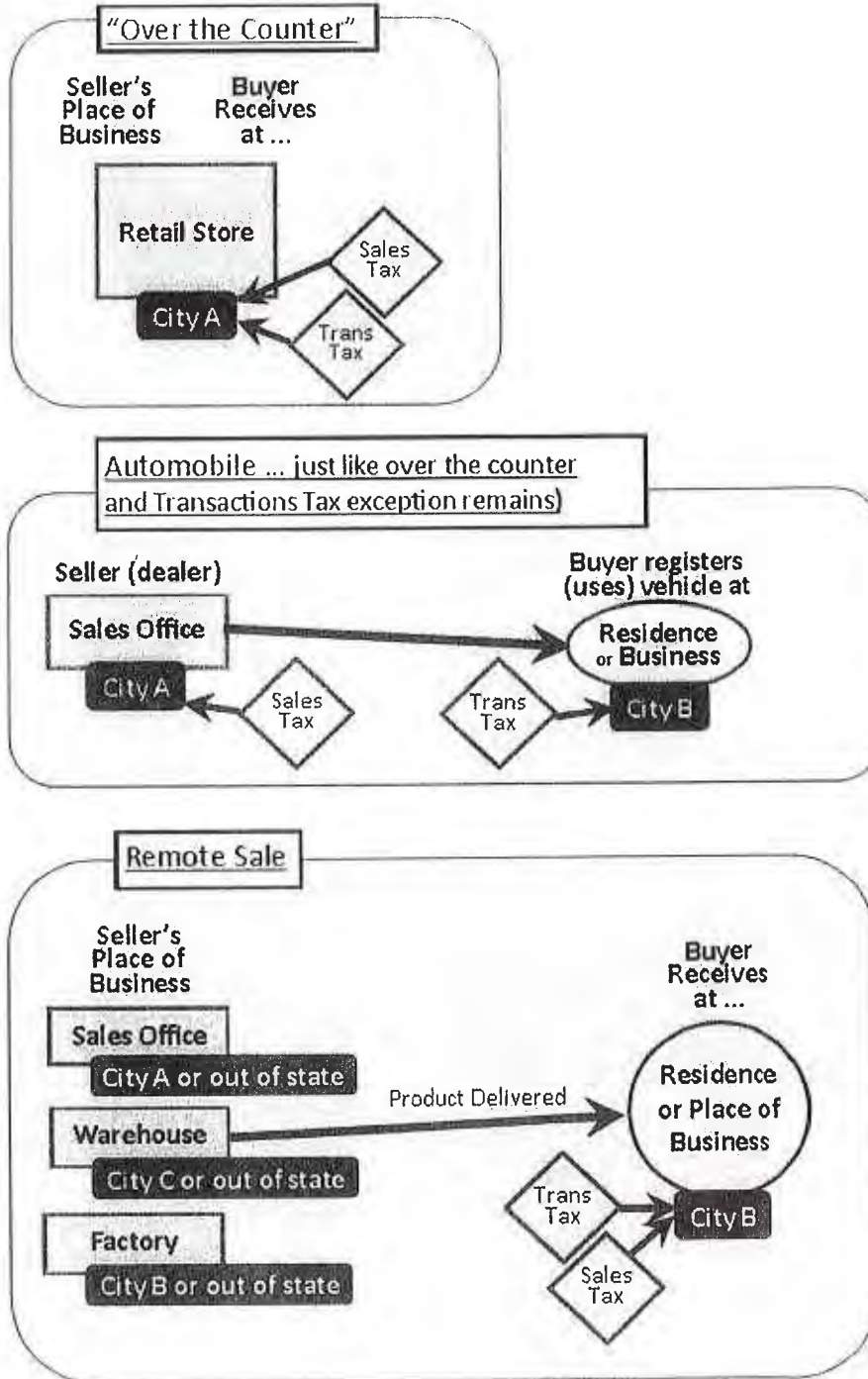
A change from origin sourcing rules to destination sourcing rules for the local tax component of California's sales tax would improve overall revenue collections and distribute these revenues more equitably among all of the areas involved in these transactions.

A change from origin based sourcing to destination based sourcing would have no effect on state tax collections. However, it would alter the allocations of local sales and use tax revenues among local agencies. Most retail transactions including dining, motor fuel purchases, and in-store purchases would not be affected. But in cases where the property is received by the purchaser in a different jurisdiction than where the sales agreement was negotiated, there would be a different allocation than under the current rules.

⁶ See Jennifer Carr, "Origin Sourcing and Tax Incentive Programs: An Unholy Alliance" Sales Tax Notes; May 27, 2013.

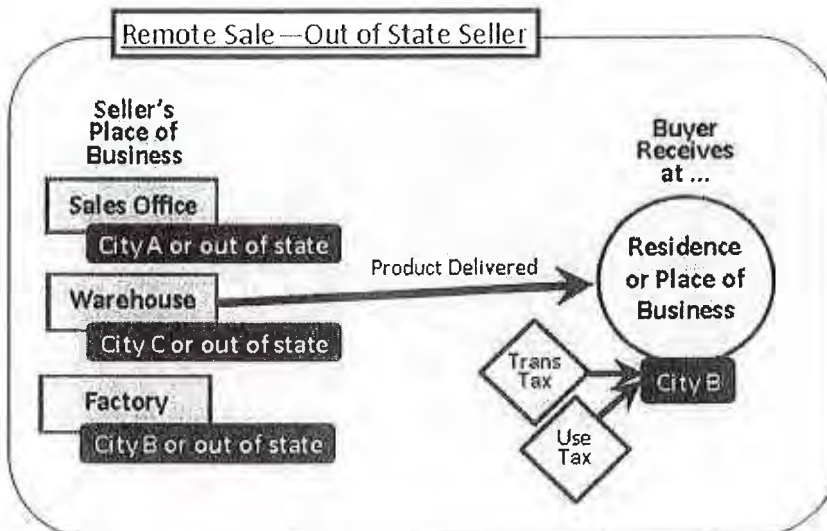
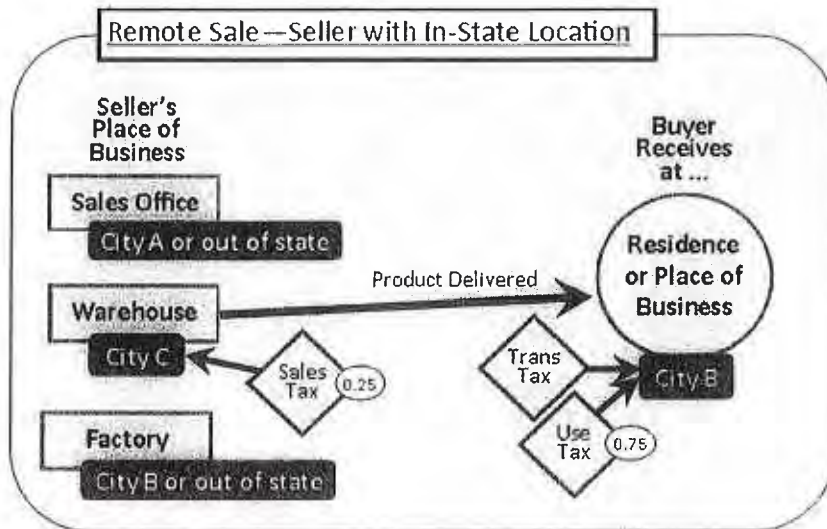
⁷ The same issues that are of concern regarding the local sales tax do not apply to California's Transactions and Use Taxes ("Add-on sales taxes") as these transactions, when not over the counter, are generally allocated to the location of use or, as in the case of vehicles, product registration. There is no need to alter the sourcing rules for transactions and use taxes.

Destination Sourcing Scenario 1: Full-On



Destination Sourcing Scenario 2: Split Source

- Same as now for “over the counter” and automobile.
- Leave 0.25% on current seller if instate (origin)
- Could be phased in.



RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES ("CAL CITIES")
CALLING ON THE STATE LEGISLATURE TO PASS LEGISLATION THAT PROVIDES
FOR A FAIR AND EQUITABLE DISTRIBUTION OF THE BRADLEY BURNS 1% LOCAL
SALES TAX FROM IN-STATE ONLINE PURCHASES, BASED ON DATA WHERE
PRODUCTS ARE SHIPPED TO, AND THAT RIGHTFULLY TAKES INTO
CONSIDERATION THE IMPACTS THAT FULFILLMENT CENTERS HAVE ON HOST
CITIES BUT ALSO PROVIDES A FAIR SHARE TO CALIFORNIA CITIES THAT DO NOT
AND/OR CANNOT HAVE A FULFILLMENT CENTER WITHIN THEIR JURISDICTION

WHEREAS, the 2018 U.S. Supreme Court decision in *Wayfair v. South Dakota* clarified that states could charge and collect tax on purchases even if the seller does not have a physical presence in the state; and

WHEREAS, California cities and counties collect 1% in Bradley Burns sales and use tax from the purchase of tangible personal property and rely on this revenue to provide critical public services such as police and fire protection; and

WHEREAS, in terms of "siting" the place of sale and determining which jurisdiction receives the 1% Bradley Burns local taxes for online sales, the California Department of Tax and Fee Administration (CDTFA) determines "out-of-state" online retailers as those with no presence in California that ship property from outside the state and are therefore subject to use tax, not sales tax, which is collected in a countywide pool of the jurisdiction where the property is shipped from; and

WHEREAS, for online retailers that have a presence in California and have a stock of goods in the state from which it fulfills orders, CDTFA considers the place of sale ("situs") as the location from which the goods were shipped such as a fulfillment center; and

WHEREAS, in early 2021, one of the state's largest online retailers shifted its ownership structure so that it is now considered both an in-state and out-of-state retailer, resulting in the sales tax this retailer generates from in-state sales now being ~~entirely~~ allocated to ~~the specific city~~ cities where the warehouse fulfillment centers ~~is-are~~ located as opposed to going into a countywide pools that ~~is are~~ shared with all jurisdictions in ~~those counties that County~~, as was done previously; and

WHEREAS, this all-or-nothing change for the allocation of in-state sales tax has created winners and losers amongst cities as the online sales tax revenue ~~from the retailer~~ that was once spread amongst all cities in countywide pools is now concentrated in select cities that host a fulfillment centers; and

WHEREAS, this has created a tremendous inequity amongst cities, in particular for cities that are built out, do not have space for siting ~~a 1 million square foot~~ fulfillment centers, are not located along a major travel corridor, or otherwise not ideally suited to host a fulfillment center; and

WHEREAS, this inequity affects cities statewide, but in particular those with specific circumstances such as no/low property tax cities that are extremely reliant on sales tax revenue as well as cities struggling to meet their Regional Housing Needs Allocation (RHNA) obligations that are being compelled by the State to rezone precious commercial parcels to residential; and

WHEREAS, the inequity produced by allocating in-state online sales tax revenue exclusively to cities with fulfillment centers is exasperated even more by, in addition to already reducing the amount of revenue going into the countywide pools, the cities with fulfillment centers are also receiving a larger share of the dwindling countywide pool as it is allocated based on cities' proportional share of sales tax collected; and

WHEREAS, while it is important to acknowledge that those cities that have fulfillment centers experience impacts from these activities and deserve equitable supplementary compensation, it should also be recognized that the neighboring cities whose residents are ordering products from those that centers now receive no Bradley Burns revenue ~~from the center's sales activity~~ despite also experiencing the impacts created by them center, such as increased traffic and air pollution; and

WHEREAS, the COVID-19 pandemic greatly accelerated the public's shift towards online purchases, a trend that is unlikely to be reversed to pre-pandemic levels; and

NOW, THEREFORE, BE IT RESOLVED that Cal Cities calls on the State Legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction.

2. A RESOLUTION CALLING UPON THE GOVERNOR AND THE LEGISLATURE TO PROVIDE NECCESARY FUNDING FOR CUPC TO FUFILL ITS OBLIGATION TO INSPECT RAILROAD LINES TO ENSURE THAT OPERATORS ARE REMOVING ILLEGAL DUMPING, GRAFFITI AND HOMELESS ENCAMPMENTS THAT DEGRADE THE QAULITY OF LIFE AND RESULTS IN INCREASED PUBLIC SAFETLY CONCERNS FOR COMMUNITIES AND NEIGHBORHOODS THAT ABUTT THE RAILROAD RIGHT-OF-WAY.

Source: City of South Gate

Concurrence of five or more cities/city officials:

Cities: City of Bell Gardens; City of Bell; City of Commerce; City of Cudahy; City of El Segundo; City of Glendora; City of Huntington Park; City of La Mirada; City of Long Beach; City of Lynwood; City of Montebello; City of Paramount; City of Pico Rivera

Referred to: Housing, Community and Economic Development; and Transportation, Communications and Public Works

WHEREAS, ensuring the quality of life for communities falls upon every local government including that blight and other health impacting activities are addressed in a timely manner by private property owners within its jurisdictional boundaries for their citizens, businesses and institutions; and

WHEREAS, Railroad Operators own nearly 6,000 miles of rail right-of-way throughout the State of California which is regulated by the Federal Railroad Administration and/or the California Public Utilities Commission for operational safety and maintenance; and

WHEREAS, the California Public Utilities Commission (CPUC) is the enforcing agency for railroad safety in the State of California and has 41 inspectors assigned throughout the entire State to inspect and enforce regulatory compliance over thousands of miles of rail line; and

WHEREAS, areas with rail line right-of-way within cities and unincorporated areas are generally located in economically disadvantaged zones and/or disadvantaged communities of color where the impact of blight further lowers property values and increases the likelihood of unsound sanitary conditions and environmental impacts upon them; and

WHEREAS, many communities are seeing an increase in illegal dumping, graffiti upon infrastructure and homeless encampments due to the lax and inadequate oversight by regulatory agencies; and

WHEREAS, local governments have no oversight or regulatory authority to require operators to better maintain and clean their properties as it would with any other private property owner within its jurisdictional boundaries. Thus such local communities often resort to spending their local tax dollars on cleanup activities or are forced to accept the delayed and untimely response by operators to cleaning up specific sites, and;

WHEREAS, that railroad operators should be able to provide local communities with a fixed schedule in which their property will be inspected and cleaned up on a reasonable and regular schedule or provide for a mechanism where they partner with and reimburse local governments for an agreed upon work program where the local government is enabled to remove items like illegal dumping, graffiti and encampments; and

WHEREAS, the State has made it a priority to deal with homeless individuals and the impacts illegal encampments have upon those communities and has a budgetary surplus that can help fund the CPUC in better dealing with this situation in both a humane manner as well a betterment to rail safety.

RESOLVED, at the League of California Cities, General Assembly, assembled at the League Annual Conference on September 24, 2021, in Sacramento, that the League calls for the Governor and the Legislature to work with the League and other stakeholders to provide adequate regulatory authority and necessary funding to assist cities with these railroad right-of-way areas so as to adequately deal with illegal dumping, graffiti and homeless encampments that proliferate along the rail lines and result in public safety issues. The League will work with its member cities to educate federal and state officials to the quality of life and health impacts this challenge has upon local communities, especially those of color and/or environmental and economic hardships.

Background Information to Resolution

Source: City of South Gate

Background:

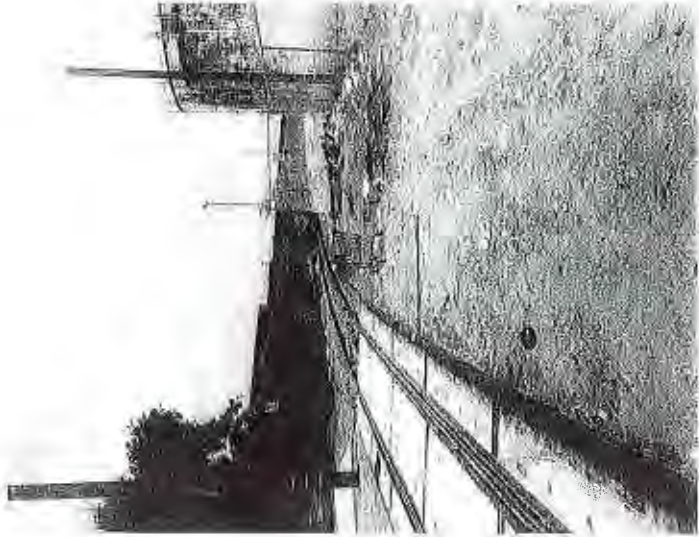
The State of California has over 6,000 miles of rail lines, with significant amount running through communities that are either economically disadvantaged and/or disadvantaged communities of color. While the Federal Railroad Administration (FRA) has primary oversight of rail operations, they delegate that obligation to the State of California for lines within our State. The administration of that oversight falls under the California Public Utilities Commission (CPUC). The CPUC has only 41 inspectors covering those 6,000 miles of railroad lines in the State of California. Their primary task is ensuring equipment, bridges and rail lines are operationally safe.

The right-of-way areas along the rail lines are becoming increasingly used for illegal dumping, graffiti and homeless encampments. Rail operators have admitted that they have insufficient funds set aside to clean up or sufficiently police these right-of-way areas, despite reporting a net income of over \$13 billion in 2020. CPUC budget does not provide the resources to oversee whether rail operators are properly managing the right-of-way itself.

The City of South Gate has three rail lines traversing through its city limits covering about 4 miles. These lines are open and inviting to individuals to conduct illegal dumping, graffiti buildings and structures along with inviting dozens of homeless encampments. As private property, Cities like ourselves cannot just go upon them to remove bulky items, trash, clean graffiti or remove encampments. We must call and arrange for either our staff to access the site or have the rail operator schedule a cleanup. This can take weeks to accomplish, in the meantime residents or businesses that are within a few hundred feet of the line must endure the blight and smell. Trash is often blown from the right-of-way into residential homes or into the streets. Encampments can be seen from the front doors of homes and businesses.

South Gate is a proud city of hard working-class residents, yet with a median household income of just \$50,246 or 65% of AMI for Los Angeles County, it does not have the financial resources to direct towards property maintenance of any commercial private property. The quality of life of communities like ours should not be degraded by the inactions or lack of funding by others. Cities such as South Gate receive no direct revenue from the rail operators, yet we deal with environmental impacts on a daily basis, whether by emissions, illegal dumping, graffiti or homeless encampments.

The State of California has record revenues to provide CPUC with funding nor only for safety oversight but ensuring right-of-way maintenance by operators is being managed properly. Rail Operators should be required to set aside sufficient annual funds to provide a regular cleanup of their right-of-way through the cities of California.



LETTERS OF CONCURRENCE
Resolution No. 2



City of
BELL GARDENS

7100 Garfield Avenue • Bell Gardens, CA 90201 • 562-806-7700 • www.bellgardens.org

CITY OF SOUTH GATE ANNUAL CONFERENCE RESOLUTION

July 21, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

President Walker:

The City of Bell Gardens supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Marco Barcena at 562-7761 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Marco Barcena".

Marco Barcena
Mayor

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org



City of
BELL GARDENS

7100 Garfield Avenue • Bell Gardens, CA 90201 • 562-806-7700 • www.bellgardens.org

CITY OF SOUTH GATE ANNUAL CONFERENCE RESOLUTION

July 20, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

President Walker:

As a Councilwoman with the City of Bell Gardens, I support the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City of South Gate's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Lisseth Flores at (562) 806-7763 if you have any questions.

Sincerely,

Lisseth Flores

Lisseth Flores
Councilwoman

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org



CITY OF SOUTH GATE ANNUAL CONFERENCE RESOLUTION

July 15, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

President Walker:

The city of Bell supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Paul Philips, City Manager at 323-588-6211, if you have any questions.

Sincerely,

Alicia Romero
Mayor

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division,



CITY OF COMMERCE

July 20, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Railroad Oversight Annual Conference Resolution

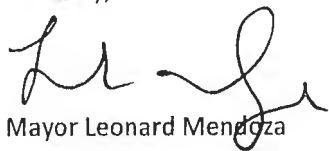
President Walker:

The City of Commerce supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League of California Cities' ("League") 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially disadvantaged communities of color that are home to the State's freight rail lines. While I am supportive of the economic base the railroad industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. The impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Edgar Cisneros, City Manager, via email at ecisneros@ci.commerce.ca.us or at 323-722-4805, should you have any questions.

Sincerely,



Mayor Leonard Mendoza

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org



CITY OF CUDAHY CALIFORNIA

Incorporated November 10, 1960

5220 Santa Ana Street
Cudahy, California 90201
(323)773-5143

July 21, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

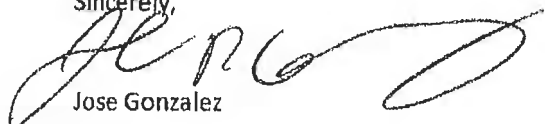
Dear President Walker:

The City of Cudahy supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City of South Gate's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State; their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impacts of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. If you have any questions, please do not hesitate to call my office at 323-773-5143.

Sincerely,



Jose Gonzalez
Mayor

CC: Chris Jeffers, City Manager, City of South Gate



City of El Segundo

Office of the Mayor

July 16, 2021

Elected Officials:

Drew Boyles,
Mayor
Chris Pimentel
Mayor Pro Tem
Carol Pirazluk,
Council Member
Scott Nicol,
Council Member
Lance Groux,
Council Member
Tracy Weaver,
City Clerk
Matthew Robinson,
City Treasurer

Appointed Officials:

Scott Mitnick,
City Manager
Mark D. Hensley,
City Attorney

Department Directors:

Barbara Voss
Deputy City Manager
Joseph Lillo,
Finance
Chris Donovan,
Fire Chief
Charles Mallory,
Information Technology
Services
Melissa McCollum,
Community Services
Rebecca Redyk,
Human Resources
Dennis Cook,
Interim Development Services
Jamie Bermudez,
Interim Police Chief
Elias Sassoon,
Public Works

www.elsegundo.org
www.elsegundobusiness.com
www.elsegundo100.org

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

President Walker:

The City of El Segundo supports the Los Angeles County Division's City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. The impact of these activities further erodes the quality of life for our communities, increases blight, increases unhealthy sanitation issues, and negatively impacts our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact El Segundo Public Works Director Elias Sassoon at 310-524-2356, if you have any questions.

Sincerely,

Drew Boyles
Mayor of El Segundo

CC: City Council, City of El Segundo
Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org
Jeff Kleman, League Regional Public Affairs Manager (via email)

350 Main Street, El Segundo, California 90245-3813
Phone (310) 524-2302 Fax (310) 322-7137



CITY OF GLENDORA CITY HALL

(626) 914-8200

116 East Foothill Blvd., Glendora, California 91741

www.ci.glendora.ca.us

July 14, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**SUBJECT: SUPPORT FOR THE CITY OF SOUTH GATE'S ANNUAL
CONFERENCE RESOLUTION**

Dear President Walker:

The City of Glendora is pleased to support the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League of California Cities' 2021 Annual Conference in Sacramento.

The City of South Gate's resolution seeks to address a critical issue that many communities, small and large, are experiencing along active transportation corridors, particularly rail lines. Given the importance and growth of the ports and logistics sector, and the economic support they provide, we need to do more to ensure that conflicts are appropriately addressed and mitigated to ensure they do not become attractive nuisances. Our cities are experiencing increasing amounts of illegal dumping (trash and debris) and the establishment of encampments by individuals experiencing homelessness along roadways, highways and rail lines. Such situations create unsafe conditions – safety, health and sanitation – that impact quality of life even as we collectively work to address this challenge in a coordinated and responsible manner.

As members of the League of California Cities, Glendora values the policy development process provided to the General Assembly and strongly support consideration of this issue. Your attention to this matter is greatly appreciated. Should you have any questions, please feel free to contact Adam Raymond, City Manager, at araymond@cityofglendora.org or (626) 914-8201.

Sincerely,

Karen K. Davis
Mayor

C: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

PRIDE OF THE FOOTHILLS



Office of the Mayor

July 21, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Re: Resolution No. 2021-18 Supporting City of South Gate Annual Conference Resolution

President Walker:

The City of Huntington Park (City) supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento. Enclosed is Resolution No. 2021-18 adopted by the City Council of the City of Huntington Park.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impacts of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively affect our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact our City Manager, Ricardo Reyes, at 323-582-6161, if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Graciela Ortiz", is written over a horizontal line.

Graciela Ortiz
Mayor, City of Huntington Park

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

Enclosure(s)



CITY OF LA MIRADA
DEDICATED TO SERVICE

13700 La Mirada Boulevard
La Mirada, California 90638
P.O. Box 828
La Mirada, California 90637-0828
Phone: (562) 943-0131 Fax: (562) 943-1464
www.cityoflamirada.org

July 19, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, California 95814

**SUBJECT: LETTER OF SUPPORT FOR CITY OF SOUTH GATE'S PROPOSED
RESOLUTION AT CALCITIES ANNUAL CONFERENCE**

President Walker:

The City of La Mirada supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City of South Gate's resolution seeks to address a critical issue within communities that are home to the State's freight rail lines. While the City of La Mirada is supportive of the economic base the railroad industry serves to the State, the rail lines have become places where illegal dumping and a growing homeless population are significant problems. The negative impact of these illegal activities decreases the quality of life for the La Mirada community, increases blight and unhealthy sanitation issues, and negatively impacts the City's ability to meet State water quality standards under the MS4 permits.

As members of the League, the City of La Mirada values the policy development process provided to the General Assembly. We appreciate your consideration on this issue. Please feel free to contact Assistant City Manager Anne Haraksin at (562) 943-0131 if you have any questions.

Sincerely,

CITY OF LA MIRADA

Ed Eng
Mayor

cc: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

Ed Eng, EdD
Mayor

Anthony A. Otero, DPPD
Mayor Pro Tem

Steve De Ruse, D. Min.
Councilmember

John Lewis, Esq.
Councilmember

Andrew Sarega
Councilmember

Jeff Boynton
City Manager

July 22, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Support for City of South Gate Resolution—Cleanup Activities on Rail Operator Properties

Dear President Walker,

On behalf of the City of Long Beach, I write to support the City of South Gate's proposed resolution for the League of California Cities' (League) 2021 Annual Conference. This resolution seeks to direct the League to adopt a policy urging State and federal governments to increase oversight of rail operators' land maintenance. The City is a proponent of increased maintenance along railways and believes a League advocacy strategy would help expedite regional responses.

The COVID-19 pandemic has exacerbated the public health and safety concerns on rail rights-of-way, as trash, debris, and encampments have increased exponentially. These challenges erode the quality of life for our communities, increase blight, and contribute to public health and sanitation issues. To address these concerns, the City has engaged directly with regional partners to prioritize ongoing maintenance and cleanups, and has invested \$4 million in the Clean Long Beach Initiative as part of the City's Long Beach Recovery Act to advance economic recovery and public health in response to the COVID-19 pandemic.

The City of South Gate's proposed resolution would further advance these efforts for interjurisdictional coordination. The increased oversight proposed by the resolution will help support better coordination and additional resources to address illegal dumping and encampments along private rail operator property. This is a critical measure to advance public health and uplift our most vulnerable communities. For these reasons, the City supports the proposed League resolution.

Sincerely,



THOMAS B. MODICA
City Manager

CC:

Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org



City of
LYNWOOD

Incorporated 1921



OFFICE OF THE
MAYOR
MARISELA SANTANA

11350 Bulas Road, Lynwood, CA 90262
(310) 693-0220 x 200

CITY OF SOUTH GATE ANNUAL CONFERENCE RESOLUTION

July 20, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

President Walker:

The City of Lynwood supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Ernie Hernandez at (310) 603-0220 ext. 200, if you have any questions.

Sincerely,

Marisela Santana, Mayor

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org



July 19, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Resolution in Support of City of South Gate Annual Conference Resolution

President Walker:

The City of Montebello (City) supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento. Attached is the Resolution to be considered for adoption by the City Council of the City of Montebello at our July 28, 2021, City Council meeting.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. The impact of these activities further erodes the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact our City Manager, René Bobadilla, at 323-887-1200, if you have any questions.

Sincerely,

Kimberly Cobos-Cawthorne
Mayor, City of Montebello

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org



BRENDA OLMOS
Mayor

VILMA CUELLAR STALLINGS
Vice Mayor

ISABEL AGUAYO
Councilmember

LAURIE GUILLEN
Councilmember

PEGGY LEMONS
Councilmember

July 19, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: SUPPORT FOR ANNUAL LEAGUE OF CITIES CONFERENCE GENERAL
ASSEMBLY RESOLUTION**

President Walker:

The City of Paramount supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento. The proposed resolution is attached

South Gate's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic boon the freight industry serves to the State, their rail line rights of way have often become places where illegal dumping is a constant problem and where our growing homeless populations reside. The impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As a member of the California League of Cities, the City of Paramount values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact City Manager John Moreno at (562) 220-2222 if you have any questions.

Dedicated to providing fiscally responsible services that maintain a vibrant community.

16400 Colorado Avenue • Paramount, CA 90723-5012 • Ph: 562-220-2000 • paramountcity.com
 facebook.com/CityofParamount |  instagram.com/paramount_posts |  youtube.com/CityofParamount



Steve Carmona
City Manager

City of Pico Rivera
OFFICE OF THE CITY MANAGER

6615 Passons Boulevard · Pico Rivera, California 90660

(562) 801-4371

Web: www.pico-rivera.org e-mail: scastror@pico-rivera.org

City Council

Raul Elias

Mayor

Dr. Monica Sánchez

Mayor Pro Tem

Gustavo V. Camacho

Councilmember

Andrew C. Lara

Councilmember

Erik Lutz

Councilmember

CITY OF SOUTH GATE ANNUAL CONFERENCE RESOLUTION

July 14, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

President Walker:

The City of Pico Rivera supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantaged communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State; their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. The impact of these activities further erodes the quality of life for our communities, increases blight, increases unhealthy sanitation issues, and negatively impacts our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Steve Carmona at (562) 801-4405 if you have any questions.

Sincerely,

City Manager
City of Pico Rivera

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

League of California Cities Staff Analysis on Resolution No. 2

Staff: Damon Conklin, Legislative Affairs, Lobbyist
Jason Rhine, Assistant Director, Legislative Affairs
Caroline Cirrincione, Policy Analyst

Committees: Transportation, Communications, and Public Works
Housing, Community, and Economic Development

Summary:

The City of South Gate submits this resolution, which states the League of California Cities should urge the Governor and the Legislature to provide adequate regulatory authority and necessary funding to assist cities with railroad right-of-way areas to address illegal dumping, graffiti, and homeless encampments that proliferate along the rail lines and result in public safety issues.

Background:

California Public Utilities Commission (CPUC) Railroad Oversight

The CPUC's statewide railroad safety responsibilities are carried out through its Rail Safety Division (RSD). The Railroad Operations and Safety Branch (ROSB), a unit of RSD, enforces state and federal railroad safety laws and regulations governing freight and passenger rail in California.

The ROSB protects California communities and railroad employees from unsafe practices on freight and passenger railroads by enforcing rail safety laws, rules, and regulations. The ROSB also performs inspections to identify and mitigate risks and potential safety hazards before they create dangerous conditions. ROSB rail safety inspectors investigate rail accidents and safety-related complaints and recommend safety improvements to the CPUC, railroads, and the federal government as appropriate.

Within the ROSB, the CPUC employs 41 inspectors who are federally certified in the five Federal Railroad Administration (FRA) railroad disciplines, including hazardous materials, motive power and equipment, operations, signal and train control, and track. These inspectors perform regular inspections, focused inspections, accident investigations, security inspections, and complaint investigations. In addition, the inspectors address safety risks that, while not violations of regulatory requirements, pose potential risks to public or railroad employee safety.

CPUC's Ability to Address Homelessness on Railroads

Homeless individuals and encampments have occupied many locations in California near railroad tracks. This poses an increased safety risk to these homeless individuals of being struck by trains. Also, homeless encampments often create unsafe work environments for railroad and agency personnel.

While CPUC cannot compel homeless individuals to vacate railroad rights-of-way or create shelter for homeless individuals, it has the regulatory authority to enforce measures that can reduce some safety issues created by homeless encampments. The disposal of waste materials or other disturbances of walkways by homeless individuals can create tripping hazards in the vicinity of railroad rights-of-way. This would cause violations of Commission GO 118-A, which sets standards for walkway surfaces alongside railroad tracks. Similarly, tents, wooden structures, and miscellaneous debris in homeless encampments can create violations of

Commission GO 26-D, which sets clearance standards between railroad tracks, and structures and obstructions adjacent to tracks.

Homelessness in California

According to the 2020 Annual Homeless Assessment Report (AHAR) to Congress, there has been an increase in unsheltered individuals since 2019. More than half (51 percent or 113,660 people) of all unsheltered homeless people in the United States are found in California, about four times as high as their share of the overall United States population.

Many metro areas in California lack an adequate supply of affordable housing. This housing shortage has contributed to an increase in homelessness that has spread to railroad rights-of-way. Homeless encampments along railroad right-of-way increase the incidents of illegal dumping and unauthorized access and trespassing activities. Other impacts include train service reliability with debris strikes, near-misses, and trespasser injuries/fatalities. As of April 2021, there have been 136 deaths and 117 injuries reported by the Federal Railroad Administration over the past year. These casualties are directly associated with individuals who trespassed on the railroad.

Cities across the state are expending resources reacting to service disruptions located on the railroad's private property. It can be argued that an increase in investments and services to manage and maintain the railroad's right-of-way will reduce incidents, thus enhancing public safety, environmental quality, and impacts on the local community.

State Budget Allocations – Homelessness

The approved State Budget includes a homelessness package of \$12 billion. This consists of a commitment of \$1 billion per year for direct and flexible funding to cities and counties to address homelessness. While some details related to funding allocations and reporting requirements remain unclear, Governor Newsom signed AB 140 in July, which details key budget allocations, such as:

- \$2 billion in aid to counties, large cities, and Continuums of Care through the Homeless Housing, Assistance and Prevention grant program (HHAP);
- \$50 million for Encampment Resolution Grants, which will help local governments resolve critical encampments and transitioning individuals into permanent housing; and
- \$2.7 million in onetime funding for Caltrans Encampment Coordinators to mitigate safety risks at encampments on state property and to coordinate with local partners to connect these individuals to services and housing.

The Legislature additionally provided \$2.2 billion specifically for Homekey with \$1 billion available immediately. This funding will help local governments transition individuals from Project Roomkey sites into permanent housing to minimize the number of occupants who exit into unsheltered homelessness.

With regards to this resolution, the State Budget also included \$1.1 billion to clean trash and graffiti from highways, roads, and other public spaces by partnering with local governments to pick up trash and beautify downtowns, freeways, and neighborhoods across California. The program is expected to generate up to 11,000 jobs over three years.

Cities Railroad Authority

A city must receive authorization from the railroad operator before addressing the impacts made by homeless encampments because of the location on the private property. Additionally, the city

must coordinate with the railroad company to get a flagman to oversee the safety of the work crews, social workers, and police while on the railroad tracks.

A city may elect to declare the encampment as a public nuisance area, which would allow the city to clean up the areas at the railroad company's expense for failing to maintain the tracks and right-of-way. Some cities are looking to increase pressure on railroad operators for not addressing the various homeless encampments, which are presenting public safety and health concerns.

Courts have looked to compel railroad companies to increase their efforts to address homeless encampments on their railroads or grant a local authority's application for an Inspection and Abatement Warrant, which would allow city staff to legally enter private property and abate a public nuisance or dangerous conditions.

In limited circumstances, some cities have negotiated Memoranda of Understandings (MOU) with railroad companies to provide graffiti abatement, trash, and debris removal located in the right-of-way, and clean-ups of homeless encampments. These MOUs also include local law enforcement agencies to enforce illegally parked vehicles and trespassing in the railroad's right-of-way. MOUs also detailed shared responsibility and costs of providing security and trash clean-up. In cases where trespassing or encampments are observed, the local public works agency and law enforcement agency are notified and take the appropriate measures to remove the trespassers or provide clean-up with the railroad covering expenses outlined in the MOU.

Absent an MOU detailing shared maintenance, enforcement, and expenses, cities do not have the authority to unilaterally abate graffiti or clean-up trash on a railroad's right-of-way.

Fiscal Impact:

If the League of California Cities were to secure funding from the state for railroad clean-up activities, cities could potentially save money in addressing these issues themselves or through an MOU, as detailed above. This funding could also save railroad operators money in addressing concerns raised by municipalities about illegal dumping, graffiti, and homeless encampments along railroads.

Conversely, if the League of California Cities is unable to secure this funding through the Legislature or the Governor, cities may need to consider alternative methods, as detailed above, which may include significant costs.

Existing League Policy:

Public Safety:

Grffiti

The League supports increased authority and resources devoted to cities for abatement of graffiti and other acts of public vandalism.

Transportation, Communications, and Public Works

Transportation

The League supports efforts to improve the California Public Utilities Commission's ability to respond to and investigate significant transportation accidents in a public and timely manner to improve rail shipment, railroad, aviation, marine, highway, and pipeline safety

Housing, Community, and Economic Development

Housing for Homeless

Homelessness is a statewide problem that disproportionately impacts specific communities. The state should make funding and other resources, including enriched services, and outreach and case managers, available to help assure that local governments have the capacity to address the needs of the homeless in their communities, including resources for regional collaborations.

Homeless housing is an issue that eludes a statewide, one-size-fits-all solution, and collaboration between local jurisdictions should be encouraged.

Staff Comments:

Clarifying Amendments

Upon review of the Resolution, Cal Cities staff recommends technical amendments to provide greater clarity. To review the proposed changes, please see Attachment A.

The committee may also wish to consider clarifying language around regulatory authority and funding to assist cities with these efforts. The resolution asks that new investments from the state be sent to the CPUC to increase their role in managing and maintaining railroad rights-of-ways and potentially to cities to expand their new responsibility.

The committee may wish to specify MOUs as an existing mechanism for cities to collaborate and agree with railroad operators and the CPUC on shared responsibilities and costs.

Support:

The following letters of concurrence were received:

City of Bell Gardens

City of Bell

City of Commerce

City of Cudahy

City of El Segundo

City of Glendora

City of La Mirada

City of Paramount

City of Pico Rivera

City of Huntington Park

City of Long Beach

City of Lynwood

City of Montebello

ATTACHMENT A

2. **A RESOLUTION CALLING UPON THE GOVERNOR AND THE LEGISLATURE TO PROVIDE ~~NECCESARY~~ NECESSARY FUNDING FOR ~~GPUC~~ THE CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC) TO FUFILL ITS OBLIGATION TO INSPECT RAILROAD LINES TO ENSURE THAT OPERATORS ARE REMOVING ILLEGAL DUMPING, GRAFFITI AND HOMELESS ENCAMPMENTS THAT DEGRADE THE ~~QAULTY~~ QUALITY OF LIFE AND RESULTS IN INCREASED PUBLIC SAFETLY SAFETY CONCERNS FOR COMMUNITIES AND NEIGHBORHOODS THAT ABUT THE RAILROAD RIGHT-OF-WAY.**

Source: City of South Gate

Concurrence of five or more cities/city officials

Cities: City of Bell Gardens; City of Bell; City of Commerce; City of Cudahy; City of El Segundo; City of Glendora; City of Huntington Park; City of La Mirada; City of Long Beach; City of Lynwood; City of Montebello; City of Paramount; City of Pico Rivera

Referred to: Housing, Community and Economic Development; and Transportation, Communications and Public Works

WHEREAS, ensuring the quality of life for communities falls upon every local government including that blight and other health impacting activities are addressed in a timely manner by private property owners within its jurisdictional boundaries for their citizens, businesses and institutions; and

WHEREAS, Railroad Operators own nearly 6,000 miles of rail right-of-way throughout the State of California which is regulated by the Federal Railroad Administration and/or the ~~California Public Utilities Commission~~ CPUC for operational safety and maintenance; and

WHEREAS, the ~~California Public Utilities Commission~~ (CPUC) is the enforcing agency for railroad safety in the State of California and has 41 inspectors assigned throughout the entire State to inspect and enforce regulatory compliance over thousands of miles of rail line; and

WHEREAS, areas with rail line right-of-way within cities and unincorporated areas are generally located in economically disadvantaged zones and/or disadvantaged communities of color where the impact of blight further lowers property values and increases the likelihood of unsound sanitary conditions and environmental impacts upon them; and

WHEREAS, many communities are seeing an increase in illegal dumping, graffiti upon infrastructure and homeless encampments due to the lax and inadequate oversight by regulatory agencies; and

WHEREAS, local governments have no oversight or regulatory authority to require operators to better maintain and clean their properties as it would with any other private property owner within its jurisdictional boundaries. Thus such local communities often resort to spending their local tax dollars on cleanup activities or are forced to accept the delayed and untimely response by operators to cleaning up specific sites, and;

WHEREAS, that railroad operators should be able to provide local communities with a fixed schedule in which their property will be inspected and cleaned up on a reasonable and regular schedule or provide for a mechanism where they partner with and reimburse local governments for an agreed upon work program where the local government is enabled to remove items like illegal dumping, graffiti and encampments; and

WHEREAS, the State has made it a priority to deal with homeless individuals and the impacts illegal encampments have upon those communities and has a budgetary surplus that can help fund the CPUC in better dealing with this situation in both a humane manner as well as a betterment to rail safety.

RESOLVED, at the League of California Cities, General Assembly, assembled at the League Cal Cities Annual Conference on September 24, 2021, in Sacramento, that the Cal Cities League calls for the Governor and the Legislature to work with the Cal Cities League and other stakeholders to provide adequate regulatory authority and necessary funding to assist cities with these railroad right-of-way areas so as to adequately deal with illegal dumping, graffiti and homeless encampments that proliferate along the rail lines and result in public safety issues. The Cal Cities League will work with its member cities to educate federal and state officials to the quality of life and health impacts this challenge has upon local communities, especially those of color and/or environmental and economic hardships.



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.1

DATE: September 7, 2021
TO: City Council
FROM: Rose Chaparro, City Clerk, (805) 385-7805, rose.chaparro@oxnard.org
SUBJECT: Approval of Minutes.

RECOMMENDATION

That the City Council approve the minutes of the April 6, 2021; April 20, 2021, April 29, 2021, and May 4, 2021 regular meetings as presented.

BACKGROUND

That the City Council approve the meeting minutes as presented.

STRATEGIC PRIORITIES

This agenda item is a routine operational item and does not relate to the four strategic plans adopted by the City Council.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item is routine in nature and did not originate in Committee.

Prepared by: Rose Chaparro, City Clerk

ATTACHMENTS

1. MINUTES 04 06 2021 CC Regular Meeting
2. MINUTES 04 20 2021 CC Regular Meeting
3. MINUTES 04 29 2021 CC Regular Meeting
4. MINUTES 05 04 2021 CC regular meeting

MINUTES
OXNARD CITY COUNCIL
Regular Meeting
April 6, 2021

A. ROLL CALL, POSTING OF AGENDA

At 6:02 p.m., Mayor John C. Zaragoza called to order the regular meeting of the Oxnard City Council (concurrently with the Oxnard Housing Authority), in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Councilmembers Gabriela Basua, Vianey Lopez, Oscar Madrigal, Bert E. Perello, Gabriel (Gabe) Teran, and Mayor Pro Tem Bryan A. MacDonald were present via videoconference. Mayor Zaragoza participated in person.

Housing Authority Commissioners Jose Andrade and Francisco Vega also participated, and joined the meeting at 6:00 p.m. via videoconference.

Staff members present in person were Alexander Nguyen, City Manager; Stephen M. Fischer, City Attorney; and Rose Chaparro, City Clerk.

Staff members that participated via videoconference were Shiri Klima, Deputy City Manager; Emilio Ramirez, Housing Director; Jason Benites, Police Chief; Eric Sonstegard, Assistant Police Chief; Alexander Hamilton, Fire Chief; Craig Beck, Interim Public Works Director; Brian Yanez, Assistant Public Works Director; Steve Howlett, Assistant Public Works Director; Tatiana Arnaout, City Engineer; Jeri Cooper, Special Districts Project Manager; Todd Vasquez-Housley, Environmental Resources Division Manager; Vyto Adomaitis, Community Development Director; and Kevin Riper, Chief Financial Officer. Pablo Perez, NBS Consultant also participated via videoconference.

B. OPENING CEREMONIES

The flag salute was followed by a moment of silence.

C. CEREMONIAL ITEMS

1. SUBJECT: Presentation of Proclamation Designating the Month of April as "Sexual Assault and Child Abuse Awareness Month".

Mayor Zaragoza read the proclamation and presented it to Sergeant Aaron Scott and staff of the Oxnard Police Department. Police Chief Benites made some remarks.

2. SUBJECT: Presentation of a Proclamation Designating the Month of April 2021 as "Fair Housing Month."

Mayor Zaragoza read the proclamation and presented it to Sher Heard, 2021 President of the Ventura County Coastal Association of Realtors (VCCAR) and Marta Golding Brown, VCCAR Government Affairs Director; they thanked Mayor Zaragoza and made some remarks.

D. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Pat Brown (Safety Concerns at 5 Points Intersection Wooley Road/Oxnard Boulevard Semi-Trucks), Dr. LaSonja Ivory (Commended Chief Benites and the Oxnard Police Department Officers for the level of professionalism provided to her son by law enforcement), Alicia Percell (City Treasurer), and Douglas D. Partello (Emergency Medical Services).

E. REPORT OF CITY MANAGER

1. City Manager Department

SUBJECT: COVID-19 Update from Director of Emergency Services. (10/5/5)

RECOMMENDATION: That the City Council receive and file an update from the Director of Emergency Services on the COVID-19 Local Emergency.

The City Manager gave a report on the City's COVID-19 response. No formal action was required.

F. CITY COUNCIL REPORTS

Councilmember Perello expressed his concerns about the crime that occurred at the Cypress Neighborhood. He shared that he listened to a presentation on KCLU radio about the housing crisis in California. He also expressed his concerns about reporting unsafe housing conditions. Encouraged the community to get the Covid-19 vaccine.

Councilmember Madrigal encouraged the community to utilize the City's 311 Application to report discarded items left in the alley ways. Congratulated Dr. Cesar Morales for being appointed as the new Ventura County Superintendent of Schools.

Councilmember Basua expressed concerns about the criminal activity that occurred at the Cypress Neighborhood and asked that Police Department resources be restored. Recommended that Council discuss, share ideas, and make policies to assist the community with unsafe living conditions and to consider the consequences that may be endured by residents that report unsafe living conditions.

Councilmember Teran also expressed concerns about the violence at the Cypress Neighborhood and sent his condolences. Reported on the neighborhood meetings attended at the Cal Gisler and Riverpark communities. Also, attended the District 2 Town hall meeting.

Mayor Pro Tem MacDonald was approached by the League of California Cities to consider being part of the Central Coast Commission and made the decision to join and represent the community in this role. This is in addition to the transportation committees that he currently participates in and will be attending the Gold Coast Transit Committee meeting this week.

Mayor Zaragoza attended a Johnson & Johnson vaccination mobile clinic and met a group of traveling nurses. Presented a certificate of commendation to Marian Yablon during her 101th birthday celebration with the Senior Center staff. He commended the Oxnard Senior Services employees for their services to the community.

G. REVIEW OF INFORMATION/CONSENT AGENDA

Items I-1 through I-5 were discussed among the Council and staff.

H. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

Public comments were received from Pat Brown (bike lanes and pedestrian crossways) and Douglas D. Partello (CFD's reserve studies).

I. INFORMATION/CONSENT AGENDA

1. Public Works Department

SUBJECT: Agreements for Professional Services for the Etting Road Bicycle & Pedestrian Facilities Installation PW 21-34 and the Oxnard Boulevard Bikeway Gap Closure Class I Bike Path PW 21-36 Projects.

RECOMMENDATION: That the City Council:

1. Approve and authorize the Mayor to execute Agreement A-8300 with Huitt-Zollars, Inc. in the amount of \$189,565 for Plans, Specifications and Estimates for the Etting Road Bicycle & Pedestrian Facilities Installation Project 203104; and
2. Approve and authorize the Mayor to execute Agreement A-8301 with Huitt-Zollars, Inc. in the amount of \$139,873 for Plans, Specifications and Estimates for the Oxnard Boulevard Bikeway Gap Closure Class I Bike Path Project 213104; and
3. Approve a budget appropriation of \$108,522 from Transportation Development Act Article 8a Fund 212 to Etting Road Bicycle & Pedestrian Facilities Installation Project 203104; recognize and appropriate \$98,000 from State Active Transportation Program grant funds (Fund 210) and \$55,861 from Transportation Development Act Article 8a Fund 212 to Oxnard Boulevard Bikeway Gap Closure Class I Bike Path Project 213104. (Public Works and Transportation Committee approved 3-0.)

2. Public Works Department

SUBJECT: Agreement for Supplemental Waste Transfer Hauling Services for the Del Norte Regional Recycling and Transfer Station.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute Agreement A-8291 with Eco Transport, LLC for an amount not to exceed \$4,000,000 for a three-year term ending March 1, 2024 to provide supplemental waste transfer hauling services for the Del Norte Regional Recycling and Transfer Station. (Public Works and Transportation Committee approved 3-0.)

3. Public Works Department

SUBJECT: Channel Islands Water Quality and Quality Assurance Project Plan (QAPP) Report.

RECOMMENDATION: That the City Council receive and file a report on water quality monitoring efforts in the Channel Islands Harbor and provide staff with comments. (Public Works and Transportation Committee approved 3-0.)

4. Public Works Department

SUBJECT: Community Facilities Districts (CFDs) Reserve Studies.

RECOMMENDATION: That the City Council receive and file the reserve studies for Westport CFD 2, Seabridge CFD 4 and Riverpark CFD 5. (Public Works and Transportation Committee approved 3-0.)

5. Public Works Department

SUBJECT: Award Agreement for Civic Annex 3rd Floor Tenant Improvement Project (Rebid) PW 20-21R.

RECOMMENDATION: That the City Council approve and authorize:

1. The Mayor to award and execute Agreement A-8314 with SBS Corporation for \$545,964.57 for the Civic Annex 3rd Floor Tenant Improvement Project (Rebid) PW 20-21R (Project No. 171601);
2. A Project contingency amount of \$54,596 for the Civic Annex 3rd Floor Tenant Improvement Project (Rebid) (Project No. 171601);
3. A Project allocation of \$54,596 for engineering, inspection, survey and project management for the Civic Annex 3rd Floor Tenant Improvement Project (Rebid) (Project No. 171601); and
4. Approve a budget re-appropriation in the amount of \$249,058 from General Fund contingency to Capital Outlay Fund 301 / Civic Annex 3rd Floor Tenant Improvement Project 171601.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Perello, to approve the Information/Consent items as presented. VOTE: MacDonald, Perello, Basua, Madrigal, Zaragoza, Teran, and Lopez voted in favor; the motion carried 7-0.

J. PUBLIC HEARINGS

1. Housing Department

SUBJECT: 5-Year PHA Plan, Annual Agency Plan and Capital Fund Program (CFP)

Five-Year Action Plan for Low Rent Public Housing. (10/15/5)

RECOMMENDATION: That the Board of Commissioners of the Housing Authority of the City of Oxnard (OHA):

1. Hold a public hearing to receive comments concerning the second year of the 5-Year PHA Plan, the 2021 CFP Budget, and the CFP Five-Year Action Plan; and

2. Adopt **Housing Authority Resolution No. 1322:**

a. Approving the 2021 Annual Agency Plan, 5-Year PHA Plan for the Housing Authority;

b. Authorizing and directing the Chairman to execute the Department of Housing and Urban Development (HUD) Public Housing Agency Certification Compliance Form certifying the Housing Authority's compliance with HUD's policies and procedures;

c. Authorizing the Housing Director to execute and submit all reports, documents and all other certifications required to comply with HUD's policies and procedures regarding the Annual Agency Plan and the 5-Year PHA Plan;

d. Approving the 2021 CFP Budget and CFP Five-Year Action Plan; and

e. Authorizing the Housing Director to accept and expend the funds as indicated in the 2021 CFP Budget and CFP Five-Year Action Plan.

Legislative Body: Housing Authority Board.

The City Clerk announced the affidavit of publication and stated that no written communications had been received. Emilio Ramirez, Housing Director, gave a report.

Mayor Zaragoza opened the public testimony portion of the public hearing. Public comments were not received.

Without objection, the Council approved closing the public testimony portion of the public hearing. Discussion ensued among the Council and staff.

It was moved by Commissioner Perello, seconded by Commissioner Teran, to approve the recommended action as presented. VOTE: MacDonald, Perello, Lopez, Zaragoza, Madrigal, Teran, Basua, Vega, and Andrade voted in favor; the motion carried 9-0.

K. REPORTS

1. Public Works Department

SUBJECT: Update of the ReNew Oxnard Community Outreach Program and Collaborative Governance Guide for the City's Landscape Maintenance Districts. (0/15/15)

RECOMMENDATION: That the City Council receive and file the staff report and update regarding the ReNew Oxnard Community Outreach Program and Collaborative Governance Guide for the City's Landscape Maintenance Districts. (Public Works and Transportation Committee approved 3-0.)

Jeri Cooper, Special Districts Project Manager and Pablo Perez, NBS Consultant gave a report and answered questions. Public comments were received from Douglas D. Partello, Ray Blattel, and Alicia Percell. Discussion ensued among the Council and staff. No action was required.

L. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Zaragoza adjourned the meeting at 8:28 p.m.

ROSE CHAPARRO
City Clerk

JOHN C. ZARAGOZA
Mayor

MINUTES
OXNARD CITY COUNCIL
Regular Meeting
April 20, 2021

A. ROLL CALL, POSTING OF AGENDA

At 5:01 p.m., Mayor John C. Zaragoza called to order the regular meeting of the Oxnard City Council (concurrently with the Oxnard Housing Authority), in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Councilmembers Gabriela Basua, Vianey Lopez, Bert E. Perello, Gabriel (Gabe) Teran, and Mayor Pro Tem Bryan A. MacDonald were present via videoconference. Mayor Zaragoza participated in person.

Staff members present in person were Alexander Nguyen, City Manager; Stephen M. Fischer, City Attorney; and Rose Chaparro, City Clerk

Staff members Ashley Golden, Assistant City Manager; Shiri Klima, Deputy City Manager; Ken Rozell, Chief Assistant City Attorney; Jason Zaragoza, Deputy City Attorney; Jason Benites, Police Chief; Eric Sonstegard, Assistant Chief of Police; Alex Arnett, Commander; Sharon Giles, Commander; Alexander Hamilton, Fire Chief; John Colamarino, Assistant Fire Chief; Craig Beck, Interim Public Works Director; Brian Yanez, Assistant Public Works Director; Steve Howlett, Assistant Public Works Director; Tatiana Arnaout, City Engineer; Tim Bochum, City Traffic Engineer; Emilio Ramirez, Housing Director; Vyto Adomaitis, Community Development Director; Jeff Pengilley, Community Development Assistant Director; Scott Kolwitz, Planning & Environmental Services Manager; Roger Brooks, Code Compliance Manager; Joe Pearson II, AICP, Senior Planner; Kevin Riper, Chief Financial Officer; Eden Alomeri, Billing & Licensing Director; and Raja Bamrungpong, Interim IT Director; and Gary Krumian, IT Analyst participated via videoconference.

Charles Genkel, Environmental Health Director and Graciela Garcia, Supervising Environmental Health Specialist, with the Ventura County Environmental Health Division also participated via videoconference.

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS (None received.)

C. CLOSED SESSION (4:30 PM)

1. CONFERENCE WITH LEGAL COUNSEL — EXISTING LITIGATION

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

Name of case: City of Oxnard v. County of Ventura

Ventura County Superior Court, Case No. 56-2021-00552428-CU-WM-VTA

Legislative Body: City Council

2. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
(Government Code Section 54956.9(d)(1))
Name of case: Paul Knapp v. City of Oxnard
Workers' Compensation Case No. ADJ12427191
Legislative Body: City Council
3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
(Government Code section 54956.9(d)(4))
Based on existing facts and circumstances, the City Council shall decide whether to initiate litigation in one potential case.
Legislative Body: City Council

At 4:30 p.m., the City Council recessed to a closed session. At 5:05 p.m., the City Council reconvened in open session in the Council Chambers. The City Attorney made the following statement: "The City Council by a unanimous vote has directed the City Attorney to initiate an action. The action, the defendants, and the other particulars shall, once unsealed, be disclosed to any person upon inquiry, unless to do so would jeopardize the City's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage."

D. APPOINTMENT ITEMS (5:00 PM)

1. Community Development Department
SUBJECT: Mobile Food Vendor Permitting Presentation By Ventura County Environmental Health. (20/15/25)
RECOMMENDATION: That the City Council receive and file a presentation from the Ventura County Environmental Health in regards to mobile food vendor permitting.

Roger Brooks, Code Compliance Manager, introduced Charles Genkel, Environmental Health Director and Graciela Garcia, Supervising Environmental Health Specialist, with the Ventura County Environmental Health Division. Ms. Garcia presented about the requirements to obtain a mobile food vendor permit and answered questions.

E. OPENING CEREMONIES (6:00 PM)

The flag salute was followed by a moment of silence.

F. CEREMONIAL ITEMS

1. SUBJECT: Presentation of a Proclamation Designating the Week of April 18 - 21, 2021 as "National Crime Victims' Rights Week."

Mayor Zaragoza read the proclamation and presented it to Commander Sharon Giles from the

Oxnard Police Department, accepted the proclamation on behalf of Paul Lemos, Chair of the Parks and Recreation Commission, and made some remarks. Public comments were received from Teresa (Terry) Telles (family victims of homicide, brother Angel murdered 2017).

2. SUBJECT: Presentation of a Proclamation Designating April 22, 2021 as "Earth Day."

Mayor Zaragoza read the proclamation and presented it to Isabel Ayala from Coastal Keepers of Oxnard, who made some remarks.

G. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Armando Delgado (Tax Fraud), Douglas D. Partello (Landscape Maintenance Districts), Max Ghenis (Bicyclists Safety Concerns), and Pat Brown (7th Street/Oxnard Boulevard/Commercial Avenue Railroad Tracks/Signage for Trucks). Written comments were received from Jean Tong (Hero Hazard Pay).

H. REPORT OF CITY MANAGER

1. City Manager Department

SUBJECT: COVID-19 Update from Director of Emergency Services. (10/5/5)

RECOMMENDATION: That the City Council receive and file an update from the Director of Emergency Services on the COVID-19 Local Emergency.

The City Manager gave a report on the City's COVID-19 response. No formal action was required.

I. CITY COUNCIL REPORTS

1. City Manager Department

SUBJECT: Appointment of Member to Serve on the City's Commissions on Homelessness. (0/5/5)

RECOMMENDATION: That the Mayor, with the concurrence of the City Council, make the following appointment to the Commission on Homelessness: Jack Villa (D3). (This item did not originate in Committee).

It was moved by Mayor Zaragoza, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: MacDonald, Perello, Basua, Madrigal, Zaragoza, Teran, and Lopez voted in favor; the motion carried 7-0.

CITY COUNCIL REPORTS

Councilmember Teran expressed that he is happy justice was served today in the George Floyd case. Thanked Deirdre Frank for her service as former Chair of the Planning Commission. Congratulations to newly appointed Chair Daniel Chavez, Jr. and Vice Chair Arnold Arruejo to the Planning Commission.

Councilmember Lopez also expressed that she is glad about the verdict in the George Floyd case. Thanked the Economic Development Department for their work to support the local small businesses being impacted by the pandemic and providing resources. Over 240 businesses in the City of Oxnard have received over \$2.5 million dollars in grant funds, to assist in keeping local businesses open.

Councilmember Basua was also happy about the George Floyd case verdict. She sent her condolences to the family of the 17-year-old bicyclist that was hit by a vehicle. On April 7 and 8, she was able to walk around the Cypress neighborhood with Police Chief Benites and City Manager Nguyen. They knocked on doors and interacted with the residents in the Cypress neighborhood. She thanked the Oxnard Police Department for their efforts in the South Oxnard community.

Councilmember Madrigal received complaints from Colonia neighborhood residents that businesses have been taken advantage and assured them that this is being worked on. He attended the Oxnard Eastside Little League with Mayor Zaragoza. Thanked all the volunteers that were involved in helping to clean-up and make repairs for the Oxnard Eastside Little League fields. Thanked the City staff and local business for their help to clean up the community. Also, thanked the Gold Coast Local 805 Carpenters for helping to give the fields a face lift and preparing the park for the 2021 season. Thanked everyone involved for their efforts and volunteering their time to install a new fence, backboards, and bleacher seats. Reminded the community to work together, stay safe, wear masks, and avoid large gatherings during the pandemic.

Councilmember Perello thanked Terry Telles for her comments about her brother, Angel Ortiz, a murder victim. Thanked Commander Sharon Giles for her comments and accepting a proclamation on behalf of Paul Lemos, Chair of the Parks and Recreation Commission. Thanked the Oxnard Police Department for removing illegal guns and their efforts in solving murders in the community. Also, thanked Armando Delgado for his comments.

Mayor Zaragoza visited the Oxnard Eastside Little League fields over the weekend. Thanked Paul Lemos, Chair of the Parks and Recreation Commission, for inviting him to participate in the clean-up and fundraising event. A big thank you to all the volunteers involved that donated their time and materials to make this happen. He also thanked the Gold Coast Local 805 Carpenters for their work and helping to prepare the field for the new season. Thanked Deirdre Frank for the many years of service and volunteerism to the Planning Commission. Congratulated Daniel Chavez, Jr. for being appointed the new Planning Commission Chair. Also, thanked the Oxnard Police Department and Assistant Police Chief Eric Sonstegard for his involvement concerning a traffic safety situation, and working with the residents to move their vehicles and a boat parked on Caliente Street to prevent a traffic accident.

J. REVIEW OF INFORMATION/CONSENT AGENDA

Items L-1 through L-4 were discussed among the Council and staff.

K. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

Public comments were received from Joey Juhasz-Lukomski (L.1. Bicyclist and

Pedestrian Safety Concerns/Repavement Funding). Written comments were received from Tom Holstein (L.1. California Office of Traffic Safety Rankings).

L. INFORMATION/CONSENT AGENDA

1. Public Works Department

SUBJECT: Agreement for Professional Services for the Local Roadway Safety Plan PW 21-35 and the Sustainable Transportation Planning Project PW 21-33.

RECOMMENDATION: That the City Council:

1. Approve and authorize the Mayor to execute Agreement A-8306 with Fehr & Peers in the amount of \$144,776 to develop a Local Roadway Safety Plan, Project 213102;
2. Approve and authorize the Mayor to execute Agreement A-8307 with Fehr & Peers in the amount of \$457,646 to develop a Sustainable Transportation Plan, Project 213103;
3. Recognize and appropriate \$60,300 from State Transportation Grant Fund 210 and approve a budget appropriation of \$19,753 from Transportation Development Act Article 8a Fund 212 to Local Roadway Safety Plan Project 213102; and
4. Appropriate \$53,121 from Transportation Development Act Article 8a Fund 212 and reclassify project budget appropriation allocations and expenditures of \$53,121 from Roadway Maintenance and Rehabilitation Account Fund 185 to Transportation Development Act Article 8a Fund 212 for the Sustainable Transportation Planning Project 213103. (Allocation of the initial grant funding for the two projects, as well as discussion on the need to contract with consulting firms for this work, went to the Public Works & Transportation Committee on July 28, 2020 (approved 3-0) and was followed by City Council on September 1, 2020 (approved 7-0). The recommended action to allocate additional grant funding, local match, and award of the consultant contracts did not originate at Committee.

2. Public Works Department

SUBJECT: Senate Bill 1 (SB1) Local Streets and Road Maintenance and Rehabilitation Account (RMRA) Funding and Project List for Fiscal Year 2021-22.

RECOMMENDATION: That the City Council adopt **Resolution No. 15,433** to:

1. Adopt the Fiscal Year 2021-22 project list of Senate Bill 1 (SB1) proposed projects which will be funded in part or solely with Road Maintenance and Rehabilitation Account revenues; and
2. Authorize the City Manager to take whatever actions are necessary and appropriate to carry out the purpose and intent of the resolution. (Public Works and Transportation Committee approved 3-0).

3. Police Department

SUBJECT: Agreement for Animal Safety Services with Ventura County Animal Services (VCAS).

RECOMMENDATION: That City Council approve a budget appropriation with a

total cost projection in the amount of \$\$2,479,135.18 for FY 21-22, total cost projection for the second year of a five year agreement (A-8151) with the County of Ventura to provide animal safety services. (Public Safety Committee approved 3-0).

4. Information Technology Department

SUBJECT: Renewal of Tyler/New World 911 System (0/5/5)

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a Sixth Amendment to Agreement No. 5463-11-PD with Tyler Technologies through June 30, 2026, increasing the agreement amount from \$7.5 million to \$9.7 million (\$2.2 million increase over 5 years) for the renewal of public safety calls dispatch software licenses and services. (Finance & Governance Committee approved 3-0).

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Lopez, to approve the Information/Consent items as presented. VOTE: Zaragoza, MacDonald, Perello, Lopez, Madrigal, Basua, and Teran voted in favor; the motion carried 7-0.

M. PUBLIC HEARINGS

1. Community Development Department

SUBJECT: Recovery of Nuisance Abatement Costs. (0/10/5)

RECOMMENDATION: That the City Council:

1. Conduct a public hearing to consider objections to the cost report of the property owners whose property is to be assessed for nuisance abatement costs;
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.

The Council postponed public hearing agenda item M.1 to a future meeting.

2. Community Development Department

SUBJECT: Tru Hilton Hotel Project – Appeal of the Planning Commission’s Decision to Approve Planning and Zoning Permit No. 19-500-03 (Special Use Permit) located at 180 West Esplanade Drive (APN: 142-0-310-045), Subject to Certain Findings and Conditions. (0/15/10)

RECOMMENDATION: That the City Council:

1. Conduct a public hearing, and
2. Approve Addendum No. 1 to Final Mitigated Negative Declaration No. 12-01, and
3. Adopt **Resolution No. 15,434** Denying the Appeal and upholding the Planning Commission’s Approval of Planning and Zoning Permit No. 19-500-03 (Special Use Permit), subject to certain findings and conditions, because the record shows that there is evidence necessary to make all of the Findings required by Oxnard City

Code Section 16-531 in order to grant a Special Use Permit.

The City Clerk announced the affidavit of publication and stated that written communications were received from Matticus Hospitality Group, Inc. and Gold's Gym. Scott Kolwitz, Planning & Environmental Services Manager, gave a report.

Mayor Zaragoza opened the public testimony portion of the public hearing. Public comments were received from Armando Delgado, Jon Duran, Willy Banos, Gold's Gym Representative; Glenn T. Sherman, Freeman, Freeman, Smiley (Attorney for Gold's Gym); Marcus Frisco, Developer with Matticus Hospitality Group, Inc. (Representing Tru by Hilton); Sake Reindersma, and Chris Ott.

Without objection, the Council approved closing the public testimony portion of the public hearing. Discussion ensued among the Council and staff.

It was moved by Councilmember Lopez, seconded by Councilmember Teran, to approve the recommended action as presented. VOTE: Zaragoza, MacDonald, Perello, Lopez, Basua, and Teran voted in favor, Madrigal voted against, the motion carried 6-1.

N. REPORTS

1. Fire Department

SUBJECT: Agreement A-8317 with Falck Mobile Health Corporation ("Falck") for three years, with an option to renew for an additional two years, not to exceed \$7,143,621 (Year 1), \$6,862,321 (Year 2), \$6,514,727 (Year 3), \$6,683,131 (Year 4), and \$6,826,999 (Year 5) for ambulance transport services and Purchase Order with Stryker Medical. (0/10/10)

RECOMMENDATION: That City Council:

1. Approve and authorize the Mayor to execute Agreement A-8317 with Falck Mobile Health Corporation ("Falck") for three years, with an option to renew for an additional two years, not to exceed \$7,143,621 (Year 1), \$6,862,321 (Year 2), \$6,514,727 (Year 3), \$6,683,131 (Year 4), and \$6,826,999 (Year 5) for ambulance transport services; and

2. Approve and authorize the Mayor to execute a purchase order and a conditional sales agreement in the amount of \$492,381.11 for the purchase of 10 EKG Monitors and 10 Stair-Pro Chairs using Stryker Flex Pay to be placed on ambulances operated by Falck in the City; and

3. Authorize the City Manager to approve and execute amendments to Agreement A-8317 within the City Manager's annual authorization as may be amended from time to time.

Alexander Hamilton, Fire Chief, gave a report and answered questions. Public comments were

received from Douglas D. Partello and Pat Brown. Discussion ensued among the Council and staff.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: MacDonald, Perello, Lopez, Zaragoza, Madrigal, Teran, and Basua voted in favor; the motion carried 7-0.

2. Public Works Department

SUBJECT: Railroad Quiet Zone Establishment. (0/10/10)

RECOMMENDATION: That the City Council receive and file a report on the Federal Railroad Administration's Railroad Quiet Zone process and potential application within the City of Oxnard. (Public Works and Transportation Committee approved 3-0.)

Tim Bochum, Traffic Engineer, gave a report and answered questions. Public comments were received from Pat Brown. Discussion ensued among the Council and staff. No action was required.

O. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Zaragoza adjourned the meeting at 9:15 p.m.

ROSE CHAPARRO
City Clerk

JOHN C. ZARAGOZA
Mayor

MINUTES
OXNARD CITY COUNCIL
Regular Meeting
April 29, 2021

A. ROLL CALL, POSTING OF AGENDA

At 5:02 p.m., Mayor John C. Zaragoza called to order the regular meeting of the Oxnard City Council, in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Councilmembers Gabriela Basua, Vianey Lopez, Oscar Madrigal, Bert E. Perello, Gabriel (Gabe) Teran, and Mayor Pro Tem Bryan A. MacDonald were present via videoconference. Mayor Zaragoza participated in person.

Councilmember Basua joined the meeting at 6:35 p.m. via videoconference.

Staff members present in person were Alexander Nguyen, City Manager; Stephen M. Fischer, City Attorney; and Rose Chaparro, City Clerk.

Staff members that participated via videoconference were Ashley Golden, Assistant City Manager; Shiri Klima, Deputy City Manager; Ken Rozell, Chief Assistant City Attorney; Emilio Ramirez, Housing Director; Jason Benites, Police Chief; Vyto Adomaitis, Community Development Director; Jeff Pengilley, Community Development Assistant Director; Scott Kolwitz, Planning & Environmental Services Manager; Kathleen Mallory, Planning & Sustainability Manager; Roger Brooks, CDD Code Compliance Manager; Steve Naveau, Human Resources Director; Kevin Riper, Chief Financial Officer; Terrel Harrison, Cultural & Community Services Director; Eden Alomeri, Billing & Licensing Director; Raja Bamrungpong, Interim IT Director.

Planning Commissioners that participated during Section D. Appointment Items – Parliamentary Training (Measure M Requirement) were Katherine A. Connelly, Miguel Lopez, Jeremy Meyer, Robert V. Sanchez, Daniel Chavez, Jr.; Ronald Arruejo, and Steven Nash.

Also, present were James H. Stewart, Professional Registered Parliamentarian (provided Parliamentary Training to Council, Planning Commission, and City staff required by Measure M). Heather Davis, Senior Environmental Planner with Rincon Consultants; and Amy Sinsheimer, Senior Associate II with PlaceWorks; also participated via videoconference.

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS (None received.)

C. CLOSED SESSION (5:00 PM)

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

(Government Code section 54956.9(d)(4))

Based on existing facts and circumstances, the City Council shall decide whether to initiate litigation in one potential case.

Legislative Body: City Council

At 5:02 p.m., the City Council recessed to a closed session. At 6:00 p.m., the City Council reconvened in open session in the Council Chambers. The City Attorney announced that there were no reportable actions out of closed session.

D. APPOINTMENT ITEMS (7:00 - 9:00 PM)

1. City Attorney Department

SUBJECT: Parliamentary Training (2 hours)

RECOMMENDATION: That the City Council participate in parliamentary training in accordance with City Code Section 2-1.3 as codified by voter initiative.

At 7:02 p.m., the City Council members, Planning Commission members, and City staff received parliamentary training, a requirement by Ballot Measure M, was provided by Mr. James H. Stewart, Professional Registered Parliamentarian.

E. OPENING CEREMONIES (6:00 PM)

The flag salute was followed by a moment of silence.

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Luciano Morales (Ride Goat Transportation) and Johnny Garcia (Ride Goat Transportation). Written comments were received from Luciano Morales (Ride Goat Transportation), Councilmember Mike Griffith, City of Torrance (land-use and zoning), and Ellen Brokaw (2021-2029 Housing Element Programs).

G. REPORT OF CITY MANAGER

1. City Manager Department

SUBJECT: COVID-19 Update from Director of Emergency Services. (10/5/5)

RECOMMENDATION: That the City Council receive and file an update from the Director of Emergency Services on the COVID-19 Local Emergency.

The City Manager gave a report on the City's COVID-19 response. No formal action was required.

H. CITY COUNCIL REPORTS

Councilmember Madrigal participated in the Oxnard Eastside Little League park clean-up events to give the field a face lift. He thanked everyone that participated in the clean-up project at the Colonia Park to get the fields ready for the upcoming season. He also participated in a virtual 5K Opt-to-Run Fundraising event which partnered with San Miguel School. A big thank you to the Oxnard Police Department for their efforts to spread awareness and acceptance of individuals and families affected by autism. The Oxnard Police Department partnered with the Autism Society Ventura County for a fundraiser and awareness campaign to support Autism Acceptance Month. Reminded residents to remain safe during the pandemic. There were two brush fires in East County and reminder residents that this area is very dry and prone to brush fires, and asked the community to be cautious.

Councilmember Teran expressed his condolences to the family and friends of the young man that lost his life during a bicycle accident that occurred while cycling with his friends.

Councilmember Perello reported that he attended the Fox Canyon meeting. On Saturday, he visited the Ventura County Watershed Protection District with Councilmember Teran and they were updated on the SCR-1 issues and the levy program.

Mayor Zaragoza thanked Chief Benites and the Oxnard Police Department for their work and assistance at the Colonia Park. He also thanked the Gold Coast Local 805 Carpenters for their efforts in preparing the fields for the new season and volunteering their time and materials to the Colonia Park project. He also thanked a landscaping company from Camarillo which met with Chris Hernandez about the possibility to provide sod for Colonia Park. He also reminded the community to stay safe during the pandemic.

CITY COUNCIL REPORTS

1. City Manager Department

SUBJECT: Appointment of Member to Serve on the City's Planning Commission. (0/5/5)

RECOMMENDATION: That the Mayor, with the concurrence of the City Council, make the following appointment to the Planning Commission: Steven Nash (D1). (This item did not originate in Committee.)

It was moved by Mayor Zaragoza, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: MacDonald, Perello, Madrigal, Zaragoza, Teran, and Lopez voted in favor; the motion carried 6-0. (Councilmember Basua was absent during this vote, arrived at a later time.)

I. REVIEW OF INFORMATION/CONSENT AGENDA

Item K-1 was discussed among the Council and staff.

J. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA (None received.)

K. INFORMATION/CONSENT AGENDA

1. Housing Department

SUBJECT: Second Amendment to the Professional Services Agreement with New City America.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute the Second Amendment to the Professional Services Agreement with New City America (No. 8525-19-CM) amending the scope of services for FY 21-22 and extending the term to June 30, 2022. The cost for the third year of the agreement is not to exceed \$95,000.

It was moved by Councilmember Lopez, seconded by Councilmember Teran, to approve the Information/Consent items as presented. VOTE: Zaragoza, MacDonald, Perello, Lopez, Madrigal, and Teran voted in favor; the motion carried 6-0. (Councilmember Basua was absent during this vote, arrived at a later time.)

L. PUBLIC HEARINGS

1. Housing Department

SUBJECT: First Amendment of the Regional Consolidated Plan for the CARES Act Funds and Second Amendment of the 2020 Annual Action Plan. (10/10/10)

RECOMMENDATION: That the City Council:

1. Conduct a hearing to receive public comments relating to the following documents to be submitted to the United States Department of Housing and Urban Development, Office of Community Planning and Development:

(a) First Amendment of the 2020-2024 Ventura County Regional Consolidated Plan for the Oxnard CARES Act Funds; and

(b) Second Amendment to the 2020 Annual Action Plan for the purpose of adding \$352,000 for Homeless Shelter Improvement at 1450 South Rose Ave;

2. Approve the First Amendment to the 2020-2024 Ventura County Regional Consolidated Plan for the CARES Act Funds total of \$8,343,372, by funding CDBG-CV Resources \$3,088,367, ESG-CV Resources \$5,255,005 and Goals of the COVID Pandemic Response activities;

3. Approve the Second Amendment to the 2020 Annual Action Plan to add \$352,000 Homeless Shelter facility improvement costs at 1450 South Rose Avenue, and to

include prior year resources remaining from 2019 Homeless Shelter facilities to fund \$352,000 of the project costs for 1450 South Rose Avenue;

4. Authorize the City Manager to execute the required applications, certifications, and other pertinent documents for the submission of the First Amendment of the Ventura County Regional Consolidated Plan and the Second Amendment of the 2020 Annual Action Plan to the United States Department of Housing and Urban Development; and

5. Authorize the City Manager to incorporate any recommended changes resulting from public input to the First Amendment of the Ventura County Regional Consolidated Plan and Second Amendment of the 2020 Annual Action Plan, as directed by the City Council, including amending any budget appropriations approved by the City Council.

The City Clerk announced the affidavit of publication and stated that written communication was received from Tom Holstein. Emilio Ramirez, Housing Director, gave a report. Discussion ensued among the Council and staff.

Mayor Zaragoza opened the public testimony portion of the public hearing. No public comments were heard.

Without objection, the Council approved closing the public testimony portion of the public hearing. Discussion ensued among the Council and staff.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Lopez, to approve the recommended action as presented. VOTE: MacDonald, Perello, Lopez, Zaragoza, Madrigal, and Teran voted in favor; the motion carried 6-0. (Councilmember Basua was absent during this vote, arrived at a later time.)

M. REPORTS

1. Community Development Department

SUBJECT: Review of the City of Oxnard 2021-2029 Draft Housing Element and General Plan Amendment for Housing Element Update (Planning and Zoning Permit No. 20-620-03). (0/10/10)

RECOMMENDATION: That the City Council:

1. Receive a presentation on 2021-2029 Draft Housing Element (6th Cycle Housing Element); and

2. Provide input on the new Planning Commission recommended Draft Housing Element programs and the recommendations of the Community Services, Public

Safety, Housing & Development Committee; and

3. Submit the Draft Housing Element to the State of California Housing and Community Development Department (HCD). (Community Services, Public Safety, Housing & Development Committee approved 2-1).

Ashley Golden, Assistant City Manager; Kathleen Mallory, Planning & Sustainability Manager; and Emilio Ramirez, Housing Director; answered questions. Consultants Heather Davis, Senior Environmental Planner with Rincon Consultants; and Amy Sinsheimer, Senior Associate II with PlaceWorks were also available to answer questions. Public comments were received from Clyde Reynolds. Written comments were received from Ellen Brokaw, House Farm Workers. Discussion ensued among the Council and staff.

It was moved by Councilmember Lopez, seconded by Mayor Pro Tem MacDonald, to approve the recommended action as presented. VOTE: Basua, MacDonald, Teran, Lopez, Perello, and Zaragoza voted in favor; Madrigal voted against; the motion carried 6-1.

N. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Zaragoza adjourned the meeting at 8:24 p.m.

ROSE CHAPARRO
City Clerk

JOHN C. ZARAGOZA
Mayor

MINUTES
OXNARD CITY COUNCIL
Regular Meeting
May 4, 2021

A. ROLL CALL, POSTING OF AGENDA

At 4:30 p.m., Mayor John C. Zaragoza called to order the regular meeting of the Oxnard City Council (concurrently with the Oxnard Housing Authority), in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Councilmembers Gabriela Basua, Vianey Lopez, Bert E. Perello, and Mayor Pro Tem Bryan A. MacDonald were present via videoconference. Mayor Zaragoza participated in person.

Councilmember Teran joined the meeting at 4:55 p.m. via videoconference.

Staff members present in person were Alexander Nguyen, City Manager; Stephen M. Fischer, City Attorney; and Rose Chaparro, City Clerk.

Staff members Ashley Golden, Assistant City Manager; Shiri Klima, Deputy City Manager; Ken Rozell, Chief Assistant City Attorney; Paul Early, Assistant City Attorney; Jason Benites, Police Chief; Commander; Alexander Hamilton, Fire Chief; Craig Beck, Interim Public Works Director; Brian Yanez, Assistant Public Works Director; Steve Howlett, Assistant Public Works Director; Jan Hauser, Wastewater Division Manager; Omar Castro, Water Division Manager; Tim Bochum, City Traffic Engineer; Emilio Ramirez, Housing Director; Vyto Adomaitis, Community Development Director; Jeff Pengilley, Community Development Assistant Director; Scott Kolwitz, Planning & Environmental Services Manager; Todd Vasquez-Housley, Environmental Resources Division Manager; Joe Pearson II, AICP, Senior Planner; Renee Rakestraw, Community Services Manager; and Raja Bamrungpong, Interim IT Director; participated via videoconference.

Eden C. Casareno, Client Service Executive with Eadie + Payne LLP; Mary L. Maxion, Audit Supervisor with Eadie + Payne LLP; Michael Castro, Ventura Regional Sanitation District VRSD Interim Operations Manager; Robert Kwong, Legal Counsel for VRSD; Tina River, VRSD Director of Finance; Dr. Tom McCoy, Superintendent with Oxnard Unified High School District; Scott Tignac, District Manager with Waste Management of California also participated via videoconference.

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS (None received.)

C. CLOSED SESSION (4:30 PM)

1. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION (Government Code Section 54956.9(d)(1))
Name of case: Aaron Starr v. City of Oxnard
Ventura County Superior Court, Case No. 56-2017-00494475-CU-WM-VTA
Legislative Body: City Council

At 4:32 p.m., the City Council recessed to a closed session. At 5:18 p.m., the City Council reconvened in open session in the Council Chambers. The City Attorney announced that there were no reportable actions out of closed session.

D. OPENING CEREMONIES (6:00 PM)

The flag salute was followed by a moment of silence.

E. CEREMONIAL ITEMS

1. SUBJECT: Presentation of a Proclamation Designating the Month of May, 2021 as "Older Americans Month."

Mayor Zaragoza read the proclamation and presented it to Renee Rakestraw, Recreation and Community Services Manager, who made some remarks.

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Christopher Williams (Mental Health Awareness Month events) and Douglas D. Partello (Measure O, Sales Tax and General Fund).

G. REPORT OF CITY MANAGER

1. City Manager Department

SUBJECT: COVID-19 Update from Director of Emergency Services. (10/5/5)

RECOMMENDATION: That the City Council receive and file an update from the Director of Emergency Services on the COVID-19 Local Emergency.

The City Manager gave a report on the City's COVID-19 response. No formal action was required.

H. CITY COUNCIL REPORTS

Councilmember Lopez thanked Police Chief Benites for his presentation. Attended a dedication ceremony at the Southwinds Library in South Oxnard. Received inquiries from Oxnard residents about hazard pay for grocery workers and would like to include this item for Council consideration.

Councilmember Teran attended the Eastside Little League clean-up event at the Colonia Park

baseball fields. Thanked the Local Carpenters 805 and a local contractor which volunteered to help revitalize the snack bar. Met with Councilmember Perello and Gerard Kapuscik, Special Projects Program Manager at the Ventura County Watershed Protection Agency to tour the levees located by Riverpark. Participated in a meeting with Councilmembers Lopez and Madrigal with Oxnard's Sister City Ocotlan, in Mexico. Requested an update on the City's Bicycle and Pedestrian Safety Master Plan.

Councilmember Perello thanked Manuel Herrera, with the Citizens for a Better Oxnard, for his comments.

Councilmember Madrigal wished all the moms a Happy Mother's Day and congratulated his students on their graduations.

Mayor Zaragoza also wished all the mothers a Happy Mother's Day.

I. REVIEW OF INFORMATION/CONSENT AGENDA

Items K-1 through K-6 were discussed among the Council and staff.

J. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

Public comments were received from Pat Brown (semi-trucks and traffic on Oxnard Boulevard) and Ray Blattel (Consent Item K.3).

K. INFORMATION/CONSENT AGENDA

1. Cultural & Community Services Department

SUBJECT: Ventura County Area Agency on Aging Senior Nutrition Program

RECOMMENDATION:

That City Council adopt **Resolution No. 15,435** authorizing:

1. The Cultural and Community Services Director or designee to submit an application for the next Ventura County Area Agency on Aging (VCAAA) Older Senior Nutrition Program grant cycle (July 2021 to June 2022); and
2. If funding is received, authorize the City Manager or designee to execute grant agreements; the Chief Financial Officer or designee to submit financial reports and grant claims and approve or amend budget appropriations for the use of the grant funds; and the City Manager or designee to submit non-financial reports. (This item did not originate in Committee).

2. Public Works Department

SUBJECT: First Amendment to Solenis LLC Agreement 8172-17-PW for Supply and Delivery of Polymer.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a First Amendment to Agreement 8172-17-PW with Solenis, LLC, in the amount of \$450,000 for a new not to exceed amount of \$1,462,000 and to extend the term to June 30, 2023 for supply and delivery of cationic polymer to the Oxnard Wastewater Treatment Plant. (Public Works and Transportation Committee approved 3-0).

3. Public Works Department

SUBJECT: Sixth Amendment to Agreement 7167-15-CM with Ventura Regional Sanitation District.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a Sixth Amendment to Agreement 7167-15-CM with Ventura Regional Sanitation District in the amount of \$105,124.00 for a total not-to-exceed amount of \$723,867.91 and to extend the term to June 30, 2022 for monitoring and reporting of the closed Santa Clara Landfill. (Public Works and Transportation Committee approved 3-0).

4. Public Works Department

SUBJECT: Agreement A-8305 with California Wood Recycling, Inc. dba Agromin, for Organic Waste Recycling Services at Agromin Facilities.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute Agreement A-8305 with California Wood Recycling, Inc. dba Agromin (Agromin) in the amount not to exceed \$4,200,000 for a three year term through June 24, 2024 to provide organic waste recycling services for the City of Oxnard at permitted Agromin facilities. (Public Works and Transportation Committee approved 3-0).

5. Public Works Department

SUBJECT: Agreement A-8320 with Good Guard Security Services for Unarmed Security Patrol Services at the Del Norte Regional Recycling and Transfer Station, the Oxnard Wastewater Treatment Plant and the Advanced Water Purification Facility.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute Agreement A-8320 with Good Guard Security Services in the amount not to exceed \$777,600 for a three year term through June 30, 2024 for unarmed security patrol services at the Del Norte Regional Recycling and Transfer Station, the Oxnard Wastewater Treatment Plant, and the Advanced Water Purification Facility. (Public Works and Transportation Committee approved 3-0).

6. Public Works Department

SUBJECT: Award Agreement A-8321 to Carollo Engineers, Inc. for Consulting Services for Water and Recycled Water Distribution Process Support.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute Agreement A-8321 with Carollo Engineers, Inc. in the amount not to exceed \$450,000 for a three-year term ending May 3, 2024 for consulting services for water and recycled water distribution process support. (Public Works and Transportation Committee approved 3-0).

It was moved by Councilmember Perello, seconded by Mayor Pro Tem MacDonald, to approve the Information/Consent items as presented. VOTE: MacDonald, Perello, Basua, Madrigal, Zaragoza, Teran, and Lopez voted in favor; the motion carried 7-0.

L. REPORTS

1. Housing Department

SUBJECT: Management and Disbursement Agreement with the Downtown Oxnard Improvement Association (5/10/10)

RECOMMENDATION: That the City Council approve the Management and Disbursement Agreement (A-8328) with the newly formed Downtown Oxnard Improvement Association for the operation and administration of the Oxnard Downtown Management District (ODMD), and implementation of the ODMD District Plan and disbursement of ODMD revenues on an annual basis until terminated. (This item did not originate in Committee).

Emilio Ramirez, Housing Director, and Marco Li Mandri, President of New City America, gave a report and answered questions. Public comments were received from Pat Brown and Ray Blattel. Discussion ensued among the Council and staff.

It was moved by Councilmember Basua, seconded by Councilmember Madrigal, to approve the recommended action as presented. VOTE: Zaragoza, MacDonald, Perello, Lopez, Madrigal, Basua, and Teran voted in favor; the motion carried 7-0.

2. Community Development Department

SUBJECT: Off-Site Improvement Agreement between the City of Oxnard and The Oxnard Union High School District for Public Improvements associated with the Construction of the Del Sol High School located near the northeast corner of Rose Avenue and Camino Del Sol (APN: 214-0-020-635). (0/10/10)

RECOMMENDATION: That the City Council:

1. Finds that the Project is not subject to additional environmental review pursuant to the provisions of the California Environmental Quality Act (CEQA-Public Resources Code, Section 21083 et. seq.) Guidelines Section 15168(c)(4)-(5) and (e); and
2. Approve the Off-Site Improvement Agreement between the City of Oxnard and the Oxnard Union High School District for Public Improvements associated with the Construction of the Del Sol High School.

Ken Rozell, Chief Assistant City Attorney and Scott Kolwitz, Planning & Environmental Services Manager answered questions. Public comments were received from Dr. Tom McCoy, Superintendent of the Oxnard Union High School District. Discussion ensued among the Council and staff.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Lopez to approve the recommended action as presented. VOTE: Zaragoza, MacDonald, Perello, Lopez, Basua, and Teran voted in favor; Madrigal voted against, the motion carried 6-1. Councilmember Madrigal voted against due to the main entrance of the school not shown or proven to coincide with Gibraltar Street and Rose Park.

3. Public Works Department

SUBJECT: Agreement A-8280 with Waste Management of California, Inc. for Solid Waste Disposal. (0/10/20)

RECOMMENDATION: That the City Council:

1. Approve Addendum No. 6 to the Simi Valley Landfill and Recycling Center Expansion Project Final Environmental Impact Report: and
2. Approve and authorize the Mayor to execute Agreement A-8280 with Waste Management of California, Inc. for an estimated value of \$53,210,723 for a five (5) year term from May 15, 2021 to May 14, 2026 for solid waste disposal at the Simi Valley Landfill. (Public Works and Transportation Committee approved 3-0).

Todd Vasquez-Housley, Environmental Resources Division Manager; Scott Kolwitz, Planning & Environmental Services Manager; answered questions. Public comments were received from Chris Theisen, Ventura Regional Sanitation District (VRSD) General Manager; and Robert N. Kwong, VRSD General Legal Counsel. Discussion ensued among the Council and staff.

It was moved by Councilmember Basua, seconded by Councilmember Teran, to approve the recommended action as presented. VOTE: Perello, MacDonald, Madrigal, Basua, Zaragoza, Lopez, and Teran voted in favor; the motion carried 7-0.

4. City Treasurer

SUBJECT: Quarterly Investment Report for the period ending March 31, 2021. (0/5/5)

RECOMMENDATION: That the City Council receive and file the quarterly investment report.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/nVmqlq9iZg>

The City Treasurer gave a report. No formal action was required.

5. Finance Department

SUBJECT: 2020 Single Audit Report and Update on the Corrective Action Plan (CAP) (10/5/5)

RECOMMENDATION: That the City Council receive the 2020 Single Audit Report from the audit firm Eadie + Payne, and update on the Corrective Action Plan (CAP) from staff. (Finance and Governance Committee approved 3-0).

Kevin Riper, Chief Financial Officer, introduced Eden C. Casareno, Client Service Executive with Eadie + Payne LLP; Mary L. Maxion, Audit Supervisor with Eadie + Payne LLP, which gave a report and answered questions. No formal action was required.

6. City Attorney Department

SUBJECT: Infrastructure Use Fee Reimbursement (0/10/10)

RECOMMENDATION: That the City Council adopt **Resolution No. 15,436** finding that the City would suffer an unreasonable financial hardship if it is not permitted to reimburse its three utilities in the amount of approximately \$36.5 million over the course of several years for all infrastructure use fee transfers made since March 27, 2014.

Stephen M. Fischer, City Attorney, answered questions. Public comments were received from Douglas D. Partello and Ray Blattel. Discussion ensued among the Council and staff.

It was moved by Councilmember Perello, seconded by Councilmember Basua, to approve the recommended action as presented. VOTE: Basua, Madrigal, MacDonald, Teran, Lopez, Perello, and Zaragoza voted in favor; the motion carried 7-0.

M. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Zaragoza adjourned the meeting at 9:01 p.m.

ROSE CHAPARRO
City Clerk

JOHN C. ZARAGOZA
Mayor



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.2

DATE: September 7, 2021

TO: City Council

FROM: Brian Yanez, Acting Public Works Director, (805) 200-5412, brian.yanez@oxnard.org

SUBJECT: Approval of Changes to Chapter 19: Public Works, Article I: Sewerage System; Wastewater Disposal of the Oxnard City Code.

RECOMMENDATION

That the City Council adopt Ordinance No. 2997 amending various sections of Chapter 19 (Public Works, Sewerage System; Wastewater Disposal) of the Oxnard City Code:

- 19-3 Abbreviations;
 - 19-4 Definitions;
 - 19-25 Prohibited; discharge standards;
 - 19-26 Local limits;
 - 19-36 Additional pretreatment measures;
 - 19-43 Discharges from food establishments, vehicle maintenance facilities, and commercial and industrial laundries;
 - and
 - 19-51 Industrial wastewater discharge permit requirements
- (The Public Works and Transportation Committee approved 3-0.)

BACKGROUND

Oxnard Wastewater Treatment Plant (OWTP) National Pollutant Discharge Elimination System (NPDES) permit requires local limits and other discharge prohibitions. Local limits are restrictions placed on industrial users or other nondomestic sources that discharge wastewater into the Oxnard wastewater collection system. Local limits set maximum limits for certain pollutants in wastewater discharged into the system by nondomestic sources. They are technically developed limits for pollutants that could cause interference, pass through, sludge contamination, recycled water contamination, or worker health and safety problems if discharged in excessive concentrations.

Oxnard's local limits were last evaluated in 1999. Due to many factors including the addition of the Advanced Water Purification Facility (AWPF), the planned implementation of the Aquifer Storage and Recovery and the indirect potable reuse program the current local limits are inadequate.

Furthermore, requirements in the NPDES permit state that "the Permittee shall evaluate whether its pretreatment local limits are adequate to meet the requirements of this Order and shall submit a written technical report as required. The Permittee shall submit revised local limits to the Regional Water Board and USEPA for approval, as necessary."

DISCUSSION

In 2015, the City initiated a technical local limits report as required per the NPDES permit. On November 15, 2017, the City of Oxnard submitted the Final Draft Local Limits Evaluation Report to the Regional Water Quality Control Board. On December 14, 2017, the City received tentative approval of the report.

Following Regional Board approval, the City held workshops in May of 2018 with existing permitted industries to present the new local limits. Participants voiced several concerns during the meeting and other following meetings. As a result, the City extended the local limits implementation period to enable additional studies, outreach, and stakeholder input.

Based on the additional study results, City staff met again with stakeholders in October and November of 2019 to discuss additional findings and recommendations. In addition, the City met with the Oxnard Chamber of Commerce to explain changes to the initial study requirements based on industry input.

At its regular meeting of July 20, 2021, the City Council approved the first reading by title only and waived further reading of an ordinance amending various sections of the Oxnard Code of Ordinances, Chapter 19: Public Works, Article I: Sewerage System; Wastewater Disposal.

The following table summarizes the changes to existing local limits:

Pollutant	Existing Local Limit	New Local Limit
Ammonia	--	57 mg/L
Arsenic	3 mg/L	0.13 mg/L
Biochemical Oxygen Demand	800 mg/L	800 mg/L
Cadmium	2.3 mg/L	0.013 mg/L
Chloride	--	9,205 mg/L
Chromium	3 mg/L	0.44 mg/L
Copper	3 mg/L	2.02 mg/L
Hydrogen Sulfide (dissolved)	0.5 mg/L	0.34 mg/L
Lead	2.3 mg/L	0.97 mg/L
Mercury	0.05 mg/L	0.05 mg/L
Molybdenum	--	1.50 mg/L
Nickel	3 mg/L	0.138 mg/L

Oil and Grease (vegetable)	250 mg/L	250 mg/L
Oil and Grease (mineral)	100 mg/L	100 mg/L
Selenium	--	0.49 mg/L
Silver	1 mg/L	0.056 mg/L
Total Suspended Solids	1,000 mg/L	1,000 mg/L
Zinc	3 mg/L	1.06 mg/L

In addition, the new ordinance includes regulations related to the following:

- Amalgam, Boron*, Gross Beta, Total Dissolved Solids (TDS)*, pH, Organic Solvents
- Oil and gas waste - Prohibited
- Dental facilities are required to obtain an Industrial Wastewater Discharge Permit

* Site specific limits will be developed for existing customers

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

There is no direct financial impact to this approval.

COMMITTEE OUTCOME

The Public Works and Transportation Committee approved 3-0 on June 22, 2021 to approve the staff recommendation and to forward the item for Council approval. City Council approved 7-0 for the first reading of this action item on July 20, 2021.

Prepared by: Jan Hauser, Wastewater Division Manager

ATTACHMENTS

1. Chapter 19 Ordinance Updated - Local Limits
2. Chapter 19 Ordinance_Tracked Changes

CITY COUNCIL OF THE CITY OF OXNARD

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF OXNARD, CALIFORNIA, AMENDING CHAPTER 19 OF THE OXNARD CITY CODE TO UPDATE LOCAL LIMIT REGULATIONS

WHEREAS, the City of Oxnard (City) owns and operates a municipal wastewater treatment facility; and

WHEREAS, the federal Clean Water Act and associated regulations require publicly owned treatment works to implement a federally approved Industrial Pretreatment Program (IPP); and

WHEREAS, the City of Oxnard Wastewater Treatment Plant (OWTP) has previously submitted the IPP and received federal approval; and

WHEREAS, the OWTP National Pollutant Discharge Elimination System (NPDES) permit requires review of the IPP every 5-year permit term; and

WHEREAS, the City completed a Draft Local Limits Evaluation Report in 2017; and

WHEREAS, the Draft Local Limits Evaluation Report was approved by the Los Angeles Regional Water Board on December 14, 2017; and

WHEREAS, the approved Draft Local Limits Evaluation Report recommended updates to the existing Local Limits; and

WHEREAS, local limits have the purpose of protecting the city's water quality, infrastructure and public health and are managed through Industrial Wastewater Discharge (IWD) permits; and

WHEREAS, the new local limits have been presented and discussed with the City's impacted industry; and

WHEREAS, the City addressed permitted industries concerns about implementation of the new Local Limits; and

WHEREAS, the permitted industries concurred with the proposed implementation of the new Local Limits; and

WHEREAS, the adoption of this ordinance is exempt from provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15307 and 15308 of the State CEQA Guidelines.

NOW, THEREFORE, the city council of the City of Oxnard does hereby find as follows:

1. The adoption of this ordinance is exempt from CEQA within the meaning of section 15307 and 15308.
 - a. Both class 7 and class 8 consists of actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.
 - b. The purpose of the proposed project is to protect water resources by prohibiting oil and gas waste streams being discharged to the City of Oxnard's Wastewater Treatment Plant (OWTP).
 - c. The federal Environmental Protection Agency (EPA) has already banned certain unconventional oil and gas waste streams from disposal at Publicly Owned Treatment Works (POTW) under 40 C.F.R §§ 435.33, 435.34.
 - d. Currently, the City does not have or accept any (treated or untreated) oil and gas wastewater streams at the OWTP.
 - e. Therefore, the proposed change to the local ordinance would not require any foreseeable change to the environment by requiring any existing oil and gas discharger(s) to change their practices and/or build new facilities.
 - f. The change in the ordinance will ensure that the existing conditions will be maintained into the future.
 - g. Any future development of facilities needed for disposal of oil and gas wastewater streams is too speculative at this time to predict and would require its own environmental analysis and permitting requirements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS FOLLOWS:

PART 1. Chapter 19 Article I, Division 1 of the Oxnard City Code is hereby amended, and Section 19-3 and Section 19-4 are added to read as follows:

“DIVISION 1. GENERAL PROVISIONS”

SEC. 19-3. ABBREVIATIONS.

For purposes of this article, the following abbreviations, shall have the designated meanings:

- (A) BOD - Biochemical Oxygen Demand;

- (B) BMP - Best Management Practice;
- (C) BMR - Baseline Monitoring Report;
- (D) CASA – California Association of Sanitary Agencies
- (E) CFR - Code of Federal Regulations;
- (F) CIU - Categorical Industrial User;
- (G) COD - Chemical Oxygen Demand;
- (H) DIU - Dental Industrial User
- (I) EPA - U.S. Environmental Protection Agency;
- (J) gpd - Gallons per Day;
- (K) IU - Industrial User;
- (L) IWD - Industrial Wastewater Discharge;
- (M) LC50 - Lethal Concentration for 50 Percent of the Test Organisms;
- (N) L - Liter;
- (O) MAIL - Maximum Allowable Industrial Loading
- (P) mg - Milligrams, mg/L - Milligrams per Liter;
- (Q) NPDES - National Pollutant Discharge Elimination System;
- (R) NSCIU - Non-Significant Categorical Industrial User;
- (S) O&M - Operation and Maintenance;
- (T) POTW - Publicly Owned Treatment Works
- (U) RCRA - Resource Conservation and Recovery Act;
- (V) SIC - Standard Industrial Classification;
- (W) SIU - Significant Industrial User;
- (X) SNC - Significant Noncompliance;
- (Y) SWDA - Solid Waste Disposal Act (42 USC Sections 6901 *et seq.*);
- (Z) TDS - Total Dissolved Solids;
- (AA) TOMP – Toxic Organics Management Plan
- (BB) TSS - Total Suspended Solids;
- (CC) TTO - Total Toxic Organics; and
- (DD) USC - United States Code.

SEC. 19-4. DEFINITIONS.

For the purposes of this article, the following words shall have the following meanings:

- (A) ACT - The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC Sections 1251 *et seq.*
- (B) APPROVAL AUTHORITY - California State Water Resources Control Board or Regional Water Quality Control Board, Los Angeles Region.
- (C) AUTHORIZED REPRESENTATIVE OF THE USER -
 - (1) If the user is a corporation, a responsible corporate officer. For the purpose of this paragraph, a responsible corporate officer means:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and to initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (2) If the user is a partnership or sole proprietorship, a general partner or proprietor, respectively.
 - (3) If the user is a federal, State, or local government entity, the principal executive officer or director having responsibility for the overall operation of the discharging facility.
 - (4) A duly authorized representative of the individual designated in subsections (1), (2), or (3) of this subsection (C) if:
 - (a) The authorization is made in writing by the individual described in paragraph (1), (2), or (3);
 - (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, such as the position of plant manager, operator of a well, or a well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 - (c) The written authorization is submitted to the city.

- (D) BIOCHEMICAL OXYGEN DEMAND (BOD) - Quantity of oxygen utilized in the biochemical oxidation of organic material under standard laboratory procedures for 5 days at 20 degrees centigrade, usually expressed as a concentration such as mg/l.
- (E) BEST MANAGEMENT PRACTICES (BMPs) - The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 19-25(A) and (B) [40 CFR 403.5(a)(1) and (b)] including treatment requirements, operating procedures, practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage and also including alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.
- (F) BUILDING SEWER - A sewer conveying wastewater from the premises of a person to the public sewer, private sewer, individual wastewater disposal system or other approved point of disposal.
- (G) BYPASS - The intentional diversion of waste and/or wastewater from any portion of a user's pretreatment facility.
- (H) CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL STANDARD - Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 USC Section 1317) that apply to a specific category of users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471, incorporated herein by reference.
- (I) CATEGORICAL INDUSTRIAL USER - An industrial user subject to a categorical pretreatment standard or categorical standard.
- (J) [CITY] - The City of Oxnard or the City Council of Oxnard.
- (K) CITY MANAGER - The Oxnard City Manager or their designee.
- (L) CHEMICAL OXYGEN DEMAND (COD) - A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
- (M) COLOR - The optical density at visual wavelength of maximum absorption, relative to distilled water in which 100% transmittance is equivalent to zero optical density.
- (N) COMPLIANCE SCHEDULE - A schedule containing increments of progress, in the form of dates, for the commencement and completion of major events leading to the construction and operation of pretreatment equipment and/or systems required for the user to meet applicable pretreatment standards.
- (O) COMPOSITE SAMPLE - The sample resulting from the combination of individual wastewater samples taken at selected intervals, based on an increment of either flow or time.
- (P) CONNECTION - The part of any sewer extending from a sewer main in a public easement or right-of-way to private property for exclusive use of the property.
- (Q) CONTROL AUTHORITY - The city.
- (R) COOLING WATER - The water discharged from any use, including but not limited to, air conditioning, cooling or refrigeration units to which the only pollutant added is heat.

(S) DAILY MAXIMUM - The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

(T) DAILY MAXIMUM LIMIT - The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

(U) DENTAL INDUSTRIAL USER also known as a DENTAL DISCHARGER - A facility where the practice of dentistry is performed that discharges wastewater to a publicly owned treatment works (POTW), including, but not limited to, institutions, permanent or temporary offices, clinics, home offices, and facilities owned and operated by Federal, state or local governments.

(V) DISCHARGE - The discharge or the introduction of pollutants into the system by a person.

(W) DOMESTIC WASTEWATER - Human excrement and gray water from such uses as household showers and dish washing.

(X) ENVIRONMENTAL PROTECTION AGENCY (EPA) - The U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, or other duly authorized official.

(Y) EXISTING SOURCE - Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

(Z) FEE - Any charge assessed to a person associated with the use, or continued use, of any portion of the system and includes, but is not limited to, a charge for connection or tap for new customers; monthly sewer service; IWD permit; excess capacity connection; wastewater treatment; excessive wastewater strength; laboratory testing; waste hauler's permit; oversize sewer; and noncompliance.

(AA) FOOD ESTABLISHMENT - Any facility engaged in the preparation of food products for sale. A facility engaged in the sale of food products that are wholly prepared off-site is not included within this definition.

(BB) FORMULA USERS - Those users who are regulated under the IWD permit system and billed according to a formula based on the measured or set strength and volume of their

(CC) GARBAGE - The putrescible animal and vegetable wastes resulting from the handling, preparation and consumption of foods.

(DD) GRAB SAMPLE - A sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

(EE) GRAVITY SEPARATION DEVICE - A device designed, constructed, and operated for the purpose of retaining sand, silt, grit, mineral material, and oil by gravity-differential separation from wastewater.

(FF) GREASE - A varied group of compounds having the common properties of immiscibility with water and a specific gravity lower than water as determined by appropriate procedures set forth in 40 CFR Part 136.

(GG) GREASE INTERCEPTOR or INTERCEPTOR - A device of at least 750 gallon capacity designed, constructed, and operated to separate and retain grease while permitting the wastewater to be discharged into the system.

(HH) GROUND GARBAGE - The residue from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely in suspension under the flow conditions normally prevailing in a public sewer, with no particle greater than 1/2-inch in any dimension.

(II) HOLDING TANK WASTEWATER - Any wastewater from holding tanks including, but not limited to, vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(JJ) INDIRECT DISCHARGE - The introduction of pollutants into the system from any non-domestic source regulated under Section 307 (b), (c), or (d) of the Act.

(KK) INDUSTRIAL USER - Any producing, manufacturing, processing, institutional, commercial, agricultural or similar person that discharges, directly or indirectly, wastewater into the system that is solid, liquid or gaseous waste and contains pollutants different from, or stronger than, or with constituents other than those defined for domestic wastewater.

(LL) INDUSTRIAL WASTEWATER - Any non-domestic, liquid byproduct produced as a result of business operations, whether treated or untreated, which is discharged into or permitted to enter the POTW .

(MM) INDUSTRIAL WASTEWATER DISCHARGE PERMIT or PERMIT or IWD PERMIT - A conditionally written authorization to allow a user to utilize the system for the discharge of industrial wastewater.

(NN) INSTANTANEOUS MAXIMUM DISCHARGE LIMIT - The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(OO) INTERFERENCE - A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the system, its treatment processes or operations or its biosolids processes, use or disposal, and that is therefore a cause of a violation of the city's NPDES permit or of the prevention of biosolids use or disposal in compliance with all applicable federal, State, or local regulations, including but not limited to: Section 405 of the Act, the SWDA, including Title II, commonly referred to as RCRA, any and all federal and State clean air acts, the Toxic Substances Control Act, and the Marine Protection, Research, and Sanctuaries Act.

(PP) LOCAL LIMIT - Specific discharge limits developed and enforced by [the City] upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

(QQ) MASS EMISSION RATE - The weight of material discharged to the system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combination of constituents.

(RR) MAXIMUM ALLOWABLE INDUSTRIAL LOADING (MAIL) - The maximum loading of a pollutant that can be received at a POTW's headworks from all permitted industrial users and other controlled sources without causing pass through or interference.

(SS) MEDICAL WASTE - Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(TT) MONITORING FACILITIES - An approved opening to a building sewer for the purpose of inspection, sampling and/or flow measurement.

(UU) MONTHLY AVERAGE - The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(VV) MONTHLY AVERAGE LIMIT - The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(WW) MUNICIPAL WASTEWATER SYSTEM or SYSTEM - A "treatment works," as defined by Section 212 of the Act, owned by the city and includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of wastewater (domestic or industrial) and any conveyances which convey wastewater to the treatment plant.

(XX) NARRATIVE STANDARD OR NARRATIVE LIMIT – Any statement of prohibition or condition on a discharge established in this ordinance that is not a local limit. Narrative standards include, but are not limited to prohibited discharge standards and best management practices.

(YY) NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT - A permit issued pursuant to Section 402 of the Act.

(ZZ) NATIONAL PROHIBITIVE DISCHARGE STANDARD or PROHIBITIVE DISCHARGE STANDARD - Any regulation developed under the authority of Section 307(b) of the Act.

(AAA) NEW SOURCE -

(1) Any building structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
- (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge or pollutants at an existing source; or

- (c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located and results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subdivisions (1)(b) or (1)(c) above, but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source, as defined under this subsection, has commenced if the owner or operator has:
 - (a) Begun, or caused to begin, as part of a continuous on-site construction program:
 - 1. Any placement, assembly, or installation of facilities or equipment; or
 - 2. Significant site preparation work including clearing, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

(BBB) NONCONTACT COOLING WATER - Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(CCC) PASS THROUGH - A discharge that exits the system into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

(DDD) PERSON - Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns; and including all federal, State and local governmental entities.

(EEE) pH - A measure of the acidity or alkalinity of a substance, expressed in standard units.

(FFF) POLLUTANT - Dredged spoil, solid waste, incinerator residue, filter backwash, domestic wastewater, garbage, sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharge equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes and certain characteristics of the wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

(GGG) PRETREATMENT or TREATMENT - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the system. Such pretreatment or treatment can be accomplished by physical, chemical, biological processes, or by other means, with the exception of diluting the concentration of the pollutant unless allowed by an applicable pretreatment standard.

(HHH) PRETREATMENT FACILITY - Any works or device for the treatment or flow limitation of domestic wastewater, liquid waste, industrial waste or industrial wastewater prior to discharge into the system.

(III) PRETREATMENT REQUIREMENTS - Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

(JJJ) PRETREATMENT STANDARDS or STANDARDS - Prohibited discharge standards, categorical pretreatment standards, and/or local limits.

(KKK) PRIVATE SEWER - A sewer, other than a connection, laid by a person to serve one or more buildings, so as to connect a building to a public sewer and irrespective of whether the sewer is constructed on public or private property.

(LLL) PRIVATE WASTEWATER DISPOSAL SYSTEM - A septic tank with the effluent discharging into a subsurface disposal field, into one or more seepage pits or into a combination of subsurface disposal field and seepage pit or other wastewater holding facilities.

(MMM) PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGE - Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 19-25 of this article.

(NNN) PUBLICLY OWNED TREATMENT WORKS (POTW) - A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by a State or municipality (as defined by section 502(4) of the Act). This definition includes any devices or systems used in the storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

(OOO) RADIOACTIVE MATERIAL - Material containing chemical elements that spontaneously change their atomic structure by emitting any particles, rays or energy forms in excess of normal background radiation.

(PPP) SEEPAGE PIT - A lined excavation in the ground which receives the discharge of a septic tank and is designed to permit the effluent from the septic tank to seep through its bottom and side.

(QQQ) SEPTAGE - Any domestic wastewater from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

(RRR) SEPTIC TANK - A watertight receptacle which receives the domestic wastewater discharge of a building and is designed and constructed to separate solids from the liquid, digest organic matter through a period of detention and allow the liquid to discharge into the soil outside of the tank through a system of open joint or perforated piping or a seepage pit.

(SSS) SETTLEABLE SOLIDS - Any solid that will settle out of a liquid in a specified interval of time as determined by appropriate procedures set forth in 40 CFR 136.

(TTT) SEWAGE - Human excrement and gray water (household showers, dishwashing operations, etc.).

(UUU) SEWER - A pipe or conduit together with appurtenances for carrying wastewater.

(VVV) SIGNIFICANT CHANGE - Plus or minus 25% in an industrial user's typical discharge pattern, flow rate, peak flow rate, constituents, concentration of constituents or characteristics.

(WWW) SIGNIFICANT INDUSTRIAL USER -

(1) A user subject to categorical pretreatment standards; or

(2) A user that:

- (a) Discharges an average of 10,000 gpd or more of industrial wastewater to the system;
- (b) Contributes a waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the system; or
- (c) Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the system's operation or for violating a pretreatment standard or requirement.

(3) The [City] may determine that an industrial user subject to categorical pretreatment standards is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

- (a) The industrial user, prior to [City's] finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
- (b) The industrial user annually submits the certification statement required in 40 CFR 403.12(q), together with any additional information necessary to support the certification statement; and

(c) The industrial user never discharges any untreated concentrated wastewater.

(4) Upon a finding that a user meeting the criteria in subdivision (2) above has no reasonable potential for adversely affecting the system operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR Part 403.8(f)(6), determine that such user should not be considered a significant industrial user.

(XXX) SLUG LOAD or SLUG DISCHARGE - Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in this chapter. A slug discharge is any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTWs regulations, local limits or permit conditions.

(YYY) STANDARD INDUSTRIAL CLASSIFICATION (SIC) - A classification pursuant to the Standard Industrial Classification Manual, latest edition, issued by the U.S. Office of Management and Budget.

(ZZZ) STANDARD METHODS - Standard Methods for the Examination of Water and Wastewater, latest edition, published by American Water Works Association, Water Environment Association, and the American Public Health Association, 1015 18th Street, NW, Washington, D.C. 20036.

(AAAA) STANDARD SPECIFICATIONS - The current edition of standards and requirements relating to size, quantity, quality and performance, including standard drawing, as detailed and made available by the city.

(BBBB) STATE - State of California.

(CCCC) STORM WATER - Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelts.

(DDDD) SUSPENDED SOLIDS - The total suspended matter in wastewater, as determined by the appropriate procedures set forth in 40 CFR Part 136.

(EEEE) TOTAL DISSOLVED SOLIDS - The solid matter in solution in wastewater, as determined by the appropriate procedures set forth in 40 CFR Part 136.

(FFFF) TOXIC ORGANICS MANAGEMENT PLAN – A strategy for keeping track of all solvents delivered to a site, their storage, use, and disposal. This includes keeping spent solvents segregated from other process wastewaters to maximize the value of the recoverable solvents, to avoid contamination of other segregated wastes, and to prevent the discharge of toxic organics to any wastewater collection system or the environment. The plan should describe measures to control spills and leaks and to ensure that there is no deliberate dumping of solvents. Also known as a *solvent management plan*.

(GGGG) TOTAL TOXIC ORGANICS - The summation of all quantifiable values greater than 0.01 milligrams per liter, subject to the local limits established pursuant to section 19-26 of this article, for the following toxic organics: Acenaphthene, Acrolein, Acrylonitrile, Benzene, Benzidine, Carbon tetrachloride (tetrachloromethane), Chlorobenzene, 1,2,4-trichlorobenzene, Hexachlorobenzene, 1,2-dichloroethane, 1,1,1-trichloroethane, Hexachloroethane, 1,1-dichloroethane, 1,1,2-trichloroethane, 1,1,2,2-tetrachloroethane, Chloroethane, Bis (2-chloroethyl) ether, 2-chloroethyl vinyl ether (mixed), 2-chloronaphthalene, 2,4,6-trichlorophenol, Parachlorometa cresol, Chloroform (trichloromethane), 2-chlorophenol, 1,2-dichlorobenzene, 1,3-dichlorobenzene, 1,4-dichlorobenzene, 3,3-dichlorobenzidine, 1,1-dichloroethylene, 1,2-trans-dichloroethylene, 2,4-dichlorophenol, 1,2-dichloropropane, 1,3-dichloropropylene (1,3-dichloropropene), 2,4-dimethylphenol, 2,4-dinitrotoluene, 2,6-dinitrotoluene, 1,2-diphenylhydrazine, Ethylbenzene, Fluoranthene, 4-chlorophenyl phenyl ether, 4-bromophenyl phenyl ether, Bis (2-chloroisopropyl) ether, Bis (2-chloroethoxy) methane, Methylene chloride (dichloromethane), Methyl chloride (chloromethane), Methyl bromide (bromomethane), Bromoform (tribromomethane), Dichlorobromomethane, Chlorodibromomethane, Hexachlorobutadiene, Hexachlorocyclopentadiene, Isophorone, Naphthalene, Nitrobenzene, 2-nitrophenol, 4-nitrophenol, 2,4-dinitrophenol, 4,6-dinitro-o-cresol, N-nitrosodimethylamine, N-nitrosodiphenylamine, N-nitrosodi-n-propylamine, Pentachlorophenol, Phenol, Bis (2-ethylhexyl) phthalate, Butyl benzyl phthalate, Di-n-butyl phthalate, Di-n-octyl phthalate, Diethyl phthalate, Dimethyl phthalate, 1,2-benzanthracene (benzo(a)anthracene), Benzo(a)pyrene (3,4-benzopyrene), 3,4-Benzofluoranthene (benzo(b)fluoranthene), 11,12-benzofluoranthene (benzo(k)fluoranthene), Chrysene, Acenaphthylene, Anthracene, 1,12-benzoperylene (benzo(ghi)perylene), Fluorene, Phenanthrene, 1,2,5,6-dibenzanthracene (dibenzo(a,h)anthracene), Indeno (1,2,3-cd) pyrene (2,3 o-phenylene pyrene), Pyrene, Tetrachloroethylene, Toluene, Trichloroethylene, Vinyl chloride (chloroethylene), Aldrin, Dieldrin, Chlordane (technical mixture and metabolites), 4,4-DDT, 4,4-DDE (p,p-DDX), 4,4-DDD (p,p-TDE), Alpha-endosulfan, Beta-endosulfan, Endosulfan sulfate, Endrin, Endrin aldehyde, Heptachlor, Heptachlor epoxide, (BHC-hexachlorocyclohexane): Alpha-BHC, Beta-BHC, Gamma-BHC, Delta-BHC, (PCB-polychlorinated biphenyls): PCB-1242 (Arochlor 1242), PCB-1254 (Arochlor 1254), PCB-1221 (Arochlor 1221), PCB-1232 (Arochlor 1232), PCB-1248 (Arochlor 1248), PCB-1260 (Arochlor 1260), PCB-1016 (Arochlor 1016), Toxaphene, 2,3,7,8-tetrachlorodibenzo- p-dioxin (TCDD).

(HHHH) TOXIC POLLUTANT - The pollutants, or combination of pollutants, listed as toxic in regulations promulgated by the EPA (40 CFR Part 401.15) under authority of Section 307(a)(1) of the Act.

(III) UNCONTAMINATED WATER - Any water not contaminated or polluted with sewage or other waste and which is suitable for discharge into the storm water drainage system, excluding unlined natural water courses.

(JJJJ) UPSET - An exceptional incident in which there is unintentional and temporary noncompliance with categorical and/or local pretreatment standards because of factors beyond

the reasonable control of the industrial user; this does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(KKKK) USER - A source of direct or indirect discharge.

(LLLL) WASTEWATER - Liquid and water-carried industrial wastes and domestic wastewater from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed directly or indirectly to the system.

(MMMM) WASTEWATER TREATMENT PLANT or TREATMENT PLANT - That portion of the system designed to provide treatment of domestic and industrial wastewater.

(64 Code, Sec. 25-4) (Ord. No. 2494, 2761, 2875)

PART 2. Chapter 19 Article I, Division 3 of the Oxnard City Code is hereby amended, and

Section 19-25 and Section 19-26 are added to read as follows:

“DIVISION 3. WASTEWATER INTRODUCTION INTO THE CITY'S MUNICIPAL WASTEWATER SYSTEM”

SEC. 19-25. PROHIBITED; DISCHARGE STANDARDS.

(A) No person shall introduce or cause to be introduced to the system, directly or indirectly, any pollutant or wastewater that causes pass through or interference. These general prohibitions apply to all persons, whether or not they are subject to categorical pretreatment standards or any other federal, State or local pretreatment standards or requirements.

(B) No person shall introduce or cause to be introduced into the system the following pollutants, substances, or wastewater:

(1) Pollutants that create a fire or explosive hazard in the system, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR Part 261.21;

(2) Any pollutant or wastewater having a pH less than 6.0 or more than 10.0, or that may otherwise cause corrosive structural damage to the city system or equipment;

(3) Solid or viscous substances in amounts that will cause obstruction of the flow in the system resulting in interference but in no case solids greater than ½-inch (1.27 centimeters) in any dimension;

(4) Pollutants, including oxygen-demanding pollutants, released in a discharge at a flow rate and/or pollutant concentration that, either singly or by interaction with other pollutants, will cause interference with the system;

- (5) Wastewater having a temperature greater than 140 degrees Fahrenheit (60 degrees Celsius), or that will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater that causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius);
- (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (7) Pollutants that result in the presence of toxic gases, vapors, or fumes within the system in a quantity that may cause acute worker health and safety problems;
- (8) Trucked or hauled pollutants, except at discharge points designated by the city manager in accordance with section 19-41 of this article;
- (9) Noxious or malodorous liquids, gases, solids, or other wastewater that, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (10) Wastewater that imparts color that cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit;
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or federal regulations;
- (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, single pass noncontact cooling water and unpolluted wastewater, unless specifically authorized by the city manager;
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes, except as specifically authorized by the city manager;
- (14) Medical wastes, except as specifically authorized by the city manager in an IWD permit;
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (16) Detergents, surface-active agents, or other substances that may cause excessive foaming in the system;

(17) Wastes defined as hazardous waste by RCRA or the California Hazardous Waste Control Law; and/or

(18) Wastewater, when measured with a combustible gas indicator, at the point of discharge into the system or at any point in the system, that results in two readings over five percent or any single reading over ten percent of the lower explosive limit of the combustible gas indicator.

(C) No person shall process or store pollutants, substances, or wastewater prohibited by this section in such a manner that they could be discharged to the system.

(D) No person shall discharge or cause to be discharged any domestic or industrial wastewater to the ground, into any surface drainage conduit, storm drain or channel, or stream or other water course.

(E) Any Industrial User obtaining a new permit after the effective date of this provision to discharge to the sewer shall not discharge wastewater containing total dissolved solids (TDS) at concentrations exceeding 1,850 mg/L. This provision shall become effective on the date the Approval Authority issues its approval of City Ordinance 19-25.

(1) Any Industrial Users currently permitted to discharge to the sewer prior to the effective date of this provision shall be held to a baseline TDS discharge concentration and loading. This provision shall become effective on the date the Approval Authority issues its approval of this ordinance. This requirement shall be incorporated into individual discharge permits. Industrial Users shall be required to establish a baseline TDS concentration and loading based on data collected during a site specific sampling plan approved by the City.

(F) Any industrial user obtaining a new permit after the effective date of this provision to discharge to the sewer shall not discharge wastewater containing boron at concentrations exceeding 1.86 mg/L. This provision shall become effective on the date the Approval Authority issues its approval of this ordinance.

(1) Any Industrial Users currently permitted to discharge to the sewer prior to the effective date of this provision shall be held to a baseline boron discharge concentration and loading. This provision shall become effective on the date the Approval Authority issues its approval of this ordinance. This requirement shall be incorporated into individual discharge permits. Industrial Users shall be required to establish a baseline boron concentration and loading, based on data collected during a site specific sampling plan approved by the City.

(G) Centralized Waste Treatment (CWT) facilities subject to 40 CFR 437 Subcategory D must comply with the "Best Management Practices for Centralized Waste Treatment (CWT) Facilities (Subcategory D Multiple Wastestream)", developed by the California Association of Sanitation Agencies (CASA), February 29, 2016, and any subsequent versions and amendments. Compliance with the CASA BMPs shall be demonstrated before issuance of an industrial waste discharge permit. CWTs that do not fall within Subcategory D, but are classified as Subcategories A, B, or C must comply with all applicable requirements as established in the CASA document.

(H) No person shall discharge or cause to be discharged wastewater (untreated or treated) produced as a byproduct of oil production, drilling fluids or completion fluids from oil and gas well drilling, and fluids associated with or generated during hydraulic fracturing into the sewer system.

(I) No industrial user or person shall discharge or cause to be discharged organic solvents into the sewer system or use the sewer as a means of disposal for organic solvents. Industrial users having organic solvents on site shall provide and use a separate collection and disposal system outside the sewer system and shall provide safeguards against their accidental discharge to the sewer. An approved toxic organic management plan (TOMP) that includes control measures to prevent entry of toxic organics and other solvents into the sanitary sewer system shall be filed by the industrial user as a condition of permission to discharge to the sanitary sewer. The TOMP shall be updated whenever any significant change in the inventory, usage, or management of toxic organic compounds occurs. The updated TOMP shall be submitted to the city of Oxnard for approval. Records documenting appropriate disposal and handling of organic solvents shall be maintained for a period of three years and made available for inspection. Any accidental solvent discharges shall be reported to the City within 24 hours of the discharge.

(J) No Industrial User, Dental Discharger or Person shall discharge or cause to be discharged any mercury or amalgam waste into the sewer system. All dental dischargers that place or remove amalgam must operate and maintain an amalgam separator that complies with ANSI/ADA Specifications 108 (2009) with Technical Addendum (2011) or ISO 11143 Dentistry-Amalgam Separators and any subsequent versions or amendments. The dental discharger shall comply with the most recent Best Management Practices for Dental Amalgam Waste as recommended by the American Dental Association, and specified in 40 CFR 441 (Effluent Limitations Guidelines and Standards for the Dental Category) June 14, 2017. Records documenting appropriate handling and disposal of mercury and amalgam shall be maintained for three years and made available for inspection.

(K) No Industrial User or person shall discharge or cause to be discharged wastewater that exceeds any applicable site-specific limitation for gross beta radioactivity established by the city.

The maximum allowable industrial loading (MAIL) to the wastewater treatment plant for gross beta radioactivity is 6.29×10^8 pCi/d. Any SIU that has the potential to discharge gross beta radioactivity at concentrations that may cause interference or pass-through at the POTW will be issued a site-specific limitation based on an allocation of the MAIL established by the city. The site-specific limitation will be incorporated into the individual SIU's discharge permit.

(`64 Code, Sec. 25-13) (Ord. No. 2494)

SEC. 19-26. LOCAL LIMITS.

(A) The city manager is authorized to establish local limits pursuant to 40 CFR 403.5(c).

(B) Limits for the pollutants listed below are established to protect against pass through and interference in accordance with 40 CFR Part 403.5(c). No person shall introduce, or cause to be introduced, wastewater containing quantities or concentrations in excess of the limits identified in the following table:

Pollutant	Local Limit
Ammonia	57 mg/L
Arsenic	0.13 mg/L
Biochemical Oxygen Demand	800 mg/L
Cadmium	0.013 mg/L
Chloride	9,205 mg/L
Chromium	0.44 mg/L

Copper	2.02 mg/L
Hydrogen Sulfide (dissolved)	0.34 mg/L
Lead	0.97 mg/L
Mercury	0.05 mg/L
Molybdenum	1.50 mg/L
Nickel	0.14 mg/L
Oil and Grease (vegetable)	250 mg/L
Oil and Grease (mineral)	100 mg/L
Selenium	0.49 mg/L
Silver	0.06 mg/L
Total Suspended Solids	1,000 mg/L
Zinc	1.06 mg/L

(C) All concentrations for metallic substances are for "total" metal unless otherwise indicated. At the discretion of the city manager, mass limitations may be imposed on users in addition to or in place of the concentration based limitations on the above listed pollutants.

(D) The city manager may develop BMPs, by ordinance or in individual wastewater discharge permits or general permits, to implement local limits and the requirements of this section.

('64 Code, Sec. 25-14) (Ord. No. 2494, 2761)

PART 3. Chapter 19 Article I, Division 4 of the Oxnard City Code is hereby amended, and

Section 19-36, Section 19-43, and Section 19-44 are added to read as follows:

“DIVISION 4. PRETREATMENT OF INDUSTRIAL WASTEWATER”

SEC. 19-36. ADDITIONAL PRETREATMENT MEASURES.

(A) Whenever deemed necessary, the city manager may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate domestic waste streams from industrial waste streams, and such other conditions as may be necessary to protect the system and determine the user's compliance with the requirements of this article.

(B) The city manager may require any person discharging into the system to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure active management of flow. An IWD permit may be issued solely for flow regulation.

(C) Users shall provide gravity separation devices when, in the opinion of the city manager, they are necessary for the proper handling of wastewater containing excessive amounts of oil and grease or sand. All gravity separation devices shall be of a type and capacity approved by the city manager and shall be so located to be easily accessible for cleaning and inspection. Such devices shall be inspected, cleaned, and repaired regularly, as needed, by the user at user's expense.

(D) The city manager may require users with the potential to discharge flammable substances to install and maintain an approved combustible gas detection meter.

(E) All dental dischargers are required to maintain a current Industrial Wastewater Discharge Permit.

('64 Code, Sec. 25-22) (Ord. No. 2494)

SEC. 19-43. DISCHARGES FROM FOOD ESTABLISHMENTS, VEHICLE MAINTENANCE FACILITIES, AND COMMERCIAL AND INDUSTRIAL LAUNDRIES

(A) All food service establishments that introduce industrial wastewater into the system shall be required to install an approved grease interceptor device designed to prevent the unlawful discharge of fats, oil, and grease into the system. The grease interceptor device shall be a minimum of 750 gallons and in accordance to City Standard Plates 400, 413, and 415. The grease interceptor shall be easily accessible for cleaning and inspection. Maintenance records shall be maintained for a minimum of two years. The city manager may grant variances from the requirements of this paragraph on a case by case basis. The city manager may take into account the following items when determining whether to grant a variance:

- (1) Size of the restaurant;
- (2) Type and number of meals served per day;
- (3) Seating capacity;
- (4) Dishwashing facilities on-site; and
- (5) Any other criteria the city manager deems applicable.

(B) All automotive related maintenance facilities that introduce industrial wastewater into the system shall be required to install a gravity separation device designed to prevent the excessive discharge of sand, silt, oil, and grease into the system. The gravity separation device shall be a minimum of 750 gallons and in accordance to City Standard Plates 400, 413, and 416. The city manager may grant variances from the requirements of this paragraph on a case by case basis.

(C) All commercial laundries, such as coin-operated facilities, that introduce industrial wastewater into the system shall be required to install a lint removal trap of a size and design approved by the city manager. The lint trap devices shall be cleaned at a minimum of one time per week. All commercial laundries that introduce wastewater into the system shall be required to install a gravity separation device of a minimum 750 gallons and in accordance to City standard plates 400, 413, and 416. The city manager may grant variances from the requirements of this paragraph on a case by case basis.

(D) The city manager may maintain an information file available for public use of acceptable designs of grease interceptors and gravity separation devices. These devices shall be designed in accordance with City standard plates 400, 413, 415, or 416. The installation of a design shown in such file or of any design meeting the size requirement set forth in this article or any recommendation of requirements made by the city manager shall not impute any liability to the city for the adequacy of the interceptor or gravity separation device under the actual conditions

of use. Such installation shall not relieve the owner or proprietor of responsibility for keeping prohibited substances or substances in excess of the local limits in Section 19-26.

('64 Code, Sec. 25-29) (Ord. No. 2494)

PART 4. Chapter 19 Article I, Division 5 of the Oxnard City Code is hereby amended, and Section 19-51 is added to read as follows:

“DIVISION 5. INDUSTRIAL WASTEWATER DISCHARGE PERMIT SYSTEM”

SEC. 19-51. INDUSTRIAL WASTEWATER DISCHARGE PERMIT REQUIREMENTS.

(A) No non-domestic user shall discharge or cause to be discharged wastewater, either directly or indirectly, into the system without first obtaining an IWD permit from the city manager. All non-domestic users, including, but not limited to, SIUs, CIUs, commercial and industrial laundromats, food service establishments, automotive-related businesses, and dental dischargers, are required to maintain a current Industrial Wastewater Discharge Permit.

(B) The city manager may require other users to obtain an IWD permit as necessary to carry out the purposes of this article.

(C) Any violation of the terms and conditions of an IWD permit shall be deemed a violation of this article and subjects the user to the sanctions set out in Divisions 8 through 10 of this Article. Obtaining an IWD permit does not relieve an Industrial User of its obligation to comply with all federal and State pretreatment standards or requirements or with any other requirements of federal, State and local law.

('64 Code, Sec. 25-33) (Ord. No. 2494)

PART 5. SEVERABILITY

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given without the invalid provision or application, and to this end the provision of this act are severable.

PART 6. EFFECTIVE DATE

This ordinance shall take effect and be in full force thirty (30) days after its adoption.

PART 7. Pursuant to Government Code Section 36933(c)(1), the City Attorney was designated

to prepare, and the City Clerk published, a summary of this ordinance, and a certified copy of the ordinance was posted in the Office of the City Clerk a minimum of five (5) days before the City Council's adoption of the ordinance.

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PART 9. The City Clerk shall certify as to the adoption of this ordinance and shall cause the summary thereof to be published within fifteen (15) days of the adoption and shall post a certified copy of this ordinance, including the vote for and against the same, in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. _____ was first read on _____, 20____, and finally adopted on _____, 20____, to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

ABSTAIN:

John C. Zaragoza, Mayor

ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

CHAPTER 19: PUBLIC WORKS

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ARTICLE I. SEWERAGE SYSTEM; WASTEWATER DISPOSAL

DIVISION 1. GENERAL PROVISIONS

SEC. 19-1. PURPOSE AND POLICY.

(A) This article sets forth uniform requirements for users of the municipal wastewater system of the city (system) and enables the city to comply with all applicable State and federal laws including the Clean Water Act (33 USC Sections 1251 *et seq.*), general pretreatment regulations (40 CFR Part 403), and the requirements of the city's national pollutant discharge elimination system (NPDES) permit. The objectives of this article are:

(1) To prevent the introduction of pollutants into the system that will pass through the system inadequately treated, enter receiving waters, or otherwise interfere with or be incompatible with the system;

(2) To protect city employees who may be affected by wastewater and sludge in the course of their employment and the general public;

(3) To promote reuse and recycling of wastewater and biosolids from the system;

(4) To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the system; and

(5) To enable city to comply with its NPDES permit conditions, sludge use and disposal requirements and any other federal or State laws and regulations to which the system is subject.

(B) This article authorizes the issuance of industrial wastewater discharge permits; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(C) This article shall apply to all persons within the city who use the system and to persons outside the city who, by contract with the city, are included as users of the system. By discharging wastewater into the system, users located beyond the city limits agree to comply with the terms and conditions established in this article, as well as any permits, contracts or orders issued hereunder.

(`64 Code, Sec. 25-1) (Ord. No. 2494)

SEC. 19-2. ADMINISTRATION.

(A) Except as otherwise provided herein, the city manager shall administer, implement and enforce the provisions of this article.

(B) The city manager is authorized to promulgate regulations and standards reasonably necessary to protect the system, to comply with all applicable federal and State laws required by the Act and the general pretreatment regulations, to control and regulate the proper use of the system, to regulate the rate of flow and the quality and quantity of wastewater discharges to the system, to prevent overflow, and to provide for the issuance, suspension or revocation of industrial wastewater discharge (IWD) permits; provided, however, the regulations shall be consistent with the provisions of this article and formulated to result in the uniform control of the system.

(`64 Code, Sec. 25-2) (Ord. No. 2494)

SEC. 19-3. ABBREVIATIONS.

For purposes of this article, the following abbreviations, shall have the designated meanings:

(A) BOD - Biochemical Oxygen Demand;

(B) BMP - Best Management Practice;

(C) BMR - Baseline Monitoring Report;

(D) [CASA – California Association of Sanitary Agencies](#)

(E) CFR - Code of Federal Regulations;

(F) CIU - Categorical Industrial User;

- (G) COD - Chemical Oxygen Demand;
- (H) DIU - Dental Industrial User
- (I) EPA - U.S. Environmental Protection Agency;
- (J) gpd - Gallons per Day;
- (K) IU - Industrial User;
- (L) IWD - Industrial Wastewater Discharge;
- (M) LC50 - Lethal Concentration for 50 Percent of the Test Organisms;
- (N) L - Liter;
- (O) MAIL - Maximum Allowable Industrial Loading
- (P) mg - Milligrams, mg/L - Milligrams per Liter;
- (Q) NPDES - National Pollutant Discharge Elimination System;
- (R) NSCIU - Non-Significant Categorical Industrial User;
- (S) O&M - Operation and Maintenance;
- (T) POTW - Publicly Owned Treatment Works
- (U) RCRA - Resource Conservation and Recovery Act;
- (V) SIC - Standard Industrial Classification;
- (W) SIU - Significant Industrial User;
- (X) SNC - Significant Noncompliance;
- (Y) SWDA - Solid Waste Disposal Act (42 USC Sections 6901 *et seq.*);
- (Z) TDS - Total Dissolved Solids;
- (AA) TOMP – Toxic Organics Management Plan
- (BB) TSS - Total Suspended Solids;
- (CC) TTO - Total Toxic Organics; and
- (DD) USC - United States Code.

(`64 Code, Sec. 25-3) (Ord. No. 2494, 2761)

SEC. 19-4. DEFINITIONS.

For the purposes of this article, the following words shall have the following meanings:

- (A) ACT - The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC Sections 1251 *et seq.*
- (B) APPROVAL AUTHORITY - California State Water Resources Control Board or Regional Water Quality Control Board, Los Angeles Region.
- (C) AUTHORIZED REPRESENTATIVE OF THE USER -
 - (1) If the user is a corporation, a responsible corporate officer. For the purpose of this paragraph, a responsible corporate officer means:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the

regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and to initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (2) If the user is a partnership or sole proprietorship, a general partner or proprietor, respectively.
 - (3) If the user is a federal, State, or local government entity, the principal executive officer or director having responsibility for the overall operation of the discharging facility.
 - (4) A duly authorized representative of the individual designated in subsections (1), (2), or (3) of this subsection (C) if:
 - (a) The authorization is made in writing by the individual described in paragraph (1), (2), or (3);
 - (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, such as the position of plant manager, operator of a well, or a well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 - (c) The written authorization is submitted to the city.
- (D) BIOCHEMICAL OXYGEN DEMAND (**BOD**) - Quantity of oxygen utilized in the biochemical oxidation of organic material under standard laboratory procedures for 5 days at 20 degrees centigrade, usually expressed as a concentration such as mg/l.
- (E) BEST MANAGEMENT PRACTICES (BMPs) - The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 19-25(A) and (B) [40 CFR 403.5(a)(1) and (b)] including treatment requirements, operating procedures, practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage and also including alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.
- (F) BUILDING SEWER - A sewer conveying wastewater from the premises of a person to the public sewer, private sewer, individual wastewater disposal system or other approved point of disposal.
- (G) BYPASS - The intentional diversion of waste and/or wastewater from any portion of a user's pretreatment facility.
- (H) CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL STANDARD - Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 USC Section 1317) that apply to a specific category of users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471, incorporated herein by reference.
- (I) CATEGORICAL INDUSTRIAL USER - An industrial user subject to a categorical pretreatment standard or categorical standard.
- (J) [CITY] - The City of Oxnard or the City Council of Oxnard.
- (K) [CITY MANAGER - The Oxnard City Manager or their designee](#)
- (L) CHEMICAL OXYGEN DEMAND (COD) - A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
- (M) COLOR - The optical density at visual wave length of maximum absorption, relative to distilled water in which 100% transmittance is equivalent to zero optical density.
- (N) COMPLIANCE SCHEDULE - A schedule containing increments of progress, in the form of dates, for the commencement and completion of major events leading to the construction and operation of pretreatment equipment and/or systems required for the user to meet applicable pretreatment standards.
- (O) COMPOSITE SAMPLE - The sample resulting from the combination of individual wastewater samples taken at selected intervals, based on an increment of either flow or time.
- (P) CONNECTION - The part of any sewer extending from a sewer main in a public easement or right-of-way to private property for exclusive use of the property.
- (Q) CONTROL AUTHORITY - The city.

- (R) COOLING WATER - The water discharged from any use, including but not limited to, air conditioning, cooling or refrigeration units to which the only pollutant added is heat.
- (S) DAILY MAXIMUM - The arithmetic average of all effluent samples for a pollutant collected during a calendar day.
- (T) DAILY MAXIMUM LIMIT - The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- (U) DENTAL INDUSTRIAL USER also known as a DENTAL DISCHARGER - A facility where the practice of dentistry is performed that discharges wastewater to a publicly owned treatment works (POTW), including, but not limited to, institutions, permanent or temporary offices, clinics, home offices, and facilities owned and operated by Federal, state or local governments; ~~that discharges wastewater to a publicly owned treatment works (POTW)~~
- (V) DISCHARGE - The discharge or the introduction of pollutants into the system by a person.
- (W) DOMESTIC WASTEWATER - Human excrement and gray water from such uses as household showers and dish washing.
- (X) ENVIRONMENTAL PROTECTION AGENCY (EPA) - The U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, or other duly authorized official.
- (Y) EXISTING SOURCE - Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
- (Z) FEE - Any charge assessed to a person associated with the use, or continued use, of any portion of the system and includes, but is not limited to, a charge for connection or tap for new customers; monthly sewer service; IWD permit; excess capacity connection; wastewater treatment; excessive wastewater strength; laboratory testing; waste hauler's permit; oversize sewer; and noncompliance.
- (AA) FOOD ESTABLISHMENT - Any facility engaged in the preparation of food products for sale. A facility engaged in the sale of food products that are wholly prepared off-site is not included within this definition.
- (BB) FORMULA USERS - Those users who are regulated under the IWD permit system and billed according to a formula based on the measured or set strength and volume of their
- (CC) GARBAGE - The putrescible animal and vegetable wastes resulting from the handling, preparation and consumption of foods.
- (DD) GRAB SAMPLE - A sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.
- (EE) GRAVITY SEPARATION DEVICE - A device designed, constructed, and operated for the purpose of retaining sand, silt, grit, mineral material, and oil by gravity-differential separation from wastewater.
- (FF) GREASE - A varied group of compounds having the common properties of immiscibility with water and a specific gravity lower than water as determined by appropriate procedures set forth in 40 CFR Part 136.
- (GG) GREASE INTERCEPTOR or INTERCEPTOR - A device of at least 750 gallon capacity designed, constructed, and operated to separate and retain grease while permitting the wastewater to be discharged into the system.
- (HH) GROUND GARBAGE - The residue from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely in suspension under the flow conditions normally prevailing in a public sewer, with no particle greater than 1/2-inch in any dimension.
- (II) HOLDING TANK WASTEWATER - Any wastewater from holding tanks including, but not limited to, vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
- (JJ) INDIRECT DISCHARGE - The introduction of pollutants into the system from any non-domestic

source regulated under Section 307 (b), (c), or (d) of the Act.

- (KK) INDUSTRIAL USER - Any producing, manufacturing, processing, institutional, commercial, agricultural or similar person that discharges, directly or indirectly, wastewater into the system that is solid, liquid or gaseous waste and contains pollutants different from, or stronger than, or with constituents other than those defined for domestic wastewater.
- (LL) INDUSTRIAL WASTEWATER - ~~The liquid and water-carried industrial waste~~Any non-domestic, liquid byproduct produced as a result of business operations, whether treated or untreated, which is ~~contributed-discharged~~ into or permitted to enter the POTW system.
- (MM) INDUSTRIAL WASTEWATER DISCHARGE PERMIT or PERMIT or IWD PERMIT - A conditionally written authorization to allow a user to utilize the system for the discharge of industrial wastewater.
- (NN) INSTANTANEOUS MAXIMUM DISCHARGE LIMIT - The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- (OO) INTERFERENCE - A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the system, its treatment processes or operations or its biosolids processes, use or disposal, and that is therefore a cause of a violation of the city's NPDES permit or of the prevention of biosolids use or disposal in compliance with all applicable federal, State, or local regulations, including but not limited to: Section 405 of the Act, the SWDA, including Title II, commonly referred to as RCRA, any and all federal and State clean air acts, the Toxic Substances Control Act, and the Marine Protection, Research, and Sanctuaries Act.
- (PP) LOCAL LIMIT - Specific discharge limits developed and enforced by [the City] upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).
- (QQ) MASS EMISSION RATE - The weight of material discharged to the system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combination of constituents.
- (RR) MAXIMUM ALLOWABLE INDUSTRIAL LOADING (MAIL) - The maximum loading of a pollutant that can be received at a POTW's headworks from all permitted industrial users and other controlled sources without causing pass through or interference.
- (SS) MEDICAL WASTE - Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (TT) MONITORING FACILITIES - An approved opening to a building sewer for the purpose of inspection, sampling and/or flow measurement.
- (UU) MONTHLY AVERAGE - The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
- (VV) MONTHLY AVERAGE LIMIT - The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
- (WW) MUNICIPAL WASTEWATER SYSTEM or SYSTEM - A "treatment works," as defined by Section 212 of the Act, owned by the city and includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of wastewater (domestic or industrial) and any conveyances which convey wastewater to the treatment plant.
- (XX) -
- (YY) NARRATIVE STANDARD OR NARRATIVE LIMIT – Any statement of prohibition or condition on a discharge established in this ordinance that is not a local limit. Narrative standards include but are not limited to prohibited discharge standards and best management practices. NARRATIVE LIMIT— See definition for PROHIBITED DISCHARGE STANDARDS
- (YY) NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT - A permit issued pursuant to Section 402 of the Act.
- (ZZ) NATIONAL PROHIBITIVE DISCHARGE STANDARD or PROHIBITIVE DISCHARGE

STANDARD - Any regulation developed under the authority of Section 307(b) of the Act.
(AAA) NEW SOURCE -

- (1) Any building structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge or pollutants at an existing source; or
 - (c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located and results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subdivisions (1)(b) or (1)(c) above, but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source, as defined under this subsection, has commenced if the owner or operator has:
 - (a) Begun, or caused to begin, as part of a continuous on-site construction program:
 1. Any placement, assembly, or installation of facilities or equipment; or
 2. Significant site preparation work including clearing, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

(BBB) NONCONTACT COOLING WATER - Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(CCC) PASS THROUGH - A discharge that exits the system into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

(DDD) PERSON - Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns; and including all federal, State and local governmental entities.

(EEE) pH - A measure of the acidity or alkalinity of a substance, expressed in standard units.

(FFF) POLLUTANT - Dredged spoil, solid waste, incinerator residue, filter backwash, domestic wastewater, garbage, sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharge equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes and certain characteristics of the wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

(GGG) PRETREATMENT or TREATMENT - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the system. Such pretreatment or treatment can be accomplished by physical, chemical, biological processes, or by other means, with the exception of diluting the concentration of the pollutant unless allowed by an applicable pretreatment standard.

(HHH) PRETREATMENT FACILITY - Any works or device for the treatment or flow limitation of domestic wastewater, liquid waste, industrial waste or industrial wastewater prior to discharge into

the system.

- (III) PRETREATMENT REQUIREMENTS - Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- (JJJ) PRETREATMENT STANDARDS or STANDARDS - Prohibited discharge standards, categorical pretreatment standards, and/or local limits.
- (KKK) PRIVATE SEWER - A sewer, other than a connection, laid by a person to serve one or more buildings, so as to connect a building to a public sewer and irrespective of whether the sewer is constructed on public or private property.
- (LLL) PRIVATE WASTEWATER DISPOSAL SYSTEM - A septic tank with the effluent discharging into a subsurface disposal field, into one or more seepage pits or into a combination of subsurface disposal field and seepage pit or other wastewater holding facilities.
- (MMM) PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGE - Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 19-~~254~~2543 of this article.
- (NNN) PUBLICLY OWNED TREATMENT WORKS (POTW) - A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by a State or municipality (as defined by section 502(4) of the Act). This definition includes any devices or systems used in the storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.
- (OOO) RADIOACTIVE MATERIAL - Material containing chemical elements that spontaneously change their atomic structure by emitting any particles, rays or energy forms in excess of normal background radiation.
- (PPP) SEEPAGE PIT - A lined excavation in the ground which receives the discharge of a septic tank and is designed to permit the effluent from the septic tank to seep through its bottom and side.
- (QQQ) SEPTAGE - Any domestic wastewater from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- (RRR) SEPTIC TANK - A watertight receptacle which receives the domestic wastewater discharge of a building and is designed and constructed to separate solids from the liquid, digest organic matter through a period of detention and allow the liquid to discharge into the soil outside of the tank through a system of open joint or perforated piping or a seepage pit.
- (SSS) SETTLEABLE SOLIDS - Any solid that will settle out of a liquid in a specified interval of time as determined by appropriate procedures set forth in 40 CFR 136.
- (TTT) SEWAGE - Human excrement and gray water (household showers, dishwashing operations, etc.).
- (UUU) SEWER - A pipe or conduit together with appurtenances for carrying wastewater.
- (VVV) SIGNIFICANT CHANGE - Plus or minus 25% in an industrial user's typical discharge pattern, flow rate, peak flow rate, constituents, concentration of constituents or characteristics.
- (WWW) SIGNIFICANT INDUSTRIAL USER -
 - (1) A user subject to categorical pretreatment standards; or
 - (2) A user that:
 - (a) Discharges an average of 10,000 gpd or more of industrial wastewater to the system;
 - (b) Contributes a waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the system; or
 - (c) Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the system's operation or for violating a pretreatment standard or requirement.
 - (3) The [City] may determine that an industrial user subject to categorical pretreatment standards is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
 - (a) The industrial user, prior to [City's] finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

- (b) The industrial user annually submits the certification statement required in 40 CFR 403.12(q), together with any additional information necessary to support the certification statement; and
- (c) The industrial user never discharges any untreated concentrated wastewater.
- (4) Upon a finding that a user meeting the criteria in subdivision (2) above has no reasonable potential for adversely affecting the system operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR Part 403.8(f)(6), determine that such user should not be considered a significant industrial user.
- (XXX) SLUG LOAD or SLUG DISCHARGE - Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in this chapter. A slug discharge is any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTWs regulations, local limits or permit conditions.
- (YYY) STANDARD INDUSTRIAL CLASSIFICATION (SIC) - A classification pursuant to the Standard Industrial Classification Manual, latest edition, issued by the U.S. Office of Management and Budget.
- (ZZZ) STANDARD METHODS - Standard Methods for the Examination of Water and Wastewater, latest edition, published by American Water Works Association, Water Environment Association, and the American Public Health Association, 1015 18th Street, NW, Washington, D.C. 20036.
- (AAAA) STANDARD SPECIFICATIONS - The current edition of standards and requirements relating to size, quantity, quality and performance, including standard drawing, as detailed and made available by the city.
- (BBBB) STATE - State of California.
- (CCCC) STORM WATER - Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelts.
- (DDDD) SUSPENDED SOLIDS - The total suspended matter in wastewater, as determined by the appropriate procedures set forth in 40 CFR Part 136.
- (EEEE) TOTAL DISSOLVED SOLIDS - The solid matter in solution in wastewater, as determined by the appropriate procedures set forth in 40 CFR Part 136.
- (FFFF) ~~TOXIC~~ **TOXIC ORGANICS MANAGEMENT PLAN** — A plan that specifies the toxic organic compounds used, the method of disposal used (instead of discharge into waste streams), and procedures for assuring that toxic organics do not spill or leak into wastewater discharged into the POTW
- (GGGG) TOTAL TOXIC ORGANICS - The summation of all quantifiable values greater than 0.01 milligrams per liter, subject to the local limits established pursuant to section 19-26 of this article, for the following toxic organics: Acenaphthene, Acrolein, Acrylonitrile, Benzene, Benzidine, Carbon tetrachloride (tetrachloromethane), Chlorobenzene, 1,2,4-trichlorobenzene, Hexachlorobenzene, 1,2-dichloroethane, 1,1,1-trichloroethane, Hexachloroethane, 1,1-dichloroethane, 1,1,2-trichloroethane, 1,1,2,2-tetrachloroethane, Chloroethane, Bis (2-chloroethyl) ether, 2-chloroethyl vinyl ether (mixed), 2-chloronaphthalene, 2,4,6-trichlorophenol, Parachlorometa cresol, Chloroform (trichloromethane), 2-chlorophenol, 1,2-dichlorobenzene, 1,3-dichlorobenzene, 1,4-dichlorobenzene, 3,3-dichlorobenzidine, 1,1-dichloroethylene, 1,2-trans-dichloroethylene, 2,4-dichlorophenol, 1,2-dichloropropane, 1,3-dichloropropylene (1,3-dichloropropene), 2,4-dimethylphenol, 2,4-dinitrotoluene, 2,6-dinitrotoluene, 1,2-diphenylhydrazine, Ethylbenzene, Fluoranthene, 4-chlorophenyl phenyl ether, 4-bromophenyl phenyl ether, Bis (2-chloroisopropyl) ether, Bis (2-chloroethoxy) methane, Methylene chloride (dichloromethane), Methyl chloride (chloromethane), Methyl bromide (bromomethane), Bromoform (tribromomethane), Dichlorobromomethane, Chlorodibromomethane, Hexachlorobutadiene, Hexachlorocyclopentadiene, Isophorone, Naphthalene, Nitrobenzene, 2-nitrophenol, 4-nitrophenol, 2,4-dinitrophenol, 4,6-dinitro-o-cresol, N-nitrosodimethylamine, N-nitrosodiphenylamine, N-nitrosodi-n-propylamine, Pentachlorophenol, Phenol, Bis (2-ethylhexyl) phthalate, Butyl benzyl phthalate, Di-n-butyl phthalate, Di-n-octyl phthalate, Diethyl phthalate, Dimethyl phthalate, 1,2-benzanthracene (benzo(a)anthracene), Benzo(a)pyrene (3,4-benzopyrene),

- 3,4-Benzofluoranthene (benzo(b)fluoranthene), 11,12-benzofluoranthene (benzo(k)fluoranthene), Chrysene, Acenaphthylene, Anthracene, 1,12-benzoperylene (benzo(ghi)perylene), Fluorene, Phenanthrene, 1,2,5,6-dibenzanthracene (dibenzo(a,h)anthracene), Indeno (1,2,3-cd) pyrene (2,3 o-phenylene pyrene), Pyrene, Tetrachloroethylene, Toluene, Trichloroethylene, Vinyl chloride (chloroethylene), Aldrin, Dieldrin, Chlordane (technical mixture and metabolites), 4,4-DDT, 4,4-DDE (p,p-DDX), 4,4-DDD (p,p-TDE), Alpha-endosulfan, Beta-endosulfan, Endosulfan sulfate, Endrin, Endrin aldehyde, Heptachlor, Heptachlor epoxide, (BHC-hexachlorocyclohexane): Alpha-BHC, Beta-BHC, Gamma-BHC, Delta-BHC, (PCB-polychlorinated biphenyls): PCB-1242 (Arochlor 1242), PCB-1254 (Arochlor 1254), PCB-1221 (Arochlor 1221), PCB-1232 (Arochlor 1232), PCB-1248 (Arochlor 1248), PCB-1260 (Arochlor 1260), PCB-1016 (Arochlor 1016), Toxaphene, 2,3,7,8-tetrachlorodibenzo- p-dioxin (TCDD).
- (HHHH) TOXIC POLLUTANT - The pollutants, or combination of pollutants, listed as toxic in regulations promulgated by the EPA (40 CFR Part 401.15) under authority of Section 307(a)(1) of the Act.
- (IIII) UNCONTAMINATED WATER - Any water not contaminated or polluted with sewage or other waste and which is suitable for discharge into the storm water drainage system, excluding unlined natural water courses.
- (JJJJ) UPSET - An exceptional incident in which there is unintentional and temporary noncompliance with categorical and/or local pretreatment standards because of factors beyond the reasonable control of the industrial user; this does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (KKKK) USER - A source of direct or indirect discharge.
- (LLLL) WASTEWATER - Liquid and water-carried industrial wastes and domestic wastewater from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed directly or indirectly to the system.
- (MMMM) WASTEWATER TREATMENT PLANT or TREATMENT PLANT - That portion of the system designed to provide treatment of domestic and industrial wastewater.
- (` 64 Code, Sec. 25-4) (Ord. No. 2494, 2761, 2875)

DIVISION 2. WASTEWATER COLLECTION/CONVEYANCE SYSTEM

SEC. 19-10. SERVICE CONNECTIONS.

(A) Sewer service connections may be made to either publicly or privately owned and maintained authorized collection systems. No person shall connect any private property in the city to the system without first obtaining a connection permit issued by the city manager and paying to the city the connection fee required therefore.

(B) The number of connection permits required for any development shall be based upon the number of sewer service connections. A separate sewer connection is normally required for each detached building.

(C) Food establishments and commercial laundries shall have a separate water connection from other users in the same building.

(D) The city manager may impose other requirements if the city manager determines that public health and safety, system protection, maintenance costs, or liability concerns so dictate.

(E) In order for the city to have sufficient information to make a determination of appropriate fees, building permit applicants shall submit sewer service plumbing plans prepared by a registered engineer or project architect in conjunction with the building permit application for all new and replacement structures. The plumbing and irrigation plans shall show all the proposed line sizes and locations.

(F) Every connection, disconnection and permanent blocking or plugging made between private property and the system shall be made in the manner and with the material required by the specifications for public sewers approved by the city and in accordance with the city's specifications for construction.

(` 64 Code, Sec. 25-5) (Ord. No. 2494)

SEC. 19-11. CONNECTION TO MAINS TO BE MAINTAINED BY OWNER.

All connections, including the lateral, wye or saddle at the city's sewer, shall be maintained at the expense of the property owner of which the connection originates.

(`64 Code, Sec. 25-6) (Ord. No. 2494)

SEC. 19-12. DEMOLITION AND ABANDONMENT OF SERVICES PREMISES.

The owner of property connected to the system shall disconnect or permanently block or plug connections when further use of the property, for any purpose requiring the connection, is abandoned or when the structure or facility on the property requiring the connection is demolished without replacement. A public works permit for abandonment of sewer lateral shall be required prior to commencement of abandonment. If a property owner or his/her agent has failed to so effect the disconnection or blockage, the city manager may disconnect or block the connection, and the cost thereof shall be deemed a debt to the city and shall be charged to the owner.

(`64 Code, Sec. 25-7) (Ord. No. 2494)

SEC. 19-13. AVAILABILITY OF CAPACITY: RESTRICTION OF DISCHARGE RATE.

(A) If the system capacity is not available, the city manager may restrict discharge until sufficient capacity is made available. The city manager may refuse immediate service to any new facility located in an area where there is insufficient capacity in the system to accommodate the proposed quantity of the wastewater.

(B) The city manager may restrict the rate of discharge into the system during the peak flow hours (8:00 a.m. to 10:00 p.m.) or at any other time when required to prevent the overloading of the system. A discharger so restricted shall be required either to curtail the rate of discharge or to provide approved storage or retention facilities for the wastewater. Wastewater so retained may be discharged into the system between the hours of 10:00 p.m. and 6:00 a.m., or during other periods and at a rate of flow prescribed by the city manager.

(`64 Code, Sec. 25-8) (Ord. No. 2494)

SEC. 19-14. EXCESSIVE SEWER MAINTENANCE EXPENSE.

Any person who introduces or causes to be introduced into the system, either directly or indirectly, any pollutant or wastewater which creates a stoppage, plugging, breakage, reduction in the capacity of any portion of the system or any other damage to the system shall be liable for the damage and for maintenance, operation, and replacement expenses, including overhead costs, occasioned thereby. Expense of the damage, any excessive maintenance expense, or any other expenses attributable thereto shall be deemed a debt to the city and shall be charged to the offending person by the city manager.

(`64 Code, Sec. 25-9) (Ord. No. 2494)

SEC. 19-15. DAMAGE TO CITY'S MUNICIPAL WASTEWATER SYSTEM; CREATION OF OTHER LIABILITY.

Any person who introduces or causes to be introduced into the system, either directly or indirectly, any prohibited pollutant or wastewater which causes detrimental effects to the city's system or treatment plant processes or causes a violation of the city's NPDES permit or other regulation imposed by a regulatory agency shall be liable for all damages and costs occasioned thereby, including any penalty assessed by a regulatory agency. The damages, costs or penalty assessed shall be deemed a debt to the city and shall be charged to the offending person by the city manager.

(`64 Code, Sec. 25-10) (Ord. No. 2494)

SEC. 19-16. PROVISIONS FOR EXTENSION OF SYSTEM.

(A) In addition to the payment of a connection fee, any person requesting service to a lot that is not adjacent to the system shall be responsible for installation of a sewer extension in dedicated streets, alleys or easements accepted by the city. Sewers shall be installed in sewer easements only when it is not in the public interest for the city to accept dedication of a street or alley in the particular location. The required sewer extension shall include all facilities necessary to serve the property as well as all abutting sewers indicated by

the sewer master plan. All construction shall conform to city standards and detailed plans approved by the city manager. The city manager shall determine the size sewer required for the area for which application for service is made. A sewer shall not have an inside diameter of less than eight inches. In the case of sewer trunk mains in the sewer master plan, an appropriate credit against collection fees and cash reimbursement may be allowed in an amount to be determined by the city manager.

(B) If sewer facilities that the person would otherwise be required to provide have previously been installed, the person shall be required to pay to the city a sewer charge consisting of a pro rata share of such facilities as determined by the city manager. If such previous installation was made by the applicant or his/her predecessor in interest in the property to which service is desired, the applicant may be entitled to credit in an amount to be determined by the city manager for such installation. Previous installations eligible for these credits must have been made less than 20 years before the application. Credit for previous installations will be applied against sewer charges, but in no event shall such credits be greater than the amount paid for actual construction of the extension.

(C) When installed, connected and finally inspected, all sewer extensions shall be deemed automatically offered for dedication to the city and upon acceptance shall become the property of the city. All necessary easements shall be granted to the city.

(`64 Code, Sec. 25-11) (Ord. No. 2494)

SEC. 19-17. SPECIAL PROVISION FOR EXTENSION OF SYSTEM.

(A) When an application requires a sewer extension and it is necessary or desirable to design the extension to serve an area or users, actual or potential, in excess for that which the application is made, the applicant may be eligible for a credit for a portion of the design and construction costs for the extension. Any such credit shall be granted in an amount to be determined by the city manager.

(B) If the sewer to be constructed is included in the current sewer master plan implementation schedule, and said sewer is constructed, in part, by the applicant, the city manager may authorize an appropriate credit against the applicant's sewer connection fee. No applicant may receive a credit for more than the total amount of sewer connection fees that would be normally required of the applicant. Any credit granted by the city manager shall only be for the actual engineering and construction costs of the sewer.

(C) Upon completion of a sewer which is not in the current sewer master plan implementation schedule and to which future connections could be made, the city manager shall determine the actual cost thereof and the existing sewer charge against each front foot of abutting property, taking into consideration intersections and other property that would not receive water service.

(`64 Code, Sec. 25-12) (Ord. No. 2494)

DIVISION 3. WASTEWATER INTRODUCTION INTO THE CITY'S MUNICIPAL WASTEWATER SYSTEM

SEC. 19-25. PROHIBITED; DISCHARGE STANDARDS.

(A) No person shall introduce or cause to be introduced to the system, directly or indirectly, any pollutant or wastewater that causes pass through or interference. These general prohibitions apply to all persons, whether or not they are subject to categorical pretreatment standards or any other federal, State or local pretreatment standards or requirements.

(B) No person shall introduce or cause to be introduced into the system the following pollutants, substances, or wastewater:

(1) Pollutants that create a fire or explosive hazard in the system, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR Part 261.21;

(2) Any pollutant or wastewater having a pH less than 6.0 or more than 10.0, or that may otherwise cause corrosive structural damage to the city system or equipment;

(3) Solid or viscous substances in amounts that will cause obstruction of the flow in the system resulting in interference but in no case solids greater than ½-inch (1.27 centimeters) in any dimension;

(4) Pollutants, including oxygen-demanding pollutants, released in a discharge at a flow rate and/or

pollutant concentration that, either singly or by interaction with other pollutants, will cause interference with the system;

(5) Wastewater having a temperature greater than 140 degrees Fahrenheit (60 degrees Celsius), or that will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater that causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius);

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

(7) Pollutants that result in the presence of toxic gases, vapors, or fumes within the system in a quantity that may cause acute worker health and safety problems;

(8) Trucked or hauled pollutants, except at discharge points designated by the city manager in accordance with section 19-41 of this article;

(9) Noxious or malodorous liquids, gases, solids, or other wastewater that, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(10) Wastewater that imparts color that cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit;

(11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or federal regulations;

(12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, single pass noncontact cooling water and unpolluted wastewater, unless specifically authorized by the city manager;

(13) Sludges, screenings, or other residues from the pretreatment of industrial wastes, except as specifically authorized by the city manager;

(14) Medical wastes, except as specifically authorized by the city manager in an IWD permit;

(15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

(16) Detergents, surface-active agents, or other substances that may cause excessive foaming in the system;

~~—(17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 250 mg/l;~~

~~(18) Wastes defined as hazardous waste by RCRA or the California Hazardous Waste Control Law; and/or~~

~~(19) Wastewater, when measured with a combustible gas indicator, at the point of discharge into the system or at any point in the system, that results in two readings over five percent or any single reading over ten percent of the lower explosive limit of the combustible gas indicator.~~

(C) No person shall process or store pollutants, substances, or wastewater prohibited by this section in such a manner that they could be discharged to the system.

(D) No person shall discharge or cause to be discharged any domestic or industrial wastewater to the ground, into any surface drainage conduit, storm drain or channel, or stream or other water course.

(E) Any new industrial user obtaining a new permit after the effective date of this provision to discharge to the sewer shall not discharge wastewater containing total dissolved solids (TDS) at concentrations exceeding 1,850 mg/L. This provision shall become effective on the date the Approval Authority issues its approval of this ordinance City Ordinance 19-25. Industries that have been previously permitted to discharge to the sewer prior to the effective date of this provision are exempt from not subject to this the limit, provided their permitted flows remain the same. Current industries that obtain an increase in their permitted flow following the effective date of this provision will be subject to the 1,850 mg/L TDS limit for the incremental flow volume.

Any Industrial Users currently permitted to discharge to the sewer prior to the effective date of this provision at concentrations below 1,850 mg/L shall be held to their current (baseline) TDS discharge concentration and loading, as an anti-degradation requirement. This provision shall become effective- on the date the Approval Authority issues its approval of this ordinance. These anti-

degradationis requirement willshall be incorporated into individual SIU-discharge permits. SIUs Industrial Users willshall be required to establish a baseline TDS concentration and loading, based on one year ofdata collected during a site specific sampling plan developedapproved by the Citydata. The Ceity may authorize an increase in the permitted TDS concentration based on water conservation, provided the baseline loading remains the same.

- (F) Any new industrial user obtaining a new permit after the effective date of this provision to discharge to the sewer shall not discharge wastewater containing boron at concentrations exceeding 1.86 mg/L. This provision shall become effective on the date the Approval Authority issues its approval of this ordinance. Industries that have been previously permitted to discharge to the sewer prior to the effective date of this provision are exemptnot subject to thisfrom the limit, provided their permitted flows remain the same. Current industries that obtain an increase in their permitted flow following the effective date of this provision will be subject to the 1.86 mg/L boron limit for the incremental flow volume.

Any Industrial Users currently permitted to discharge to the sewer prior to the effective date of this provision at concentrations below 1.86 mg/L shall be held to theira current (baseline) boron discharge concentration and loading, as an anti-degradation requirement. This provision shall become effective on the date the Approval Authority issues its approval of this ordinance. Thise anti-degradation requirement willshall be incorporated into individual SIU-discharge permits. SIUsIndustrial Users willshall be required to establish a baseline TDS-boron concentration and loading, based on one year of sampling datadata collected during a site specific sampling plan developedapproved by the City. The Ceity may authorize an increase in the permitted TDSboron concentration based on water conservation, provided the baseline loading remains the same.

(G)

- (G) Centralized Waste Treatment (CWT) facilities subject to 40 CFR 437 Subcategory D must comply with the "Best Management Practices for Centralized Waste Treatment (CWT) Facilities (Subcategory D Multiple Wastestream)", developed by the California Association of Sanitation Agencies (CASA), February 29, 2016, and any subsequent versions and amendments. Compliance with the CASA BMPs mustshall be demonstrated before issuance of an industrial waste discharge permit. CWTs that do not fall within Subcategory D, but are classified as Subcategories A, B, or C must comply with all applicable requirements as established in the CASA documentse Best Management Practices.

- (H) No person shall Ddischarge or cause to be discharged of wastewater (untreated or treated); that has been produced as a byproduct of oil production, drilling fluids or completion fluids from oil and gas well drilling, and fluids associated with or generated during hydraulic fracturing into the sewer systemare prohibited.

- (I) No industrial user or person shall discharge or cause to be discharged organic solvents into the sewer system or use Tthe sewer shall not be used as a means of disposal for organic solvents, and the discharge of organic solvents by industrial users is prohibited. Industrial users having organic solvents on site shall provide and use a separate collection and disposal system outside the sewer system and shall provide safeguards against their accidental discharge to the sewer. An approved toxic organic management plan (TOMP) that includes control measures to prevent entry of toxic organics and other solvents into the sanitary sewer system shall be filed by the industrial user as a condition of permission to discharge to the sanitary sewer. The TOMP shall be updated whenever any significant change in the inventory, usage, or management of toxic organic compounds occurs. The updated TOMP shall be submitted to the city of Oxnard for approval. Records documenting appropriate disposal and handling of organic solvents shall be maintained for a period of three years and made available for inspection. Any accidental solvent discharges shall be reported to the City within 24 hours of the discharge.

- (J) No Industrial User, Dental Discharger or Person shall discharge or cause to be discharged, any mercury or amalgam waste into the sewer system. All dental dischargers that place or remove amalgam must operate and maintain an amalgam separator that complies with ANSI/ADA Specifications 108 (2009) with Technical Addendum (2011) or ISO 11143 Dentistry-Amalgam Separators and any subsequent versions or amendments. The dental discharger shall comply with the most recent Best Management Practices for Dental Amalgam Waste as recommended by the American Dental Association, and specified in 40 CFR 441 (Effluent Limitations Guidelines and Standards for the Dental Category) June 14, 2017. Records documenting appropriate handling and disposal of mercury and amalgam shall be maintained for three years and made available for inspection.
- (K) No Industrial User or person shall discharge or cause to be discharged wastewater that exceeds any applicable site-specific limitation for gross beta radioactivity established by the city. The maximum allowable industrial loading (MAIL) to the wastewater treatment plant for gross beta radioactivity is 6.29×10^8 pCi/d. Any SIU that has the potential to discharge gross beta radioactivity at concentrations that may cause interference or pass-through at the POTW, will be issued a site-specific limitation, based on an allocation of the MAIL established by the city. The site-specific limitation will be incorporated into the individual SIU's discharge permit.

(64 Code, Sec. 25-13) (Ord. No. 2494)

SEC. 19-26. LOCAL LIMITS.

- (A)
- (A) The city manager is authorized to establish local limits pursuant to 40 CFR 403.5(c).
- (B) Limits for the pollutants listed below are established to protect against pass through and interference in accordance with 40 CFR Part 403.5(c). No person shall introduce, or cause to be introduced, wastewater containing excessive quantities or concentrations in excess of the limits identified in the, in accordance with 40 CFR Part 403.5(c), of the following pollutant table:

<u>Pollutant</u>	<u>Local Limit</u>
<u>Ammonia</u>	<u>57 mg/L</u>
<u>Arsenic</u>	<u>0.13 mg/L</u>
<u>Biochemical Oxygen Demand</u>	<u>800 mg/L</u>
<u>Boron</u>	<u>1.86 mg/L</u>
<u>Cadmium</u>	<u>0.013 mg/L ⁽¹⁾</u>
<u>Chloride</u>	<u>9,205 mg/L ⁽¹⁾</u>
<u>Chromium</u>	<u>0.44 mg/L ⁽¹⁾</u>
<u>Copper</u>	<u>2.02 mg/L</u>
<u>Hydrogen Sulfide (dissolved)</u>	<u>0.34 mg/L</u>
<u>Lead</u>	<u>0.97 mg/L</u>
<u>Mercury</u>	<u>0.05 mg/L</u>
<u>Molybdenum</u>	<u>1.50 mg/L</u>
<u>Nickel</u>	<u>0.14 mg/L ⁽¹⁾</u>
<u>Oil and Grease (animal/vegetable)</u>	<u>250 mg/L</u>
<u>Oil and Grease (petroleum/mineral)</u>	<u>100 mg/L</u>
<u>Selenium</u>	<u>0.49 mg/L</u>
<u>Silver</u>	<u>0.06 mg/L ⁽¹⁾</u>
<u>Total Suspended Solids</u>	<u>1,000 mg/L</u>

<u>Zinc</u>	<u>1.06 mg/L ⁽¹⁾</u>
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- ~~—(1) Arsenic;~~
- ~~—(2) BOD₅;~~
- ~~—(3) Cadmium;~~
- ~~—(4) Chromium;~~
- ~~—(5) Copper;~~
- ~~—(6) Cyanide;~~
- ~~—(7) Lead;~~
- ~~—(8) Mercury;~~
- ~~—(9) Nickel;~~
- ~~—(10) Oil and grease (petroleum or mineral oil products);~~
- ~~—(11) Silver;~~
- ~~—(12) Total suspended solids;~~
- ~~—(13) Total toxic organics; and~~
- ~~—(14) Zinc.~~

~~(B—C) (1) Concentration limits apply at the point designated by the city manager.~~ All concentrations for metallic substances are for "total" metal ~~unless otherwise indicated otherwise~~. At the discretion of the city manager, mass limitations may be imposed on users in addition to or in place of the concentration based limitations on the above listed pollutants.

~~—(2) Compliance with all parameters may be determined from a single grab sample.~~

~~(C—D)~~ The city manager may develop BMPs, by ordinance or in individual wastewater discharge permits or general permits, to implement local limits and the requirements of this section.

(`64 Code, Sec. 25-14) (Ord. No. 2494, 2761)

SEC. 19-27. FEDERAL CATEGORICAL PRETREATMENT STANDARDS.

(A) The federal categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405 through 471 are hereby incorporated by reference. A violation of such standards shall constitute a violation of this section.

(B) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the city manager may impose equivalent concentration or mass limits in accordance with 40 CFR Part 403.6(c).

(C) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the city manager shall impose an alternate limit using the combined waste stream formula in 40 CFR Part 403.6(e).

(D) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR Part 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(E) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR Part 403.15.

(`64 Code, Sec. 25-15) (Ord. No. 2494)

SEC. 19-28. MEDICAL AND INFECTIOUS WASTES.

(A) The city manager may prohibit the introduction of medical wastes and may require that any such wastes be rendered noninfectious prior to discharge if deemed to pose a threat to public health and safety.

(B) No person shall discharge solid wastes from hospitals, clinics, offices of medical doctors, convalescent homes, medical laboratories or other medical facilities to the system including, but not limited to, hypodermic needles, syringes, instruments, utensils or other paper and plastic items of a disposable nature, or recognizable portions of the human anatomy or laboratory animals, except where prior written approval for such discharges is given by the city manager. Approved discharges shall be considered industrial wastewater discharge under this article. The city manager may revoke such approval at any time.

(`64 Code, Sec. 25-16) (Ord. No. 2494)

SEC. 19-29. CITY'S RIGHT OF REVISION.

The city reserves the right to establish, by ordinance or in IWD permits, more stringent standards or requirements on discharges to the system.

(`64 Code, Sec. 25-17) (Ord. No. 2494)

SEC. 19-30. SPECIAL AGREEMENTS.

The city reserves the right to enter into special agreements with users, setting out special terms under which they may discharge into the system. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the user may request a net gross adjustment to a categorical standard in accordance with 40 CFR Part 403.15. The user may also request a variance from the categorical pretreatment standard from the approval authority. Such a request will be approved only if the user can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that categorical pretreatment standard. A user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR Part 403.13.

(`64 Code, Sec. 25-18) (Ord. No. 2494)

SEC. 19-31. VARIANCES.

(A) The city manager may grant a variance from one or more of the provisions of this article. Prior to issuing such a variance, the city manager shall verify that in no case will the granting of a variance allow the user to exceed applicable categorical pretreatment standards or requirements or federally mandated prohibitions.

(B) The city manager may require the user to monitor the volumes and/or concentrations of the discharge in excess of previous levels, if the city manager deems it necessary to properly enforce any variance granted under this section.

(C) The city manager reserves the right to impose requirements that are stricter than, or in addition to, those specified under the authority of sections 19-25 and 19-26 should the quantity or quality of the user's discharge merit unique consideration by virtue of the impact of the user's discharge on the system or public health and welfare.

(D) The city manager reserves the right to revoke the variance at any time.

(E) The city manager reserves the right to charge additional fees related to the granting of a variance.

(`64 Code, Sec. 25-19) (Ord. No. 2494)

SEC. 19-32. DILUTION.

No user shall ever increase the use of process water for the purpose of diluting a discharge, or in any other way attempt to dilute a discharge. The city manager may impose mass limitations on users suspected of using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(`64 Code, Sec. 25-20) (Ord. No. 2494)

DIVISION 4. PRETREATMENT OF INDUSTRIAL WASTEWATER

SEC. 19-35. PRETREATMENT FACILITIES.

Users shall provide wastewater pretreatment as necessary to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in section 19-25 of this article within the time limitations specified by EPA, the State, or the city manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the city manager for review, and shall be acceptable to the city manager before such facilities are constructed. The review of such plans and operating procedures will in no way relieve the user from the responsibility of

modifying the facility as necessary to produce a discharge acceptable to the city manager under the provisions of this article.

(`64 Code, Sec. 25-21) (Ord. No. 2494)

SEC. 19-36. ADDITIONAL PRETREATMENT MEASURES.

(A) Whenever deemed necessary, the city manager may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate domestic waste streams from industrial waste streams, and such other conditions as may be necessary to protect the system and determine the user's compliance with the requirements of this article.

(B) The city manager may require any person discharging into the system to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure active management of flow. An IWD permit may be issued solely for flow regulation.

(C) Users shall provide gravity separation devices when, in the opinion of the city manager, they are necessary for the proper handling of wastewater containing excessive amounts of oil and grease or sand. All gravity separation devices shall be of a type and capacity approved by the city manager and shall be so located to be easily accessible for cleaning and inspection. Such devices shall be inspected, cleaned, and repaired regularly, as needed, by the user at user's expense.

(D) The city manager may require users with the potential to discharge flammable substances to install and maintain an approved combustible gas detection meter.

(`64 Code, Sec. 25-22) (Ord. No. 2494)

(E) All dental dischargers are required to maintain a current Industrial Wastewater Permit.

SEC. 19-37. SEPARATION OF DOMESTIC AND INDUSTRIAL WASTEWATER.

All domestic wastewater including, but not limited to, those from restrooms, showers and drinking fountains shall be kept separate from all industrial wastewater until the industrial wastewater has passed through any required pretreatment system and/or monitoring facility.

(`64 Code, Sec. 25-23) (Ord. No. 2494)

SEC. 19-38. SPILL PREVENTION PLANS.

(A) Each user shall provide protection from accidental discharge of prohibited materials, other regulated pollutants or wastewater called out in this article or any other materials in concentration or quantities of which could be detrimental to the system, its operation or personnel. Each floor drain or floor sink located in an area where regulated chemicals are stored or used shall be protected in a manner approved by the city manager to prevent uncontrolled or accidental discharges of these regulated constituents from directly entering the system. Facilities to prevent accidental discharge shall be provided and maintained at the owner's and/or operator's expense. Detailed plans in the form of a spill prevention, control, and countermeasures plan (showing facilities and operating procedures to provide this protection) shall be submitted to the city manager for review and approval prior to construction of said facilities. Such review and approval of plans and operating procedures shall not relieve the user from the responsibility of said facilities as necessary to meet the other requirements of this article.

(B) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(C) Any user who causes or discovers a slug discharge of regulated pollutants or wastewater into the system shall immediately telephone the city manager in order that corrective action may be taken to protect the system, its operation and personnel. In addition, the person responsible for the discharge of the wastes or wastewater shall file a written report to the city manager, detailing the date, time and cause of the accidental discharge, the quantity and characteristics of the discharge and corrective action taken to prevent future discharges. The report shall be filed within five days of the occurrence of the discharge.

(`64 Code, Sec. 25-24) (Ord. No. 2494)

SEC. 19-39. ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.

(A) The city manager shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The city manager may require any user to develop, submit for approval, and implement such a plan. Alternatively, the city manager may develop such a plan for any user.

(B) An accidental discharge/control slug plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including non-routine batch discharges;
 - (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the city manager of any accidental or slug discharge; and
 - (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.
- (`64 Code, Sec. 25-25) (Ord. No. 2494, 2761)

SEC. 19-40. TENANT AND OWNER RESPONSIBILITIES.

Any tenant under any rental, lease, or other agreement shall be jointly and severally responsible for compliance with the provisions of this article in the same manner as the owner, and both owner and tenant shall be jointly and severally liable to the city for any costs, damages, fines or penalties incurred and/or imposed by the city due to noncompliance by the tenant or owner with provisions of this article.

(`64 Code, Sec. 25-26) (Ord. No. 2494)

SEC. 19-41. DISCHARGES OF WASTES OR WASTEWATER INTO THE SYSTEM FROM VEHICLES.

(A) Septage may be introduced into the system only at locations designated by the city manager, and at such times as are established by the city manager. Such wastes shall not violate the provisions of division 3 of this article or any other federal, State or local regulation. The city manager may require septic tank waste haulers to obtain IWD permits.

(B) Industrial waste or wastewater haulers shall obtain IWD permits from the city manager. The city manager may require generators of hauled industrial waste or wastewater to obtain IWD permits. The city manager also may prohibit the disposal of hauled industrial waste or wastewater. The discharge of hauled industrial waste or wastewater is subject to all other requirements of this article.

(C) Industrial waste or wastewater haulers may only discharge loads at locations designated by the city manager. No load may be discharged without prior consent of the city manager. The city manager may collect samples of each hauled load to ensure compliance with applicable standards. The city manager may require the hauler to provide a waste analysis of any load prior to discharge.

(D) Industrial waste or wastewater haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste or wastewater hauler, permit number, truck identification, source of waste or wastewater, and volume and characteristics of waste or wastewater. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are hazardous wastes designated in RCRA.

(`64 Code, Sec. 25-27) (Ord. No. 2494)

SEC. 19-42. VANDALISM.

No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the system. Any person found in violation of this requirement shall be subject to the sanctions set out in divisions 8 through 10 of this article.

(`64 Code, Sec. 25-28) (Ord. No. 2494)

SEC. 19-43. DISCHARGES FROM FOOD ESTABLISHMENTS, VEHICLE MAINTENANCE FACILITIES, AND COMMERCIAL AND INDUSTRIAL LAUNDRIES.

(A) All food service establishments that introduce industrial wastewater into the system shall be required to install a grease interceptor device designed to prevent the excessiveunlawful discharge of fats, oil, and grease into the system. The grease interceptor device shall be a minimum of 750 gallons and in accordance to City standard plates 400, 413, and 415. The grease interceptor shall be easily accessible for cleaning and inspection. Maintenance records shall be maintained for a minimum of one year. The city manager may grant variances from the requirements of this paragraph on a case by case basis. The city manager may take into account the following items when determining whether to grant a variance: (1) size of the restaurant (2) Type and number of meals served per day (3) Seating capacity (4) Dishwashing facilities on-site and (5) Any other criteria the city manager deems applicable.

~~All food establishments or similar establishments that introduce industrial wastewater into the system shall install an approved grease interceptor that is of sufficient size so as to prevent excessive discharges of oil and/or grease into the system. The grease interceptor shall be easily accessible for cleaning and inspection. The city manager may grant variances from the requirements of this paragraph on a case-by-case basis. The city manager may take into account the following items when determining whether to grant a variance:~~

- ~~— (1) Size of the restaurant;~~
- ~~— (2) Type and number of meals served per day;~~
- ~~— (3) Seating capacity;~~
- ~~— (4) Dishwashing facilities on-site; and~~
- ~~— (5) Any other criteria the city manager deems applicable.~~

(B) All automotive related maintenance facilities that introduce industrial wastewater into the system shall be required to install a gravity separation device designed to prevent the excessive discharge of sand, silt, oil, and grease into the system. The gravity separation device shall be a minimum of 750 gallons and in accordance to City standard plates 400, 413, and 416. The city manager may grant variances from the requirements of this paragraph on a case-by-case basis.

~~All vehicle maintenance facilities that introduce industrial wastewater into the system shall be required to install a gravity separation device designed to prevent the excessive discharge of sand, silt, oil and grease into the system. The city manager may grant variances from the requirements of this paragraph on a case-by-case basis.~~

(C) All commercial laundries, such as coin-operated facilities, that introduce industrial wastewater into the system shall be required to install a lint removal trap of a size and design approved by the city manager. The lint trap devices shall be cleaned at a minimum of one time per week. All industrial laundries that introduce industrial wastewater into the system shall be required to install a gravity separation device of a minimum 750 gallons and in accordance to City standard plates 400, 413, and 416. The city manager may grant variances from the requirements of this paragraph on a case-by-case basis. The city manager shall have the authority to require additional pretreatment devices to ensure compliance with These facilities shall also install other pretreatment devices as required by the city manager to ensure their compliant with all requirements and provisions of this article.

~~All commercial and industrial laundries that introduce industrial wastewater into the system shall install a gravity separation device of a size and design approved by the city manager. These facilities shall also install other pretreatment facilities as required by the city manager to ensure their compliant with all requirements and provisions of this article. The city manager may grant variances from the requirements of this section on a case-by-case basis.~~

(D) If the city manager finds that a grease interceptor or gravity separation device installed prior to the effective date of this article is incapable of adequately retaining the grease, sand or oil in the wastewater flow from a food establishment, a vehicle maintenance facility, or a laundry, the city manager shall require that an adequately sized grease interceptor, gravity separation device or other pretreatment facility be installed within a reasonable time period.

(DE) The city manager may maintain an information file available for public use of acceptable designs of grease interceptors and gravity separation devices. These devices areshall be designed in accordance towith City standard plates 400, 413, 415, or 416. The installation of a design shown in such file or of any design meeting the size requirement set forth in this article or any recommendation of requirements made by the city manager shall not impute any liability to the city for the adequacy of the interceptor or gravity separation device under the actual conditions of use. Such installation shall not relieve the owner or proprietor of

~~responsibility for keeping prohibited substances or substances above the limitations of this article out of the system. If the user's grease interceptor, gravity separation device or other pretreatment facility is not adequate under the conditions of use, the user shall construct a pretreatment facility that is effective in accomplishing the intended purpose and meeting the provisions of this article. The city manager may maintain an information file available for public use of acceptable designs of grease interceptors and gravity separation devices. The installation of a design shown in such file or of any design meeting the size requirement set forth in this article or any recommendation of requirements made by the city manager shall not impute any liability to the city for the adequacy of the interceptor or gravity separation device under the actual conditions of use. Such installation shall not relieve the owner or proprietor of responsibility for keeping prohibited substances or substances above the limitations of this article out of the system. If the user's grease interceptor, gravity separation device or other pretreatment facility is not adequate under the conditions of use, the user shall construct a pretreatment facility that is effective in accomplishing the intended purpose and meeting the provisions of this article.~~

(`64 Code, Sec. 25-29) (Ord. No. 2494)

SEC. 19-44. MAINTENANCE OF GREASE INTERCEPTORS AND GRAVITY SEPARATION DEVICES.

(A) Any grease interceptor or gravity separation device required by this article shall be readily accessible for inspection and properly maintained to assure that the accumulations of grease, sand or oil do not impair its efficiency or pass out with the effluent.

(B) All persons required to use and maintain a grease interceptor or gravity separation device shall keep records of the pretreatment device cleaning, maintenance and grease removal and provide such reports on request to the city manager. These records shall include the date, the name of the person who cleaned the device and the disposal site of the waste. The report may be reviewed by the city manager at each routine inspection.

(C) Persons hauling wastes and wastewater removed from these interceptors or gravity separation devices shall be registered to do so by the appropriate permitting agency.

(D) An interceptor or gravity separation device shall not be considered properly maintained if material accumulations total more than 25 percent of the operating fluid capacity.

(E) Improper maintenance of any grease interceptors and gravity separation devices or failure to maintain adequate records shall be considered a violation of this section.

(`64 Code, Sec. 25-30) (Ord. No. 2494)

SEC. 19-45. LIMITATIONS ON THE USE OF GARBAGE GRINDERS.

Pollutants from garbage grinders shall not be discharged into the system except as follows:

(A) Wastes generated in preparation of food in a residence;

(B) Where the user has an existing garbage grinder and has an approval for that specific use from the city, and agrees to undertake whatever self-monitoring is required to enable the city to equitably determine the charges and fees based on the waste constituents and characteristics. Such grinders must be repaired or replaced as necessary in order to at all times ensure that the waste is shredded to a degree that all particles will be carried freely under normal flow conditions prevailing in the city system. Garbage grinders shall not be used for grinding plastic, paper products, inert materials, garden refuse, or waste products resulting from the handling, storage and sale of fruits and vegetables in wholesale and retail produce establishments, or wastes from plants engaged in the preparation, processing or preserving of foods not intended primarily for immediate consumption; and

(C) At any time the property or business changes ownership, excluding residential property, any existing garbage grinders installed on the property must be removed and no new garbage grinders may be installed as a condition of continued city sewer service to the property.

(`64 Code, Sec. 25-31) (Ord. No. 2494)

DIVISION 5. INDUSTRIAL WASTEWATER DISCHARGE PERMIT SYSTEM

SEC. 19-50. INDUSTRIAL WASTEWATER ANALYSIS.

When requested by the city manager, an industrial user shall submit information on the nature and characteristics of its wastewater within 30 days of the request. The city manager is authorized to prepare a form for this purpose and may periodically require industrial users to update this information.
(`64 Code, Sec. 25-32) (Ord. No. 2494)

SEC. 19-51. INDUSTRIAL WASTEWATER DISCHARGE PERMIT REQUIREMENTS.

(A) No non-domestic user shall discharge or cause to be discharged wastewater, either directly or indirectly, into the system without first obtaining an IWD permit from the city manager. All non-domestic users, including, but not limited to, such as SIUs, CIUs, commercial and industrial laundromats, food service establishments, automotive-related businesses, and dental dischargers, are required to maintain a current Industrial Wastewater Discharge Permit.

~~No industrial user shall discharge wastewater, either directly or indirectly, into the system without first obtaining an IWD permit from the city manager.~~

(B) The city manager may require other users to obtain an IWD permit as necessary to carry out the purposes of this article.

(C) Any violation of the terms and conditions of an IWD permit shall be deemed a violation of this article and subjects the user to the sanctions set out in divisions 8 through 10 of this article. Obtaining an IWD permit does not relieve a permittee-an Industrial User of its obligation to comply with all federal and State pretreatment standards or requirements or with any other requirements of federal, State and local law.
(`64 Code, Sec. 25-33) (Ord. No. 2494)

SEC. 19-52. CONNECTIONS.

Any user required to obtain an IWD permit that proposes to begin or recommence discharging into the system shall obtain such permit prior to beginning or recommencing such discharge. An application for an IWD permit, in accordance with sections 19-53 and 19-55 of this article, shall be filed at least 90 days prior to the date upon which any discharge will begin or recommence.
(`64 Code, Sec. 25-34) (Ord. No. 2494)

SEC. 19-53. EXTRA-JURISDICTIONAL INDUSTRIAL USERS.

New users located beyond the city limits that are required to obtain an IWD permit shall submit a permit application to the city manager 90 days prior to any proposed discharge into the system. Upon review of such application, the city manager may enter into an agreement with the user that requires the user to subject itself to and abide by this article, including all permitting, compliance monitoring, reporting, and enforcement provisions herein. Alternately, the city manager may enter into an agreement with the neighboring jurisdiction in which the user is located to provide for the implementation and enforcement of pretreatment program requirements against the user.
(`64 Code, Sec. 25-35) (Ord. No. 2494)

SEC. 19-54. INDUSTRIAL WASTEWATER DISCHARGE PERMIT APPLICATION CONTENTS.

(A) All users required to obtain an IWD permit shall submit a permit application to the city manager at least 90 days before any proposed discharge. The city manager may require any user to submit as part of an application the following information:

- (1) All information required by section 19-71(C) of this article;
- (2) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility that are, or could accidentally or intentionally be, discharged to the system;
- (3) Number and type of employees, hours of operation, and proposed or actual hours of operation;
- (4) Each product produced by type, amount, process or processes and rate of production;
- (5) Type and amount of raw materials processed (average and maximum per day);
- (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains,

and appurtenances by size, location, and elevation, and all points of discharge;

(7) Time and duration of the discharge; and

(8) Any other relevant information deemed necessary by the city manager to evaluate the application.

(B) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(`64 Code, Sec. 25-36) (Ord. No. 2494)

SEC. 19-55. APPLICATION SIGNATORIES AND CERTIFICATION.

All IWD permit applications shall be signed by an authorized representative of the user and contain the following certification statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

(`64 Code, Sec. 25-37) (Ord. No. 2494)

SEC. 19-56. DECISIONS.

The city manager will evaluate the data furnished by the user and may require additional information. Within 60 days of receipt of a complete permit application, the city manager will determine whether or not to issue an IWD permit. The city manager may deny any application for an IWD permit, for good cause.

(`64 Code, Sec. 25-38) (Ord. No. 2494)

SEC. 19-57. DURATION.

IWD permits shall be issued for a specified time period, not to exceed five years. An IWD permit may be issued for a period less than five years, at the discretion of the city manager. Each IWD permit shall indicate a specific date of expiration.

(`64 Code, Sec. 25-39) (Ord. No. 2494)

SEC. 19-58. CONTENTS.

(A) An IWD permit shall include such conditions as are reasonably deemed necessary by the city manager to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate biosolids management and reuse, and protect against damage to the system.

(B) IWD permits shall contain:

(1) A statement of the duration of the permit, which in no event shall exceed five years;

(2) A statement that the permit is nontransferable without prior notification to and approval of the city manager in accordance with section 19-61, and provisions for furnishing the new owner or operator with a copy of the existing permit;

(3) Effluent limits, including BMPs based on applicable pretreatment standards;

(4) Self-monitoring, sampling, reporting, notification and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, State and local law;

(5) A statement of applicable civil, criminal and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, State or local law; and

(6) Requirements to control slug discharge, if determined by the city manager to be necessary.

(C) IWD permits may contain additions as the city manager deems necessary, including, but not limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for

flow regulation and equalization;

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the system;

(3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the system;

(5) Requirements for installation and maintenance of inspection and sampling, facilities and equipment;

(6) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and State pretreatment standards, including those that become effective during the term of the permit; and

(7) Other conditions as deemed appropriate by the city manager to ensure compliance with this article, and State and federal laws, rules and regulations.

(`64 Code, Sec. 25-40) (Ord. No. 2494, 2761)

SEC. 19-59. APPEALS.

(A) Any person, including the user, may petition the city to reconsider the terms of an IWD permit by filing a petition for reconsideration with the city clerk within ten days of its issuance.

(B) Failure to submit a timely petition for reconsideration shall be deemed to be a waiver of the administrative remedy.

(C) The petition for reconsideration shall set out the permit provisions objected to, the reasons for this objection, and the proposed alternative condition, if any, the petitioner seeks to be included in the permit.

(D) The conditions and provisions of the permit objected to by the user shall not be stayed pending a hearing on the petition.

(E) If the city manager fails to act within 45 days, the petition shall be deemed approved. Decisions not to reconsider a permit, not to issue a permit, or not to modify a permit shall be considered final administrative actions.

(F) Parties seeking judicial review of such final administrative petitions shall comply with the requirements set out in Cal. Code of Civil Procedure, Sections 1094.5 and 1094.6.

(`64 Code, Sec. 25-41) (Ord. No. 2494)

SEC. 19-60. MODIFICATION.

(A) The city manager may modify a permit for good cause.

(B) Good cause includes, but is not limited to, the following reasons:

(1) To incorporate any new or revised federal, State or local pretreatment standards or requirements;

(2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or characteristic since the time of permit issuance;

(3) A change in the system that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating that the permitted discharge poses a threat to the system, city employees, or the receiving waters;

(5) Violation of any terms or conditions of the permit;

(6) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting;

(7) Revision of or a grant of variance from categorical pretreatment standard pursuant to 40 CFR Part 403.13;

(8) To correct typographical or other errors in the permit; or

(9) To reflect transfer of the facility ownership and/or operation to a new owner/operator.

(`64 Code, Sec. 25-42) (Ord. No. 2494)

SEC. 19-61. TRANSFER.

(A) IWD permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance notice to the city manager and the city manager approves the transfer. The notice shall include a written certification by the new owner or operator that:

(1) The new owner and/or operator has no immediate intent to change the facility's operations and processes;

(2) Identifies the specific date on which the transfer is to occur; and

(3) Acknowledges full responsibility for complying with the existing permit.

(B) Failure to provide advance notice of a transfer renders the permit void as of the date of facility transfer.

(`64 Code, Sec. 25-43) (Ord. No. 2494)

SEC. 19-62. REVOCATION.

(A) The city manager may revoke an IWD permit for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the city manager of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the city manager of changed conditions pursuant to section 19-75 of this article;

(3) Misrepresentation or failure to fully disclose all relevant facts in the permit application;

(4) Falsifying self-monitoring reports;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the city manager timely access to the facility premises and records;

(7) Failure to meet effluent limitations;

(8) Failure to pay fines;

(9) Failure to pay sewer use charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater survey or the permit application;

(12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(13) Violation of any pretreatment standard or requirement, or any terms of the permit or this article.

(B) IWD permits shall be voidable upon cessation of operations or transfer of business ownership. All IWD permits issued to a particular user are void upon the issuance of a new IWD permit to that user.

(`64 Code, Sec. 25-44) (Ord. No. 2494)

SEC. 19-63. REISSUANCE.

A user holding an expiring IWD permit shall apply for reissuance of the permit by submitting a complete IWD permit application in accordance with sections 19-54 and 19-55 of this article, at least 90 days prior to the expiration of the user's existing permit.

(`64 Code, Sec. 25-45) (Ord. No. 2494)

SEC. 19-64. CONTINUATION OF EXPIRED INDUSTRIAL WASTEWATER DISCHARGE PERMITS.

An expired IWD permit will continue to be effective and enforceable until the permit is reissued if:

(A) The user has submitted a complete IWD permit application at least 90 days prior to the expiration date of the user's existing permit; and

(B) The failure to reissue the IWD permit before the expiration of the existing permit is not due to any act or failure to act on the part of the user.

(`64 Code, Sec. 25-46) (Ord. No. 2494)

SEC. 19-65. MUNICIPAL USER PERMITS.

(A) If another legal jurisdiction outside the city, or user located within another legal jurisdiction outside

the system, contributes wastewater to the system, the city manager shall enter into an agreement for wastewater services with the municipality or users pursuant to section 19-53 of this article.

(B) Prior to entering into an agreement required by subsection (A) of this section, the city manager shall request the following information from the contributing municipality:

(1) A description of the quality and volume of wastewater discharged to the system by the contributing municipality;

(2) An inventory of all users within the contributing municipality that are discharging to the system; and

(3) Any other information as the city manager may deem necessary.

(C) An agreement, as required by subsection (A) of this section, shall contain the following conditions:

(1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this article and local limits that are at least as stringent as those established under authority of section 19-26. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to this article or local limits;

(2) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including IWD permit issuance, inspection and sampling, and enforcement will be conducted by the contributing municipality; which of these will be conducted by the city manager; and which of these activities will be conducted jointly by the contributing municipality and the city manager;

(4) A requirement for the contributing municipality to provide the city manager with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the system;

(6) Requirements for monitoring the contributing municipality's discharge;

(7) A provision ensuring the city manager access to the facilities of users located in the contributing municipality's jurisdictional boundaries for the purpose of inspecting, sampling, and any other duties deemed necessary by the city manager; and

(8) A provision specifying remedies for breach of the terms of the agreement.

(`64 Code, Sec. 25-47) (Ord. No. 2494)

DIVISION 6. REPORTING REQUIREMENTS

SEC. 19-70. MONITORING FACILITIES.

(A) All users required to obtain an IWD permit shall furnish, install and properly maintain a monitoring facility for wastewater sampling. This monitoring facility shall be of a design or configuration approved by the city manager, who may require flow measurement equipment, automatic flow proportional sampling equipment and automatic wastewater analysis and data recording equipment.

(B) Each user, as a part of its application for obtaining an IWD permit, shall propose a suitable location and design for the wastewater monitoring facility. Upon approval of the monitoring facility by the city manager, the user shall perform wastewater monitoring at this facility. The monitoring facility shall be located so as to be safe and accessible to city employees, and shall be constructed in accordance with the city's requirements, and all applicable local building codes and other local construction requirements. The user's proposal for a wastewater monitoring facility shall comply with the city's design requirements and shall be reviewed and approved by the city manager. Plans for all wastewater monitoring facilities, including flow measurement and sampling systems, determined by the city manager to require engineering design, shall be prepared and signed by a civil, chemical or mechanical engineer registered in the State or a registered engineer of other suitable discipline as determined by the city manager.

(C) The user's wastewater sampling analysis and flow measurement procedures, equipment, and results shall be subject to inspection by the city manager at any time. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times by the user.

(D) Failure of a user to keep approved wastewater monitoring facilities clean and in good working order shall not be grounds for the user to claim that any sample results are unrepresentative of the user's

wastewater. Flow measurement systems shall be regularly maintained and calibrated in accordance with guidelines established by the city manager.

(`64 Code, Sec. 25-48) (Ord. No. 2494)

SEC. 19-71. BASELINE MONITORING REPORTS.

(A) Within either 180 days after the effective date of a categorical pretreatment standard by an agency with the appropriate jurisdiction and authority to adopt categorical pretreatment standards, or within 180 days after the final administrative decision on a category determination under 40 CFR Part 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the system shall submit to the city manager a report which contains the information listed in subsection (C) below.

(B) At least 90 days prior to commencement of discharge, new sources, and sources that become categorical users subsequent to the promulgation of applicable categorical standard, shall submit to the city manager a report which contains the information listed in subsection (C) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of anticipated flow and quantity of pollutants discharged.

(C) Users described above shall submit the information set forth below, and all such submittals must be signed and certified in accordance with section 19-55 of this chapter:

- (1) The name and address of the facility, including the name of the operator and owner;
- (2) A list of any environmental control permits held by or for the facility;
- (3) A brief description of the nature, average rate of production, and standard industrial classifications of the operation carried out by the user including a schematic process diagram that indicates points of discharge to the system from the regulated processes;
- (4) Information showing the measured average daily and maximum daily flow, in gallons per day, to the system from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR Part 403.6(e);
- (5)
 - (a) The categorical pretreatment standards applicable to each regulated process;
 - (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or the city manager, of regulated pollutants in the discharge from each regulated process including instantaneous, daily maximum, and long-term average concentrations, or mass, where required;
 - (c) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 19-79 of this article. Sampling shall be performed in accordance with procedures set out in section 19-80 of this article.
- (6) A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements;
- (7) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the user shall provide the city manager with the shortest schedule by which the user shall complete such additional pretreatment and/or O&M. The completion date shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 19-72 of this article;
- (8) Any other relevant information requested by the city manager; and
- (9) Signed and certified baseline monitoring reports in accordance with section 19-71 of this article.

(`64 Code, Sec. 25-49) (Ord. No. 2494, 2761, 2875)

SEC. 19-72. COMPLIANCE SCHEDULES.

The following conditions shall apply to the schedule required by section 19-71(C)(7) of this article:

(A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing

and completing construction, and beginning and conducting routine operation;

(B) No increment referred to above shall exceed nine months;

(C) The user shall submit a progress report to the city manager no later than 14 days following each date in the schedule and the final date of compliance including, at a minimum, whether user complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(D) In no event shall more than nine months elapse between such progress reports to the city manager.

(`64 Code, Sec. 25-50) (Ord. No. 2494)

SEC. 19-73. REPORT ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the system, any user subject to such pretreatment standards and requirements shall submit to the city manager a report containing the information described in section 19-71(C)(4) through (6). For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR Part 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 19-55 of this article.

(`64 Code, Sec. 25-51) (Ord. No. 2494)

SEC. 19-74. PERIODIC COMPLIANCE REPORTS.

(A) All significant industrial users shall, at a frequency determined by the city manager, but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge that are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a BMP or pollution prevention alternative, the user must submit documentation required by the city manager of the pretreatment standard necessary to determine the compliance status of the user. All periodic compliance reports must be signed and certified in accordance with section 19-55 of this article.

(B) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(C) If a user, subject to the reporting requirement in this section, monitors any pollutant more frequently than required by the city manager, using the procedures prescribed in section 19-79 of this article, the results of this monitoring shall be included in the report sent to the city manager.

(`64 Code, Sec. 25-52) (Ord. No. 2494, 2761)

SEC. 19-75. REPORT OF CHANGED CONDITIONS.

(A) Each user shall notify the city manager of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least 30 days before the change.

(B) The city manager may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an IWD permit application under sections or 19-54 or 19-55 of this article, if necessary.

(C) The city manager may issue an IWD permit under section 19-56 of this article, or modify an existing IWD permit under section 19-60 of this article in response to changed conditions or anticipated changed conditions.

(D) For purposes of this section, significant changes include, but are not limited to, flow increases of 25% or greater, and the discharge of any previously unreported pollutants.

(E) (1) An IU shall notify the POTW, the EPA Regional Waste Management Division Director, and

State hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the IU discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the IU: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place within 180 days after the effective date of this rule. Industrial users who commence discharging after the effective date of this rule shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR 403.12(j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 403.12(b), (d), and (e).

(2) Dischargers are exempt from the requirements of subsection (E)(1) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the IU discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the IU must notify the POTW, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(4) In the case of any notification made under subsection (E) of this section, the IU shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(`64 Code, Sec. 25-53) (Ord. No. 2494, 2875)

SEC. 19-76. REPORTS OF POTENTIAL PROBLEMS.

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, which may cause potential problems for the system, the user shall immediately telephone and notify the city manager of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) Within five days following such discharge, the user shall, unless this requirement is waived by the city manager, submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the system, natural resources, or any other damage to person or property, nor shall such notification relieve the user of any fines, penalties, or other liability that may be imposed by this article or any other applicable provision of federal, State or local law.

(C) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (A) above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(D) Significant industrial users are required to notify the city manager immediately of any changes at its facility affecting the potential for a slug discharge.

(`64 Code, Sec. 25-54) (Ord. No. 2494, 2761)

SEC. 19-77. REPORTS FROM UNPERMITTED USERS.

All users not required to obtain an IWD permit shall provide appropriate reports as the city manager may require.

(`64 Code, Sec. 25-55) (Ord. No. 2494)

SEC. 19-78. NOTICE OF VIOLATION; REPEAT SAMPLING AND REPORTING.

If a user's sampling indicates a violation, the user shall notify the city manager within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the city manager within 30 days after becoming aware of the violation. The user is not required to resample if the city manager conducts monitoring at the user's facility at least once a month, or if the city manager samples between the user's initial sampling and when the user receives the results of this sampling. If the city performed the sampling and analysis in lieu of the industrial user, the city will perform the repeat sampling and analysis unless the city notifies the industrial user of the violation and requires the user to perform the repeat sampling and analysis.

(`64 Code, Sec. 25-56) (Ord. No. 2494, 2761)

SEC. 19-79. ANALYTICAL REQUIREMENTS.

All pollutant analyses, including sampling techniques, to be submitted as part of an IWD permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses shall be performed in accordance with procedures approved by the EPA.

(`64 Code, Sec. 25-57) (Ord. No. 2494)

SEC. 19-80. SAMPLE COLLECTION.

(A) Except as indicated in subsection (B) below, the user shall collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the city manager may authorize the use of time proportional sampling. Where time-proportional composite sampling or grab sampling is authorized by the city manager, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city manager, as appropriate. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(B) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds shall be obtained using grab collection techniques.

(C) For sampling required in support of baseline monitoring and 90-day compliance reports required in section 19-71 and 19-73 (40 CFR 403.12(b) and (d)), a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the city manager may authorize a lower minimum. For the reports required by section 19-74 (40 CFR 403.12(e) and 403.12(h)), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

(D) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the city.

(`64 Code, Sec. 25-58) (Ord. No. 2494, 2761, 2875)

SEC. 19-81. MONITORING CHARGES.

The city manager may recover the city's expenses incurred in collecting and analyzing samples of the user's discharge and may collect such charges in the manner specified in division 11 of this article.

(`64 Code, Sec. 25-59) (Ord. No. 2494)

SEC. 19-82. TIMING.

Written reports, applications, notices, and all mailings shall be deemed to have been submitted on the date postmarked. For reports that are not mailed, postage prepaid, into a mail facility serviced by the United States mail, the date of receipt of the report shall govern.

(`64 Code, Sec. 25-60) (Ord. No. 2494)

SEC. 19-83. RECORD KEEPING.

Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with BMPs established under section 19-26(C). Records shall include the date, exact place, method, and time of sampling and the name of the person taking the samples, the dates analyses were performed, who performed the analyses, the analytical techniques or methods used, and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the city or where the user has been specifically notified of a longer retention period by the city manager.

(`64 Code, Sec. 25-61) (Ord. No. 2494, 2761)

DIVISION 7. COMPLIANCE MONITORING

SEC. 19-90. RIGHT OF ENTRY; INSPECTION AND SAMPLING.

(A) The city manager shall have the right to enter the premises of any user to determine whether the user is complying with the requirements of this article and any IWD permit or order issued hereunder. Users shall allow the city manager ready access to all parts of the premises for the purposes of inspecting, sampling, examining and copying records, and performing of any additional duties.

(B) Where a user has security measures in force that require proper identification and clearance before entry into user's premises, the user shall make necessary arrangements with user's security guards so that, upon presentation of suitable identification, the city manager will be permitted to enter, without delay, for the purposes of performing specific responsibilities.

(C) The city manager shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operation.

(D) The city manager may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at user's sole expense. All devices used to measure wastewater flow shall be electronically calibrated at least every six months and hydraulically calibrated at least every five years to ensure their accuracy.

(E) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the city manager and shall not be replaced. The costs of clearing such access shall be borne by the user.

(F) Refusal of access or unreasonable delays in allowing the city manager access to the user's premises shall be a violation of this article. The city manager may give notice of inspections at the city managers discretion, but unannounced inspections are an important part of the city's enforcement program, and users shall have no right to advance notice of any city inspections.

(`64 Code, Sec. 25-62) (Ord. No. 2494)

SEC. 19-91. INSPECTION; SEARCH WARRANTS.

If the city manager has been refused access to a building, structure or property, or any part thereof, in violation of this article and/or any IWD permit, the city manager may seek issuance of an inspection or search warrant from a court in addition to pursuing any other remedies available to the city provided by federal, State or local law.

(`64 Code, Sec. 25-63) (Ord. No. 2494)

SEC. 19-92. CONFIDENTIAL INFORMATION.

(A) Information and data provided to the city manager pursuant to this part which is effluent data shall be available to the public without restriction.

(B) Unless eligible for confidential treatment as provided in 40 CFR Part 2, all other information which is submitted to the city manager pursuant to this article shall be available to the public in accordance with the California Public Records Act and at least to the extent provided by 40 CFR 2.302.

(`64 Code, Sec. 25-64) (Ord. No. 2494, 2875)

SEC. 19-93. PUBLICATION OF SIGNIFICANT VIOLATORS.

(A) In accordance with the public participation requirements of 40 CFR Part 25, the city manager shall at least annually publish a list of the users that, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. Publication pursuant to this section shall be in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW of IUs which were in significant noncompliance with applicable pretreatment requirements. The cost of such publication, if any, may be charged to such users by the city manager in accordance with division 11 of this article.

(B) For the purposes of this section, a SIU (or any IU which violates paragraphs (3), (4), or (8) of this subsection) is in significant noncompliance if its violation meets one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined as those in which 66% or more of wastewater measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined by 40 CFR 403.3(l);

(2) Technical review criteria (TRC) violations, defined as those in which 33% or more of wastewater measurements taken for each pollutant parameter during a six-month period equal or exceeds the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l), multiplied by the applicable TRC (1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public;

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge;

(5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide, within 45 days after the due date, any required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation or group of violations, which may include a violation of BMPs, that the POTW determines will adversely affect the operation or implementation of the city's pretreatment program.

(`64 Code, Sec. 25-65) (Ord. No. 2494, 2761, 2875)

DIVISION 8. ADMINISTRATIVE ENFORCEMENT REMEDIES

SEC. 19-100. NOTIFICATION OF VIOLATION.

(A) When the city manager finds that a user has violated, or continues to violate, any provision of this article, an IWD permit or order issued hereunder, or any pretreatment standard or requirement, the city manager may serve upon that user a written notice of violation.

(B) (1) Within ten days of the service of such notice, the user shall submit to the city manager an explanation of the violation and a plan for the satisfactory correction and prevention thereof, including specific required actions.

(2) Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.

(C) Nothing in this section shall limit the authority of the city manager to take any action, including emergency action or any other enforcement action, without first issuing a notice of violation.

(`64 Code, Sec. 25-66) (Ord. No. 2494)

SEC. 19-101. CONSENT ORDERS.

The city manager may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for the noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to section 19-103 and 19-104 of this article.

(`64 Code, Sec. 25-67) (Ord. No. 2494)

SEC. 19-102. ORDER TO SHOW CAUSE.

(A) The city manager may order a user that has violated, or continues to violate, any provision of this article, an IWD permit or an order issued hereunder, or any other pretreatment standard or requirement, to appear before the city manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user, specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken.

(B) The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the meeting. Such notice may be served on any authorized representative of the user. An order to show cause shall not be a bar against, or prerequisite for, taking any other action against the user.

(`64 Code, Sec. 25-68) (Ord. No. 2494)

SEC. 19-103. ADMINISTRATIVE COMPLIANCE ORDERS.

(A) When the city manager finds that a user has violated, or continues to violate, any provision of this article, an IWD permit or an order issued hereunder, or any other pretreatment standard or requirement, the city manager may issue an order to the user responsible for the discharge, directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued until such time as the conditions of the administrative order have been satisfied.

(B) Issuance of an administrative compliance order shall not be a bar against, or a prerequisite for, the taking of any other action against the user.

(`64 Code, Sec. 25-69) (Ord. No. 2494)

SEC. 19-104. CEASE AND DESIST ORDERS.

(A) When the city manager finds that a user has violated, or continues to violate, any provision of this article, an IWD permit or order issued hereunder, or any pretreatment standard or requirements, or that the user's past violations are likely to recur, the city manager may issue an order to the user directing the user to cease and desist all such violations and directing the user to:

(1) Immediately comply with all applicable requirements; and

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(B) Issuance of a cease-and-desist order shall not be a bar against, or a prerequisite for, the taking of any other against the user.

(`64 Code, Sec. 25-70) (Ord. No. 2494)

SEC. 19-105. ADMINISTRATIVE FINES.

(A) When the city manager finds that a user has violated, or continues to violate, any provision of this article, an IWD permit or an order issued hereunder, or any pretreatment standard or requirement, the city manager may issue an administrative complaint alleging the act or failure to act that constitutes the violation, the provisions of law authorizing imposition of the administrative fine, and the proposed administrative fine.

(B) The administrative complaint shall be served by personal delivery or certified mail on the user and shall inform the user that a hearing shall be conducted within 60 days after the user has been served. The hearing officer shall be the public works director or designee. The user may waive the right to a hearing, in which case the hearing officer shall not conduct the hearing and decide the matter based upon the administrative complaint. Any user dissatisfied by the decision of the hearing officer may appeal the hearing officer's decision to the city council within 30 days of notice of the hearing officer's decision.

(C) The city manager may recommend, and the hearing officer and city council may impose, administrative fines as follows:

(1) In an amount not to exceed \$2,000 per day for failing or refusing to furnish a self-monitoring report or any other technical report required by this article;

(2) In an amount not to exceed \$3,000 per day for failing or refusing to timely comply with any compliance schedule order by the city manager;

(3) In an amount to exceed \$5,000 per violation per day for discharges in violation of discharge standards or limits, permit conditions, or prohibitions issued, reissued, or adopted by the city manager; and

(4) In an amount not to exceed \$10 per gallon for discharges in violation of any suspension, cease-and-desist order or other orders, or prohibitions issued, reissued, or adopted by the city manager.

(D) The amount of any administrative fine imposed under this section, which remains delinquent for a period of 60 days or more, shall accrue interest at a standard rate of ten percent. Further, the amount of any administrative fine and interest accrued that remains delinquent after 60 days shall constitute a lien against the real property of the user from which the discharge originated.

(E) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action, whether criminal or civil, against the user.

(`64 Code, Sec. 25-71) (Ord. No. 2494)

SEC. 19-106. EMERGENCY SUSPENSIONS.

(A) The city manager may immediately suspend a user's permission to discharge into the system, whenever such suspension is necessary to stop an actual or threatened discharge that could or does cause an imminent or substantial endangerment to the operation of the system, to the environment or the public health, safety or welfare. The city manager may also immediately suspend a user's discharge, after the user is given notice and opportunity to respond, that threatens to interfere with the operation of the system, or that presents, or may present, an endangerment to the environment or the public health, safety or welfare.

(B) Any user notified of the suspension of the user's permission to discharge into the system shall immediately halt discharge into the system. In the event any user fails to immediately comply voluntarily with the suspension order, the city manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the system, the receiving waters, to the environment or the public health, safety or welfare. The city manager may allow the user to recommence discharge when the user has demonstrated to the satisfaction of the city manager that the threat of endangerment has passed, unless the termination proceedings set forth in section 19-107 of this article are initiated against the user.

(C) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful or potentially harmful

discharge and the measures taken to prevent any such future occurrence, to the city manager before the date of any order to show cause or termination hearing under sections 19-102 and 19-107 of this article.

(D) Nothing in this section shall be interpreted as requiring any hearing before issuance of any suspension order and the taking of any action permitted under this section.

(`64 Code, Sec. 25-72) (Ord. No. 2494)

SEC. 19-107. TERMINATION OF DISCHARGE.

(A) In addition to all other remedies available under this article, federal, State and local law, the city manager may terminate any user's permission to discharge into the system if the user does any of the following acts:

(1) Violates IWD permit conditions;

(2) Fails to accurately report the wastewater constituents and characteristics of the user's discharge;

(3) Fails to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;

(4) Refuses reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or

(5) Violates the pretreatment standards in division 3 of this article.

(B) Any user violating the provisions in subsection (A) will be notified of the proposed termination of the user's permission to discharge into the system and be offered an opportunity to show cause under section 19-102 of this article why the proposed action should not be taken. Exercise of this option by the city manager shall not be a bar to, or a prerequisite for, taking any action, whether criminal or civil, against the user.

(`64 Code, Sec. 25-73) (Ord. No. 2494)

DIVISION 9. JUDICIAL ENFORCEMENT REMEDIES

SEC. 19-115. INJUNCTIVE RELIEF.

(A) When the city manager finds that a user has violated, or continues to violate, any provision of this article, an IWD permit, or an order issued hereunder, or any other pretreatment standard or requirement, the city manager, through the city attorney, may petition the Ventura County Superior Court for the issuance of a temporary or permanent injunction, as appropriate, that restrains or compels the specific performance of the conditions/ requirements of an IWD permit, order, or other requirement imposed by this article on activities of the user.

(B) The city manager may also seek other appropriate legal and/or equitable relief; including an order for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or prerequisite for, the taking of any action against, whether criminal or civil, against a user.

(`64 Code, Sec. 25-74) (Ord. No. 2494)

SEC. 19-116. CIVIL PENALTIES.

(A) A user that has violated, or continues to violate, any provision of this article, an IWD permit, or an order issued hereunder, or any other pretreatment standard or requirement may be liable to the city for a maximum civil penalty of \$10,000 per violation per day.

(B) The city filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking other enforcement action, whether criminal or civil, against a user.

(`64 Code, Sec. 25-75) (Ord. No. 2494)

SEC. 19-117. CRIMINAL PROSECUTION.

(A) A user who willfully or negligently violates any provision of this article, an IWD permit or an order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor.

(B) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to this

article, an IWD permit, or an order issued hereunder, or that falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be guilty of a misdemeanor.

(`64 Code, Sec. 25-76) (Ord. No. 2494)

SEC. 19-118. REMEDIES NONEXCLUSIVE.

The provisions in this article are not exclusive remedies. The city manager may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations is authorized by this article and by state and federal law, and will generally be in accordance with the city's enforcement response plan, which contains detailed procedures indicating how the city will investigate and respond to instances of industrial user noncompliance, including: (1) how the city will investigate instances of noncompliance; (2) the types of escalating enforcement responses the city will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place; (3) identification by title of the officials responsible for each type of response; and (4) consistency with the city's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in 40 CFR 403.8(f)(1) and (f)(2). However, the city manager may take other action against any user when the circumstances warrant. Further, the city manager is empowered to take more than one enforcement action against any noncompliant user.

(`64 Code, Sec. 25-77) (Ord. No. 2494, 2875)

DIVISION 10. SUPPLEMENTAL ENFORCEMENT ACTION

SEC. 19-125. PERFORMANCE BONDS.

The city manager may decline to issue or reissue an IWD permit to a user who has failed to comply with any provision of this article, a previous IWD permit, or an order issued hereunder, or any other pretreatment standard or requirement, unless the user first files a satisfactory bond, payable to the city, in a sum to be determined by the city manager.

(`64 Code, Sec. 25-78) (Ord. No. 2494)

SEC. 19-126. LIABILITY INSURANCE.

The city manager may decline to issue or reissue an IWD permit to a user who has failed to comply with any provision of this article, a previous IWD permit, or an order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that the user has obtained financial assurances sufficient to restore or repair damage to the system caused by the user's discharge.

(`64 Code, Sec. 25-79) (Ord. No. 2494)

SEC. 19-127. WATER SUPPLY SEVERANCE.

Whenever a user has violated, or continues to violate, any provision of this article, an IWD permit, or an order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will recommence, at the user's expense, only after the user has satisfactorily demonstrated the user's ability to comply.

(`64 Code, Sec. 25-80) (Ord. No. 2494)

SEC. 19-128. INFORMANT REWARDS.

The city manager is authorized to pay up to \$500 for information leading to the discovery of noncompliance by a user. In the event that the information provided results in an administrative fine or civil penalty levied against the user, the city manager is authorized to disperse up to ten percent of the collected fine or penalty to the informant. However, a single reward payment may not exceed \$10,000.

(`64 Code, Sec. 25-81) (Ord. No. 2494)

DIVISION 11. MISCELLANEOUS PROVISIONS

SEC. 19-133. WASTEWATER RATES.

(A) The rates charged for all wastewater collected by the city shall be established by ordinance of the City Council. Each customer receiving wastewater service is liable for payment for such service at the rates so established.

(B) Pursuant to Cal. Gov't Code section 53756, and after notice is provided as required by law, the adopted rates shall automatically adjust over a five-year period for inflation in the cost of operating the city's wastewater system. If the actual inflation in natural gas and electricity rates paid by the city since the effective date of the rates exceeds the rate study's cumulative forecast for inflation in utility costs for that same period, the rates will be automatically adjusted to recover the difference between the two. For example, if in year three of these rates the actual inflation in natural gas and electricity rates paid by the city since the effective date of the rates is 8.75% and the rate model estimates a cumulative increase of 7.5% over that same time period, then the inflation adjustment for that year would be 1.25%. On the other hand, if the actual inflation in natural gas and utility rates for this example time period is 7.5%, then no inflation adjustment would be made for that year as the actual inflation would equal the estimated inflation in the rate model. The city shall issue the adjustments no more than once per calendar year, and these adjustments will be effective at least 60 calendar days thereafter.

(C) When the City Council declares the existence of a water shortage condition pursuant to City Code Section 22-154, the wastewater treatment rates and charges provided herein that are based on water use shall be adjusted to reflect the level of severity and corresponding mandatory water conservation percentage reflected in the water shortage condition declaration. For example, if the Council declares a Stage 2 water shortage condition with a mandatory water use reduction goal of 20%, then the rates provided herein that are based on water use, shall be concurrently adjusted upward by the same percentage - 20%. This adjustment shall be initiated as of the effective date of the water shortage declaration and terminate as of the date of the termination of that water shortage declaration.

(Ord. No. 2917)

SEC. 19-134 FEES AND CHARGES.

The fees, charges and rates set forth below shall be charged and collected for the use of and for other privileges and services relating to the Regional Wastewater Treatment System of the City of Oxnard:

(A) [reserved]

(B) City of Oxnard user charge for wastewater system. The rate for City user classes or individual users of the wastewater system shall be calculated by the "City of Oxnard User Charge Formula" (the Oxnard Formula) as follows:

$$\text{OMUC} = p (\text{Vm}) + q (\text{Bm}) + r (\text{Sm})$$

Where:

OMUC = Oxnard monthly user charge in dollars

Vm = monthly wastewater discharge in millions of gallons

Bm = monthly BOD discharge in thousands of pounds

Sm = monthly SS discharge in thousands of pounds

p, q and r are unit cost coefficients established as follows:

<i>Service</i>		<i>Effective July 1, 2017</i>	<i>Effective January 1, 2018</i>	<i>Effective January 1, 2019</i>	<i>Effective January 1, 2020</i>	<i>Effective January 1, 2021</i>
Monthly wastewater discharge/millions of gallons	p =	\$3,061.50	\$3,222.23	\$3,391.40	\$3,569.45	\$3,756.85
Monthly BOD discharge/thousands of pounds	q =	\$697.59	\$734.22	\$772.77	\$813.35	\$856.06
Monthly SS discharge/thousands of pounds	r =	\$551.70	\$580.67	\$611.16	\$643.25	\$677.03

(1) Formula users (industrial and commercial). The monthly user charge for formula users shall be calculated using the Oxnard Formula. Industrial and commercial users billed by Oxnard Formula shall be those so designated by the Public Works Director. For those formula users that do not provide metered wastewater flow data, the wastewater flow shall be assumed to be 90% of water consumed. For those users that provide engineering data acceptable to the Public Works Director showing a different percentage, the wastewater flows will be based on that data.

(2) Non-formula users (industrial, commercial and governmental). The monthly user charge for non-residential users of the system that are not classified as formula users by the Public Works Director shall be as follows. The rate per hundred cubic feet (HCF) of water used is based on the assumption that a percent of the water consumed is returned to the wastewater system. The applicable percentage differs based on customer class. The percentage return is included for each customer class in the tables below. The Public Works Director shall have the authority to review the water consumption of any metered user of the wastewater system and to adjust the rate based on the average water consumption over a reasonable period of time:

(a) Commercial/school wastewater use (percentage wastewater return = 85%):

<i>Tier</i>	<i>Usage</i>	<i>Effective July 1, 2017</i>	<i>Effective January 1, 2018</i>	<i>Effective January 1, 2019</i>	<i>Effective January 1, 2020</i>	<i>Effective January 1, 2021</i>
1	0 to 50 HCF/month	\$3.49	\$3.68	\$3.88	\$4.09	\$4.31
2	> 50 to 930 HCF/month	\$4.36	\$4.59	\$4.84	\$5.10	\$5.37
3	> 930 HCF/month	\$8.72	\$9.18	\$9.67	\$10.18	\$10.72

(b) Restaurant wastewater use (percentage wastewater return = 80%):

<i>Tier</i>	<i>Usage</i>	<i>Effective July 1, 2017</i>	<i>Effective January 1, 2018</i>	<i>Effective January 1, 2019</i>	<i>Effective January 1, 2020</i>	<i>Effective January 1, 2021</i>
1	0 to 20 HCF/month	\$3.49	\$3.68	\$3.88	\$4.09	\$4.31
2	>20 to 160 HCF/month	\$4.36	\$4.59	\$4.84	\$5.10	\$5.37
3	> 160 HCF/month	\$8.72	\$9.18	\$9.67	\$10.18	\$10.72

(c) Laundry/laundromat wastewater use (percentage wastewater return = 90%):

<i>Tier</i>	<i>Usage</i>	<i>Effective July 1, 2017</i>	<i>Effective July 1, 2018</i>	<i>Effective July 1, 2019</i>	<i>Effective July 1, 2020</i>	<i>Effective July 1, 2021</i>
1	0 to 105 HCF/month	\$3.49	\$3.68	\$3.88	\$4.09	\$4.31
2	>105 to 525 HCF/month	\$3.86	\$4.07	\$4.29	\$4.52	\$4.76
3	> 525 HCF/month	\$4.81	\$5.07	\$5.34	\$5.63	\$5.93

(3) Non-formula users - residential. Residential wastewater service is deemed to begin when water service begins. Monthly residential user charges by type of dwelling units are as follows. The rate per hundred cubic feet (HCF) of water used is based on the assumption that a percentage of the water consumed is returned to the wastewater system. The applicable percentage differs based on customer class. The percentage return is included for each customer class in the tables below. The Public Works Director shall have the authority to review the water consumption of any metered user of the wastewater system and to adjust the rate based on the average water consumption over a reasonable period of time:

(a) Single family residential wastewater use (percentage wastewater return = 80%):

<i>Tier</i>	<i>Usage</i>	<i>Effective July 1, 2017</i>	<i>Effective July 1, 2018</i>	<i>Effective July 1, 2019</i>	<i>Effective July 1, 2020</i>	<i>Effective July 1, 2021</i>
1	0 to 9 HCF/month	\$1.95	\$2.06	\$2.17	\$2.29	\$2.42
2	>9 to 18 HCF/month	\$2.17	\$2.29	\$2.42	\$2.55	\$2.69
3	> 18 HCF/month	\$3.03	\$3.19	\$3.36	\$3.54	\$3.73

(b) Single family residential wastewater use; large lots (lot size of over 7,000 square feet) (percentage wastewater return = 60%):

<i>Tier</i>	<i>Usage</i>	<i>Effective July 1, 2017</i>	<i>Effective July 1, 2018</i>	<i>Effective July 1, 2019</i>	<i>Effective July 1, 2020</i>	<i>Effective July 1, 2021</i>
1	0 to 16 HCF/month	\$1.95	\$2.06	\$2.17	\$2.29	\$2.42
2	> 16 to 25 HCF/month	\$2.17	\$2.29	\$2.42	\$2.55	\$2.69
3	> 25 HCF/month	\$3.03	\$3.19	\$3.36	\$3.54	\$3.73

(c) Multi-family, multi-unit residential wastewater use (percentage wastewater return = 90%). Tiers for multi-family and multi-unit residential are variable and are determined by multiplying each tier allotment by the number of dwelling units:

<i>Tier</i>	<i>Usage</i>	<i>Effective July 1, 2017</i>	<i>Effective July 1, 2018</i>	<i>Effective July 1, 2019</i>	<i>Effective July 1, 2020</i>	<i>Effective July 1, 2021</i>
1	0 to 6 HCF/month	\$1.58	\$1.67	\$1.76	\$1.86	\$1.96
2	> 6 to 12 HCF/month	\$1.77	\$1.87	\$1.97	\$2.08	\$2.19
3	> 12 HCF/month	\$2.47	\$2.60	\$2.74	\$2.89	\$3.05

(4) Monthly base rates. In addition to monthly rates based on water use (per HCF) as set forth above, the following customer classes shall pay monthly meter rates:

<i>Service</i>		<i>Effective July 1, 2017</i>	<i>Effective July 1, 2018</i>	<i>Effective July 1, 2019</i>	<i>Effective July 1, 2020</i>	<i>Effective July 1, 2021</i>
Single family		\$29.95	\$31.53	\$33.19	\$34.94	\$36.78
Multi-family/ unit:	1 to 6 units	\$21.91	\$23.07	\$24.29	\$25.57	\$26.92
	7+ units	\$10.92	\$11.50	\$12.11	\$12.75	\$13.42

(5) Minimum monthly fees. The following customer classes shall pay the greater of the applicable monthly rates set forth in the table below, or the monthly rates based on the actual water use (per HCF) as set forth above:

<i>Service</i>	<i>Effective July 1, 2017</i>	<i>Effective July 1, 2018</i>	<i>Effective July 1, 2019</i>	<i>Effective July 1, 2020</i>	<i>Effective July 1, 2021</i>
Commercial	\$19.90	\$20.95	\$22.05	\$23.21	\$24.43
Restaurant	\$18.46	\$19.43	\$20.46	\$21.54	\$22.68
Laundry/ laundromat	\$91.57	\$96.38	\$101.44	\$106.77	\$112.38
School	\$69.85	\$73.52	\$77.38	\$81.45	\$85.73

(6) Non-metered water users. Except as provided in subsection (B)(3) of this section for residential water users, other non-metered water users, including commercial and industrial users, shall pay a monthly rate as determined by the Public Works Director based upon the monthly rate charged a metered water user of comparable size and character of use, provided, however, that the minimum monthly charge shall be the same as that charged for a multi-family dwelling unit. In lieu of specifically calculated rates, non-metered customers will be charged the following:

<i>Service</i>	<i>Effective July 1, 2017</i>	<i>Effective July 1, 2018</i>	<i>Effective July 1, 2019</i>	<i>Effective July 1, 2020</i>	<i>Effective January 1, 2021</i>
Non-metered customers	\$51.42	\$54.12	\$56.97	\$59.97	\$63.12

(7) Where wastewater is collected by the city and is accepted by another agency for transmission, treatment and disposal, the monthly wastewater rates shall be equal to the rate charged by such agency for transmission, treatment and disposal of such wastewater, anything to the contrary herein notwithstanding.

(8) Additional charges for outside the city users of city wastewater system. Those outside the city users of the Las Posas sewer line shall be charged a monthly rate for wastewater service as follows. Wastewater service is deemed to begin when water service begins. The rate per hundred cubic feet (HCF) of water used is based on the assumption that 85% of commercial and 60% of residential water consumed is returned to the wastewater system. The Public Works Director shall have the right to review the water consumption of any metered user of the wastewater system and to adjust the rate based on the average water consumption over a reasonable period of time:

(a) Monthly rates for user charge formula - outside city.

<i>Service</i>	<i>Effective July 1, 2017</i>	<i>Effective January 1, 2018</i>	<i>Effective January 1, 2019</i>	<i>Effective January 1, 2020</i>	<i>Effective January 1, 2021</i>
Single family residential per	\$79.72	\$83.32	\$87.04	\$90.96	\$95.11
Multi-family residential per	\$55.66	\$58.18	\$60.79	\$63.55	\$66.38

(b) Monthly rates for Las Posas commercial/institutional wastewater use.

<i>Tier</i>	<i>Service</i>	<i>Effective July 1, 2017</i>	<i>Effective January 1, 2018</i>	<i>Effective January 1, 2019</i>	<i>Effective January 1, 2020</i>	<i>Effective January 1, 2021</i>
1	0 to 50 HCF/month	\$6.57	\$6.87	\$7.17	\$7.48	\$7.81
2	> 50 to 930 HCF/month	\$8.21	\$8.56	\$8.94	\$9.33	\$9.73
3	> 930 HCF/month	\$16.42	\$17.12	\$17.86	\$18.62	\$19.43

(C) Industrial and liquid waste sampling. Analysis and flow measurement. Dischargers whose wastewater charges are individually calculated using the Oxnard Formula shall be responsible for costs of required sampling, analysis and flow measurement associated therewith as provided in Chapter 19 of the Oxnard City Code. If sampling, analysis and flow data are not provided to the City as required, the Public Works Director shall cause monitoring to be performed or an estimate made to enable charges to be rendered. The discharger shall be billed for these extra costs.

(D) Charges for unusual or non-compatible wastewater. A charge for unusual or non-compatible waste constituents of such quality or character as to impose upon the city unusual operation and/or maintenance or capital costs whether or not related to total flow volume, biochemical oxygen demand, or suspended solids, shall be set by the Public Works Director and paid by the discharger. These charges shall be reasonably calculated to defray costs attributable to such wastes.

(E) Fee for appeal. For each appeal to the City Council of a ruling by the Public Works Director a fee of

\$100 will be charged.

(F) Industrial wastewater discharge permits. The industrial wastewater discharge permits (permit) specified in Chapter 19 of the Oxnard City Code shall be granted for a specific time period, not to exceed five years. Application for permit and permit renewal shall be made in accordance with Chapter 19. All users classified as significant industrial wastewater users according to Chapter 19 shall be assessed a fee of \$2,500 per year per permit. All other industrial users shall be assessed a fee of \$100 per year per permit. In addition to the permit fee, new applicants for a permit shall be assessed a one time new application processing fee of \$100.

(G) Billing procedure for monthly service charge for use of city wastewater system. Bills shall be computed according to the rates then in effect and the number of days in the service period at each rate. (Ord. No. 2917)

SEC. 19-135. COLLECTION OF FEES.

The amount of any fee or charge imposed by the provisions of this article, including interest and penalty assessments, shall be deemed a debt owed to the city. An action in the name of the city may be commenced in any court of competent jurisdiction for the amount of any delinquent fees or charges, and if legal action is brought by the city or its assignee to enforce collection of any amount charged and due under this article, any judgment rendered in favor of the city shall include costs of suit incurred by the city or its assignee, including actual attorneys' fees.

(`64 Code, Sec. 25-82) (Ord. No. 2494)

SEC. 19-136. BILLING AND COLLECTION - DELINQUENT WASTEWATER BILL.

Should a customer fail to pay a fee or charge for wastewater service, within one month after the billing date provided on the face of the bill, the city shall assess a penalty in an amount of 10% of the overdue balance.

(`64 Code, Sec. 25-83) (Ord. No. 2494, 2918)

SEC. 19-137. OUT-OF-CITY SERVICE FEES.

Property situated outside the boundaries of the city may be connected to the system if the city manager determines there is sufficient capacity in the system to serve the property. Out-of-city sewerage service shall be temporary and subject to cancellation following reasonable notice. Fees shall be as specified by ordinance.

(`64 Code, Sec. 25-84) (Ord. No. 2494)

SEC. 19-138. CONNECTION FEES.

(A) Sewer connection fees shall be specified by ordinance and shall be adjusted effective July first of each year to reflect changes in the construction cost index for Los Angeles from January of the previous year to January of the current year as reflected in the periodical, "Engineering News Record," or other appropriate source as determined by the city manager.

(B) If a demolished structure is subsequently replaced, no additional sewer permit or sewer service connection fee is required if the building permit for the replacement structure is issued within five years of the date of destruction of the previous structure.

(C) If the building permit is issued more than five years but less than ten years from the date of demolition, the service connection fee shall be reduced by 50%. If the building permit is requested for any replacement after ten years from the date of demolition, the full permit or service connection fee shall be required.

(D) The property owner shall pay for any difference between the sewer connection fee based on the original water meter size and the connection fee based on the water meter size to serve the replacement structure. The property owner shall bear the burden of proving the date of the original demolition and that structure's water meter size at the time of destruction.

(`64 Code, Sec. 25-85) (Ord. No. 2494)

SEC. 19-139. PRIVATE WATER SUPPLY FEES.

(A) If a user has a supply of water not obtained from the city, the city manager shall charge and collect from the user the metered water user service fee. To facilitate calculation of this fee, the user shall install and maintain at the user's expense, a water meter of a type approved by the city manager, capable of measuring accurately the amount of water used on the premises.

(B) The meter shall provide water use measurement in the same manner as meters recording city water use, and the user shall permit the meter to be read monthly by authorized city employees.

(`64 Code, Sec. 25-86) (Ord. No. 2494)

SEC. 19-140. APPEAL FEE.

The fees for filing an administrative hearing or other hearing pursuant to this chapter shall be established in a resolution of the city council.

(`64 Code, Sec. 25-87) (Ord. No. 2494)

SEC. 19-141. IWD PERMIT FEE.

All persons requiring an IWD permit shall pay to the city a yearly permit fee established by resolution of the city council.

(`64 Code, Sec. 25-88) (Ord. No. 2494)

SEC. 19-142. SERVICE FEES.

Should the city or its agents perform required industrial wastewater sampling, analysis, review, flow measurements or other activities for a user, the user shall be held responsible for all accrued costs. The city manager may, at his/her discretion, bill the user directly for services performed by the city. The fees for such services shall be established by resolution of the city council.

(`64 Code, Sec. 25-89) (Ord. No. 2494)

SEC. 19-143. PRETREATMENT CHARGES AND FEES.

(A) The city council by resolution may adopt reasonable charges and fees for reimbursement of the costs of setting up and operating the city's pretreatment program.

(B) These charges and fees include:

(1) Fees for IWD permit applications, including the cost of processing the applications;

(2) Fees for monitoring, inspection, and surveillance procedures, including the cost of collecting and analyzing a user's discharge and reviewing monitoring reports submitted by users;

(3) Fees for reviewing accidental discharge procedures and construction and responding to accidental discharges;

(4) Fees for wastewater of such quality or character as to impose unusual operation and maintenance or capital costs on the system; whether related to flow volume, BOD, SS, or peak flow rates; and

(5) Other fees as the city council may deem necessary to carry out the provisions of this article.

(`64 Code, Sec. 25-90) (Ord. No. 2494)

ARTICLE II. SOLID WASTE; RECYCLING

DIVISION 1. IN GENERAL

SEC. 19-150. PURPOSE.

The collection, transportation, processing, marketing, transfer and disposal of solid waste and recyclables by qualified persons is necessary to protect the public health, safety and general welfare and to implement State law. For these reasons, collecting, transporting, processing, marketing, transferring and disposing of solid waste and recyclable materials requires regulation and control by the city in the manner set forth in the code, including, but not limited to, this article.

(`64 Code, Sec. 15-1) (Ord. No. 2372)

SEC. 19-151. DEFINITIONS.

(A) For the purposes of this article, the following words shall have the following meanings. Any words or phrases relating to solid waste that are not defined in this article shall have the meaning applied to them in Cal. Pub. Res. Code, Sections 40000 *et seq.*

(B) Whenever reference is made herein to any portion of this article, any other ordinance, resolution or regulation of the city, or any law of this State, the reference shall be deemed to apply to all amendments and additions heretofore or hereafter made to such ordinances, resolutions, regulations or laws.

(1) ARTICLE - Article II of chapter 19 of the code and regulations issued pursuant hereto.

(2) CHARGES - Money paid for solid waste, recycling and related services.

(3) CURBSIDE - A curb located adjacent to a street or alley located within the city.

(4) HAZARDOUS WASTE - Material designated as a hazardous waste, a hazardous substance or a hazardous material, pursuant to any applicable federal, State or city law.

(5) NONRESIDENTIAL USE - A use on a lot that does not contain one or more residential dwellings or uses.

(6) OCCUPANT - The person who is entitled to use and occupy any lot located in the city, including buildings and structures located thereon.

(7) OWNER - The legal owner of any lot located within the city.

(8) PROCESSED MATERIALS - Recyclable materials that have been processed by a processing facility.

(9) RECYCLING CONTAINER - A container that complies with the requirements of the city for the use or temporary storage of recyclable materials.

(10) RECYCLING OR PROCESSING FACILITY - Means a facility, licensed and authorized by the city or another public agency having jurisdiction, where recyclable materials are cleaned, sorted, or otherwise prepared for marketing to an end user of the processed materials.

(11) RECYCLABLE MATERIALS - Materials that are discarded with the intent that they be collected for return to the economic mainstream in the form of processed materials, rather than becoming solid waste, and may include paper, cardboard, glass, metal, plastic, wood, meat, vegetable or plant matter, compostables, construction and demolition materials, and other materials specified by the city manager for inclusion in the city's recycling program, but shall not include hazardous waste.

(12) SOLID WASTE DIVISION - That division of the city responsible for the collection of solid waste and the management of services related to recyclable materials within the city.

(13) REGULATIONS - Written regulations and amendments thereof issued by the city manager pursuant to this article.

(14) RESIDUAL MATERIALS - That portion of recyclable materials delivered to a processing facility that is left over and must be disposed of after the recyclable materials have been processed.

(15) TRUCK - Any motor vehicle that transports recyclable materials within the city and that is defined as a truck in the Cal. Vehicle Code.

(`64 Code, Sec. 15-2) (Ord. No. 2372)

SEC. 19-152. ESTABLISHMENT OF REGULATIONS BY CITY MANAGER.

The city manager shall from time to time, as deemed necessary or desirable, issue and amend regulations relating to the collection of residential and nonresidential solid waste and recyclable materials and the conditions of service, including but not limited to minimum service levels; standards for extra nonresidential business service; standards for keeping, collecting, removing and disposing of solid waste and recyclable materials; the sufficiency and sanitation of solid waste and recyclable materials containers and carriers; green waste; and the sale of salvageable materials, and of products, commodities and services incidental thereto, and the charges to be made therefor. Copies of such regulations shall be maintained at the solid waste division.

(`64 Code, Sec. 15-3) (Ord. No. 2372)

SEC. 19-153. HOURS OF OPERATION AND CHARGES SET BY CITY COUNCIL.

(A) The city council shall by resolution set hours of operation of solid waste and recyclable materials

collection and hours of operation of city owned or operated public recycling or processing facilities.

(B) The city council shall by ordinance set charges for collection of solid waste, recyclable materials and related services. Such charges may include all costs incurred by the city in providing such services, including but not limited to the costs of employee and administrative overhead, the costs of contracts for services, and the costs of the purchase and rental of supplies and equipment.
(`64 Code, Sec. 15-4) (Ord. No. 2372)

SEC. 19-154. COMPLIANCE WITH ARTICLE.

Whenever compliance with the provisions of this article is required of any person, such requirement shall include compliance with all regulations issued by the city manager pursuant to this article.
(`64 Code, Sec. 15-5) (Ord. No. 2372)

DIVISION 2. REMOVAL AND DISPOSAL OF SOLID WASTE

SEC. 19-160. SOLID WASTE ON PRIVATE PROPERTY.

(A) No owner, occupant or person in control of private property shall deposit, store or cause or permit to be deposited or stored any solid waste on such property so that such solid waste could or does attract rodents or pests and create a health hazard. "Rodent," as used in this subsection, means rats, mice, gophers and squirrels. "Pest," as used in this subsection, includes any animal or insect not under human control, which is offensive to the senses or interferes with the comfortable enjoyment of life, including but not limited to roaches, mosquitoes and flies.

(B) Every owner, occupant or person in control of private property shall properly store and maintain accumulations of solid waste so that they are not carried or deposited by the elements on any public right of way or public place, or on the private property of another.
(`64 Code, Sec. 15-6) (Ord. No. 2372)

SEC. 19-161. SOLID WASTE ON STREETS, ALLEYS AND CITY PROPERTY.

No person shall deposit or cause or permit to be deposited, any solid waste on any public right-of-way, or on any property owned or leased by the city, except in receptacles or areas specifically designated or provided for that purpose.
(`64 Code, Sec. 15-7) (Ord. No. 2372)

SEC. 19-162. NOTICE TO REMOVE SOLID WASTE; APPEAL OF NOTICE.

(A) The city manager shall give written notice to persons determined to be in violation of section 19-160 or section 19-161 of this article to remove and properly dispose of the solid waste. Such notice shall be prominently posted on the private property on which the accumulation exists, or shall be personally served on or sent by certified mail to the owner, occupant or person in control of the private property on which the accumulation exists, or shall be personally served on or sent by certified mail to the person who deposited or caused or permitted to be deposited solid waste on public property.

(B) The notice shall require that the solid waste be removed within three days of receipt of the notice or that the person addressed make alternate arrangements with the city manager, and shall state that if the solid waste is not removed, the city will remove and properly disposed of the solid waste and the person addressed will be billed for the cost thereof.

(C) Before the time set for the removal of the solid waste by the city, the person addressed in the notice may file with the city clerk a written request for review by the city council of the contemplated city action, which request shall operate to delay the city in removing the solid waste from private property and assessing the costs of removal, but shall not prevent removal of solid waste from public property.
(`64 Code, Sec. 15-8) (Ord. No. 2372)

SEC. 19-163. REMOVAL OF SOLID WASTE BY CITY.

The city manager may cause solid waste deposited in violation of sections 19-160 or 19-161 to be removed

and properly disposed of upon failure, neglect or refusal of the person so notified to properly dispose of such solid waste within three days after receipt of written notice as provided in section 19-162, or within five days after the date a notice is returned to the solid waste division because of inability to make delivery thereof; provided, that the same was properly addressed to the last known address of the owner, occupant or person in control of the private property on which the accumulation exists, or of the person who deposited solid waste on public property.

(`64 Code, Sec. 15-9) (Ord. No. 2372)

SEC. 19-164. CHARGES FOR REMOVAL AND DISPOSAL OF SOLID WASTE BY CITY.

When the city has so effected the removal of solid waste, the person notified pursuant to section 19-162 shall be personally liable to the city for a charge for removal and disposal. The city may add the charge to the solid waste bill of such person or take other action to collect the charge. Any action described in this article taken by the city to remove and dispose of solid waste shall not bar criminal prosecution for violation of this article or preclude civil suit to collect amounts due.

(`64 Code, Sec. 15-10) (Ord. No. 2372)

SEC. 19-165. STREET SWEEPING.

In addition to other methods of removing solid waste from public rights of way provided in this article, the city may provide street sweeping services to prevent solid waste from accumulating in rights-of-way. The city council may prescribe charges for such services. Such charges shall be included in the charges for collection of solid waste and shall be payable by the persons liable for such charges.

(`64 Code, Sec. 15-11) (Ord. No. 2372)

SEC. 19-166. TRUCKS TRANSPORTING SOLID WASTE OR RECYCLABLE MATERIALS.

(A) The bodies of trucks transporting solid waste or recyclable materials shall be enclosed or have a covering securely placed over the entire load to prevent spilling of any part of the load. Trucks transporting solid waste shall comply with Cal. Vehicle Code, Section 23115.

(B) Each person operating a truck used to transport solid waste or recyclable materials shall have on the truck a broom, shovel and other equipment necessary to clean and pick up any recyclable materials spilled, dropped or deposited from the truck on any public or private property, and shall clean up, pick up, transport and haul away any such solid waste or recyclable materials.

(C) All trucks and other equipment used to transport solid waste or recyclable materials shall at all times be maintained in a good and safe mechanical condition, with a neat and presentable appearance. All such trucks and other equipment shall be available at all reasonable times for inspection by an authorized representative of the city.

(D) Each truck used to transport solid waste or recyclable materials, except for trucks owned and operated by the city or trucks used pursuant to subsection (C) of section 19-175 or subsections (C) or (E) of section 19-190, shall display the name, address and telephone number of the person transporting solid waste or recyclable materials on both sides of the exterior of the truck in such a manner and size as to be legible.

(`64 Code, Sec. 15-12) (Ord. No. 2372)

SEC. 19-167. BURNING SOLID WASTE.

No person shall burn solid waste.

(`64 Code, Sec. 15-13) (Ord. No. 2372)

SEC. 19-168. HAZARDOUS WASTE IN SOLID WASTE CONTAINERS.

No person shall place hazardous waste in a solid waste container.

(`64 Code, Sec. 15-14) (Ord. No. 2372)

SEC. 19-169. RESIDENTIAL SUBDIVIDERS TO PAY FOR SOLID WASTE CONTAINERS.

Any subdivider who subdivides property into residential lots shall pay to the city the amount of money

estimated by the city manager to be required to purchase the appropriate solid waste containers for each such residential lot, in order that at occupancy the city may provide one or more solid waste containers for each residence.

(`64 Code, Sec. 15-15) (Ord. No. 2372)

DIVISION 3. COLLECTION AND CHARGES

SEC. 19-175. EXCLUSIVE RIGHT TO COLLECT SOLID WASTE.

(A) The collection, removal and disposal of all solid waste, including solid waste generated by residential, commercial, agricultural, construction or demolition uses within the city, may be performed by the city or its authorized representatives. No other person may engage in the collection, removal and disposal of solid waste, except as provided in subsections (B) and (C) of this section.

(B) A person holding a city business license for the collection, removal and disposal of solid waste may collect construction and demolition debris from roll-off boxes and remove and dispose of such debris.

(C) An owner or occupant may collect, remove and dispose of solid waste created by activities on the lot owned or occupied by such person, provided that such person uses his/her own resources to effect the collection, removal and disposal, or contracts for such services only with the person who engaged in the activities that created the solid waste.

(`64 Code, Sec. 15-16) (Ord. No. 2372)

SEC. 19-176. EXTRA NONRESIDENTIAL SERVICE.

Any person desiring more than the minimum solid waste collection service may apply to the solid waste division for extra service.

(`64 Code, Sec. 15-17) (Ord. No. 2372)

SEC. 19-177. UNAUTHORIZED COLLECTION.

No person except authorized city officers and employees shall collect, remove, convey, or cause or permit to be removed, collected or conveyed, any solid waste on or along any public right-of-way in the city. This section shall not apply to any person with whom the city has entered into a contract for the collection, removal and disposal of solid waste, or to any person who holds a city business license for the collection, removal and disposal of solid waste, or to any employee of such persons, while such contract or license is in force.

(`64 Code, Sec. 15-18) (Ord. No. 2372)

SEC. 19-178. INTERFERENCE WITH COLLECTION.

No person shall interfere with or obstruct the collection, transportation, disposal or processing of solid waste.

(`64 Code, Sec. 15-19) (Ord. No. 2372)

SEC. 19-179. INTERFERENCE WITH SOLID WASTE CONTAINERS.

No person other than the owner or occupant, or a person to whom the owner or occupant has given consent, or an officer or employee of the city, or a person or an employee thereof holding a contract with the city or a business license issued by the city for the collection, removal and disposal of solid waste, shall interfere in any manner with any solid waste container or the contents thereof, or place materials within or remove the contents from any solid waste container.

(`64 Code, Sec. 15-20) (Ord. No. 2372)

SEC. 19-180. COLLECTION IN ANNEXED AREAS.

When the city annexes an area in which, for at least the immediately preceding three years, private solid waste collection service of at least the quality and frequency of service provided by the city has been provided by an operator holding a county franchise, license or permit, the operator may continue to provide

such service to the existing service area for the period provided by Cal. Pub. Res. Code, Section 49520 after the city mails notice to the operator that after such period the city will provide exclusive service to the area. The city and the operator may provide on mutually satisfactory terms for the operator's termination of service before such period expires.

(`64 Code, Sec. 15-21) (Ord. No. 2372)

SEC. 19-181. OCCUPANTS LIABLE FOR CHARGES; CHARGES TO BE BILLED TO WATER METER USER.

All occupants are liable for charges for solid waste collection services. In the case of premises containing more than one dwelling unit or place of business or both that are served by a single water meter, such charges may be billed to the landlord or water meter user, who shall collect such charges from the occupants thereof and transmit the amount so collected to the city. In the event the landlord or water meter user fails to collect such charges from any such occupant and remit the charges to the city, the landlord or water meter user shall be liable to the city for the payment of such charges.

(`64 Code, Sec. 15-22) (Ord. No. 2372)

SEC. 19-182. CHARGES ADDED TO UTILITY BILL; PAYMENT; ADJUSTMENT FOR HIGHER RATES.

Whenever possible, charges for the collection of solid waste and recyclable materials and related services shall be added to city utility bills. Such charges shall be for the period covered by the utility bills, and shall be payable at the same time and in the same manner as utility bills. Bills for a fractional part of a billing period may be prorated in a manner approved by the city manager. Whenever it is not possible to determine the total amount of such charges to be added to the utility bill, or if such charges must be billed separately, bills for such services may be rendered and payment of such charges may be made quarterly or monthly, in advance, as directed by the city manager.

(`64 Code, Sec. 15-23) (Ord. No. 2372)

SEC. 19-183. DELINQUENT BILL; AUTHORITY TO DISCONTINUE UTILITY SERVICE.

When a customer's bill for the collection of solid waste, recyclable materials and related services at a service location becomes delinquent, and water is furnished to the customer through one or more services at the same or different locations, all such water services may be shut off. In addition, the city shall have the authority to discontinue water service or solid waste and recyclable materials service, or both, without notice for failure to comply with this article or the rules and regulations promulgated by the city manager pursuant to this article. The charges and procedures for resumption of water service shut off pursuant to this article shall be those found in chapter 22. As an additional remedy, an action in the name of the city may be commenced in any court of competent jurisdiction for the amount of any delinquent charges; and if legal action is brought by the city or its assignee to enforce collection of any amount charged and due under this article, any judgment rendered in favor of the city shall include costs of suit incurred by the city or its assignee, including reasonable attorneys' fees.

(`64 Code, Sec. 15-24) (Ord. No. 2372)

SEC. 19-184 BILLING AND COLLECTION - DELINQUENT REFUSE BILL.

Should a customer fail to pay a fee or charge for refuse service, within one month after the billing date provided on the face of the bill, the city shall assess a penalty in an amount of 10% of the overdue balance. (Ord. No. 2918)

DIVISION 4. RECYCLABLE MATERIALS

SEC. 19-190. COLLECTING, TRANSPORTING, PROCESSING AND MARKETING RECYCLABLES.

No person shall collect, transport, process or market recyclable materials within the city unless such person

is:

- (A) An officer or employee of the city acting in the course of that individual's official duty;
 - (B) A person holding a city business license for the collection, transportation, processing or marketing of recyclable materials or an employee of such person;
 - (C) An owner or occupant, provided that such person transports only those recyclable materials that are generated on the lot owned or occupied by such person to a buy back center, drop off center or other facility certified pursuant to Cal. Pub. Res. Code, Sections 14500 *et seq.*;
 - (D) The holder of a city business license for a recycling facility or processing facility, or an officer or employee of the licensee; or
 - (E) An agent or employee of, or a volunteer authorized by, a nonprofit organization that collects recyclable materials or processed materials as a part of a fund-raising activity for the benefit of such nonprofit organization.
- (`64 Code, Sec. 15-25) (Ord. No. 2372)

SEC. 19-191. RECYCLING CONTAINERS; REMOVAL OR INTERFERENCE.

- (A) Recycling containers for the temporary storage of recyclable materials generated on any lot shall comply with all applicable provisions of this article and the code.
 - (B) No person other than the persons specified in section 19-190 shall remove or interfere in any way with a recycling container or the contents thereof, after the same is placed for collection at an authorized collection location by the occupant or owner of the lot on which the recyclable materials were generated.
 - (C) Notwithstanding any other provision of the code, violation of this section is hereby declared to be an infraction punishable in accordance with the provisions of chapter 1 of the code, relating to punishment for infractions.
 - (D) As an alternative to subsection (C) of this section, the city attorney is authorized to bring a civil suit at law or equity against any person who violates this section. In any such civil suit, the court shall either allow treble damages, as measured by the value of the material removed or interfered with, or award a civil penalty of not more than \$1,000, whichever is greater, against the person who violated this section, for each unauthorized removal or interference, together with the city's reasonable attorneys' fees, expert and other witness fees, and all costs.
- (`64 Code, Sec. 15-26) (Ord. No. 2372)

SEC. 19-192. PLACEMENT OF RECYCLING CONTAINERS.

The following provisions apply to curbside or alley recyclable materials collection:

- (A) No person shall place or cause to be placed for collection recyclable materials or any recycling container containing recyclable materials, at any place, at any time or in any manner other than as provided in this article or regulations established thereto. Recyclable materials that need not be placed in a recycling container for collection pursuant to this article shall be placed for collection at the same locations and at the same times as recyclable materials required to be placed for collection within a recycling container.
 - (B) (1) No person shall place or cause to be placed a recycling container or recyclable materials for collection at any time other than on the days established pursuant to this article or regulations established thereto.
 - (2) Recycling containers shall be placed for collection by the time designated by resolution of the city council, or at any time within 12 hours prior to the designated collection time. No person shall permit recycling containers or recyclable materials to remain at such locations after the designated collection day.
 - (3) Each recycling container shall be returned to a location where the same is permitted to be stored pursuant to the provisions of the code or regulations issued pursuant thereto.
 - (C) (1) Any recycling container or recyclable materials to be placed for collection on the lot where generated adjacent to a street, shall be placed as close as practicable to the curb line or right-of-way line of the street.
 - (2) No recycling container or recyclable materials shall be placed within the limits of any street or alley within the city, unless by direction of the city manager.
- (`64 Code, Sec. 15-27) (Ord. No. 2372)

SEC. 19-193. TITLE TO RECYCLABLE MATERIALS.

Title to recyclable materials shall be deemed for all purposes to be vested in the city as of the time the materials are placed in the collection location with the intent that they be collected for recycling by the persons identified in section 19-190.

(`64 Code, Sec. 15-28)

SEC. 19-194. RECYCLING COLLECTION SERVICES.

Each person operating pursuant to section 19-190(B) shall, on request of the owner or occupant of a nonresidential use, provide recyclable materials collection equipment or services, including, but not limited to, segregated and nonsegregated recycling container services.

(`64 Code, Sec. 15-29) (Ord. No. 2372)

DIVISION 5. HAZARDOUS MATERIALS

SEC. 19-200. UNDERGROUND STORAGE.

(A) Pursuant to Cal. Health and Safety Code, Chapter 6.7, Division 20, Section 25283 and Cal. Health and Safety Code, Chapter 6.11, Division 20, Section 25404.1, the city assumes or has previously assumed responsibility for the implementation within the Cal. Gov't Code, Title 23, Division 3, Chapters 16 and 18, pertaining to underground storage of hazardous substances, and Cal. Health and Safety Code, Chapter 6.75, Division 20, pertaining to underground petroleum storage tank cleanup, to the extent that such regulations and statutes authorize such action by the city.

(B) The city council designates the City's Certified Unified Program Agency Program (CUPA Program) as responsible for administering and enforcing said regulations and statutes on behalf of the City. The CUPA Program may adopt regulations to implement this division.

(C) Pursuant to Cal. Health and Safety Code, Sections 25280 *et seq.*, and Cal. Gov't Code, Chapter 16, Division 3, Title 23, the CUPA Program shall issue, renew, revoke and modify permits to operate underground storage tanks.

(D) Pursuant to Cal. Health and Safety Code, Sections 25299.10 *et seq.* and Cal. Gov't Code, Chapter 18, Division 3, Title 23, the CUPA Program shall require correction action with regard to underground storage tanks and releases therefrom, including the preparation of a workplan, and shall perform, monitor or oversee corrective action as directed by the State Water Resources Control Board or the regional water quality control board.

(E) The CUPA Program shall charge for services provided under this ordinance the fees adopted therefor by resolution of the city council.

(`64 Code, Sec. 15-30) (Ord. No. 2431)

ARTICLE III. STREETS AND SIDEWALKS

DIVISION 1. ENCROACHMENTS AND EXCAVATIONS

SEC. 19-205. DEFINITIONS.

For the purpose of this article, the following words shall have the following meanings:

(A) **ENCROACHMENT** - Any physical object or material thing that occupies space in, under or on a right-of-way, including any obstruction within or over a right-of-way, but not including structural and architectural projections permitted by the code, a building being moved under a city permit and any vehicle, bicycle or similar mechanical means of transportation in motion on a right-of-way.

(B) **ENGINEER** - The city engineer or designee, including city inspectors and the city streets superintendent.

(C) **EXCAVATE** - Cutting, digging or boring in a right-of-way, including any street repair, trenching, patch or fill.

(D) **RIGHT-OF-WAY** - Any real property or interest therein owned by or under the jurisdiction of the

city, located within the city, and used or reserved for a public purpose, including any public road, street or alley (including curbs, gutters and parkways), any public waterway, and any public easement, parking lot, park or landscaped area.

(E) STREET CUT FEE - A payment made to the city for the privilege to excavate in order to reimburse the city for damage to the right-of-way caused by the excavation and not corrected by any backfill, compaction or pavement replacement.

(`64 Code, Sec. 26-1) (Ord. No. 2444)

SEC. 19-206. PERMIT REQUIRED.

A person shall obtain an encroachment permit from the city before doing any of the following:

(A) Excavate in a right-of-way;

(B) Construct, alter or repair any driveway, sidewalk, curb, gutter, or other improvement in a right-of-way;

(C) Plant, remove or permanently affect in any manner a tree, a shrub or other plant life within a right-of-way;

(D) Create, alter or remove an encroachment, including the erection of a temporary structure; and

(E) Move any object, except a building, the size or movement of which would interfere with the normal flow of vehicular traffic on a right-of-way.

(`64 Code, Sec. 26-2) (Ord. No. 2444)

SEC. 19-207. APPLICATION; INDEMNIFICATION OF CITY.

(A) The engineer shall provide the application for an encroachment permit.

(B) The engineer shall condition the permit as necessary to ensure that the work is performed according to city standards and specifications. If the engineer finds that the proposed work is in the public interest and not contrary to the public health, safety or welfare, the applicant shall be granted the permit.

(C) Until final acceptance of the work, the permittee shall indemnify and save harmless the city council, the city and its officers and employees from all liability and against all loss, cost or expense occasioned by or arising from any work performed under the encroachment permit.

(`64 Code, Sec. 26-3) (Ord. No. 2444)

SEC. 19-208. WORK WITHOUT A PERMIT; REVIEW FEES.

If a person without an encroachment permit commences any work for which an encroachment permit is required, the engineer shall review the work before issuing a permit. The person commencing such work shall pay a review fee in addition to any permit fees, whether or not the engineer issues a permit. The review fee shall be equal to the total amount of the permit and inspection fees set forth in section 19-220.

(`64 Code, Sec. 26-4) (Ord. No. 2444)

SEC. 19-209. DURATION OF PERMIT.

(A) An encroachment permit is valid for the period specified in the permit, which will usually be 30 days from the date of issuance.

(B) A utility encroachment permit is valid for a calendar year, or for the part thereof stated in the permit.

(C) A person conditioned by a land use approval to maintain landscaping or other improvements in a right-of-way shall obtain an indeterminate encroachment permit, which shall be valid as long as the permittee maintains the landscaping or other improvements in accordance with the conditions of the land use approval and complies with all conditions of the indeterminate encroachment permit.

(D) A person permitted by agreement with the city to place a structure on a right-of-way for six months or longer shall obtain an indeterminate encroachment permit, which is valid as long as the agreement permits the structure to remain and the permittee complies with all conditions of the agreement and the indeterminate encroachment permit.

(E) A permittee shall comply with all conditions of the indeterminate encroachment permit issued to the permittee.

(`64 Code, Sec. 26-5) (Ord. No. 2444, 2654)

SEC. 19-210. UTILITY ENCROACHMENT PERMIT.

A public utility shall obtain a utility encroachment permit. Before commencing any work, the public utility shall also obtain an encroachment permit for the specific work. In an emergency, a public utility may do work before obtaining an encroachment permit for the specific work, provided that within three days after beginning the work, the public utility shall inform the engineer of the date, location and type of work done. (`64 Code, Sec. 26-6) (Ord. No. 2444)

SEC. 19-211. SPECIFICATIONS FOR WORK.

The permittee shall comply with the specifications in the encroachment permit. Copies of approved specifications will be available to any applicant or permittee. (`64 Code, Sec. 26-7) (Ord. No. 2444)

SEC. 19-212. INSPECTION OF CONCRETE WORK.

Any person doing concrete work under an encroachment permit shall ask the engineer to inspect the work at least 24 hours before pouring the concrete. No person shall pour concrete without prior approval by the engineer. (`64 Code, Sec. 26-8) (Ord. No. 2444)

SEC. 19-213. TESTING AND CERTIFICATION OF WORK.

At any stage of permitted work, the engineer may require the permittee to do testing and certification, including, but not limited to, materials testing and certifications by professional engineers or testing businesses, to the extent required to allow the engineer to determine whether the work is satisfactory. (`64 Code, Sec. 26-9) (Ord. No. 2444)

SEC. 19-214. PROTECTION OF PUBLIC.

A permittee is responsible for the condition and progress of the work until its final acceptance and shall use all reasonable and necessary precautions and measures to protect the work and to prevent accidents and harm to persons and property arising from the work. (`64 Code, Sec. 26-10) (Ord. No. 2444)

SEC. 19-215. REMOVAL OF ITEMS.

Unless otherwise authorized by the engineer, a permittee shall remove all equipment, materials and debris from the permitted work site within three days after acceptance of the work. (`64 Code, Sec. 26-11) (Ord. No. 2444)

SEC. 19-216. ACCEPTANCE OF WORK; SECURITY.

(A) The permittee shall correct defective work as determined by the engineer.
(B) No permitted work is finished or completed until accepted by the engineer.
(C) The engineer may require the permittee to post security in order to guarantee satisfactory workmanship after acceptance, in an amount and for a period of time determined by the engineer to be necessary in order to protect the public health, safety and welfare. (`64 Code, Sec. 26-12) (Ord. No. 2444)

SEC. 19-217. CERTIFICATE OF OCCUPANCY; ELIMINATION OF DRIVEWAYS.

(A) The city shall not issue any certificate of occupancy or use, or give any final clearance to a public utility for service, for any building until damage to abutting rights-of-way occasioned by construction of the building and all required or damaged rights-of-way or driveways serving the lot on which the building is located are properly repaired or constructed and meet approved specifications, as determined by the engineer.

(B) If the need for or use of a driveway serving a lot has been eliminated by the conversion, alteration or removal of improvements on the lot, or by a change in the use of the lot, the driveway should be replaced with sidewalk, curb and gutter improvements.

(`64 Code, Sec. 26-13) (Ord. No. 2444)

SEC. 19-218. USE OF CITY FORCES; CHARGE.

(A) The city may require that repairs to rights-of-way necessitated by a permittee other than a public utility or a city utility be performed by city staff rather than by the permittee.

(B) In such case, the permittee shall pay the city the estimated charge for repairs computed from the city's approved schedule of charges for repair work by city forces.

(C) A schedule of approved charges for repair work by city forces, adopted by the city council, shall be on file in the offices of the engineer and the city clerk.

(`64 Code, Sec. 26-14) (Ord. No. 2444)

SEC. 19-219. CHARGE FOR EXTRA WORK.

If repairs exceeding those estimated are made by city forces, the permittee shall promptly pay the city for such work, in accordance with the schedule of charges and the repairs performed.

(`64 Code, Sec. 26-15) (Ord. No. 2444)

SEC. 19-220. PERMIT FEES.

(A) An applicant for an encroachment permit shall pay the following fees:

(1) Encroachment permit fee; and

(2) Inspection fee. If the work is to be performed by city forces, the applicant shall pay an amount equal to the estimated cost of the work in lieu of an inspection fee.

(B) A schedule of fees to implement this section shall be established by resolution of the city council.

(`64 Code, Sec. 26-16) (Ord. No. 2444)

SEC. 19-221. STREET CUT FEE; WAIVER.

(A) An applicant for an encroachment permit to excavate shall pay a street cut fee unless otherwise provided for herein.

(B) If an applicant intends to excavate in a right-of-way scheduled in the city's capital improvement program for complete rehabilitation within one year of the date the encroachment permit is issued, the applicant is not required to pay the street cut fee.

(C) As provided in section 19-222, those public utilities granted franchises by State statute or by a franchise agreement with the city, obligating the franchisee to make all repairs to city streets necessitated by the operations of the franchisee, are not required to pay the street cut fee.

(D) As provided in section 19-223, the engineer may waive the street cut fee for those city utilities that request such waiver and that present evidence satisfactory to the engineer of the capacity to perform the conditions of waiver set out in section 19-223.

(E) The street cut fee shall be established by resolution of the city council.

(F) If the engineer determines that permitted work is voluntarily undertaken, rather than required by law, regulation or a condition of land use approval, and the work will be paid for by the permittee, and benefits the city, the engineer may waive the fees imposed by this section.

(`64 Code, Sec. 26-17) (Ord. No. 2444)

SEC. 19-222. PERIODIC INSPECTION AND REPAIR BY FRANCHISED UTILITIES.

(A) No later than January 1, 1997, and every five years thereafter, each franchised public utility ("utility") for which the street cut fee is not required pursuant to section 19-221(C) shall inspect, as directed by the engineer, the pavement in the city's streets where the utility has made an excavation or street cut at any time, until such portion of the street is completely resurfaced or reconstructed.

(B) As directed by the engineer, the utility shall identify all defects in the pavement over and around such

excavations and street cuts that arise from such excavations and street cuts and make repairs and perform maintenance in accordance with city specifications.

(C) The utility shall inspect such repairs and maintenance and report thereon to the engineer. The inspections and reports may be made by the utility, by city staff or by an inspector approved by the engineer, as directed by the engineer. If the inspections and reports are made by city staff, the utility shall pay the city for the cost thereof. If the inspections and reports are made by an inspector approved by the engineer, the utility shall pay such person for such work.

(D) The engineer may, from time to time, inspect such excavations and street cuts and notify the utility of any defects in the pavement that arise from such excavations and street cuts, whereupon the utility will make repairs and perform maintenance as directed by the engineer.

(E) Before performing such inspection, repair or maintenance, the utility may receive from the engineer the locations and names of streets that will be repaved within one year from the date such information is received. The utility need not perform such inspection, repair and maintenance on such streets.

(F) If the utility does not perform one or more of the utility's duties set out in this section, the engineer shall notify the utility thereof, specifying the failure. The utility shall cure the failure within 20 days of receiving the notice, or such additional time as the engineer may grant. The engineer may refuse to issue any additional encroachment permits to the utility until the cure is completed.

(G) If, as part of or in the course of doing pavement work or inspecting pavement conditions, in city streets, city employees or contractors identify a defect in the pavement over or around an excavation or street cut that was previously made by a utility and that arises from such excavation or street cut, such employees or contractors may repair such defect, and the utility shall pay the city for the cost of making such repair.

(H) If the utility does not timely pay any amount authorized by this section, the engineer may refuse to issue any additional encroachment permits to the utility until the amount is paid.

(`64 Code, Sec. 26-18) (Ord. No. 2444)

SEC. 19-223. PERIODIC INSPECTION AND REPAIR BY CITY UTILITIES.

(A) Each city utility shall state on its application for an encroachment permit whether the city utility will pay the street cut fee or requests a waiver thereof. A city utility that requests a waiver of the street cut fee shall also present evidence satisfactory to the engineer that the city utility has the capacity to perform the conditions of waiver set out in this section.

(B) If the engineer waives the street cut fee for a city utility, that utility shall, within 90 days of the issuance of the encroachment permit for which the street cut fee was waived, and every five years thereafter, inspect, as directed by the engineer, the pavement in the city's streets where the city utility has made an excavation or street cut at any time, until such portion of the street is completely resurfaced or reconstructed.

(C) As directed by the engineer, the city utility shall identify all defects in the pavement over and around such excavations and street cuts that arise from such excavations and street cuts and make repairs and perform maintenance in accordance with city specifications.

(D) The city utility shall inspect such repairs and maintenance and report thereon to the engineer. The inspections and reports may be made by the city utility, by other city staff or by an inspector approved by the engineer, as directed by the engineer. If the inspections and reports are made by an inspector approved by the engineer, the city utility shall pay such person for such work.

(E) The engineer may, from time to time, inspect such excavations and street cuts and notify the city utility of any defects in the pavement that arise from such excavations and street cuts, whereupon the city utility shall make repairs and perform maintenance as directed by the engineer.

(F) Before performing such inspection, repair or maintenance the utility may receive from the engineer the locations and names of streets that will be repaved within one year from the date such information is received. The city utility need not perform such inspection, repair and maintenance on such streets.

(G) If the city utility does not perform one or more of the city utility's duties set out in this section, the engineer shall notify the city utility thereof, specifying the failure. The city utility shall cure the failure within 20 calendar days of receiving the notice, or such additional time as the engineer may grant. The engineer may refuse to issue any additional encroachment permits to the city utility until the cure is completed or may issue any additional encroachment permits only on condition that the city utility pay the street cut fee.

(H) If, as part of or in the course of doing pavement work or inspecting pavement conditions in city streets, city employees or contractors not working for the city utility identify a defect in the pavement over or around an excavation or street cut that was previously made by the city utility and that arises from such excavation or street cut, such employees or contractors may repair such defect.

(I) If the city utility is required to pay the street cut fee, or if city employees or contractors not working for the city utility make inspections and reports or perform repairs necessitated by the city utility's excavations or street cuts, the city manager may determine a method for the city utility to reimburse the city program doing such work or paying such contractor.

(^ 64 Code, Sec. 26-19) (Ord. No. 2444)

DIVISION 2. STREET NUMBERING

SEC. 19-230. STREET NUMBERING SYSTEM.

The engineer shall designate on a map of the city a system of street numbering.

(^ 64 Code, Sec. 26-20) (Ord. No. 2444)

SEC. 19-231. DUTY TO AFFIX NUMBER; TYPE AND SIZE.

(A) Every person who owns, rents, leases or occupies a dwelling, building, structure or establishment, hereinafter "premises," within the city shall ascertain from the engineer the street number assigned to the premises and shall cause that number to be painted on, fastened or otherwise affixed to the front of the premises in a conspicuous place visible from the street. If the premises have access from an alley or waterway, the owner, renter, lessee or occupant shall cause the assigned street number to be painted on, fastened or otherwise affixed to the rear of the premises in a conspicuous place visible from the alley or waterway.

(B) All street numbers painted on, fastened or otherwise affixed to any premises shall be plain and legible, shall be reflectorized or of a color that contrasts with the background, and shall be no smaller than three inches or larger than five inches.

(^ 64 Code, Sec. 26-21) (Ord. No. 2444)

DIVISION 3. USE OF CITY STREETS AND HIGHWAYS BY OVERWEIGHT VEHICLES

SEC. 19-240. DEFINITIONS.

The following words and phrases, whenever used in this division, shall be construed as defined in this section.

(A) **DESIGNATED STREETS** - Those city streets or highways, or portions thereof, that have been designated by the city council by resolution as being open to travel by overweight vehicles pursuant to a special permit issued under the provisions of this division.

(B) **DIRECTOR** - The director of development services of the City of Oxnard, or his/her designee.

(C) **OVERWEIGHT VEHICLE** - A vehicle, combination of vehicles, or mobile equipment, which, in combination with its load, has a maximum gross weight in excess of the weight limit of vehicles and loads specified in the California Vehicle Code, but does not exceed 95,000 pounds gross weight. Ocean shipping equipment under the seal of United States Customs shall not be subject to the provisions of this division.

(D) **PERSON** - Any natural person, firm, association, organization, partnership, corporation, public corporation, political subdivision or any department or agency thereof.

(E) **YEAR** - Calendar year commencing January 1 and ending the following December 31.
(Ord. No. 2871)

SEC. 19-241. SPECIAL PERMIT REQUIRED.

No person shall operate or move an overweight vehicle upon city streets or highways except pursuant to a special permit issued under the provisions of this division. A special permit shall be required for each

overweight vehicle to be operated or moved on city streets or highways. Notwithstanding the foregoing, a person shall not be required to obtain a special permit pursuant to this division if they are required to obtain a city permit for a vehicle whose height, length or width exceeds the maximum specified in the California Vehicle Code, have obtained the permit and the permit is currently valid.
(Ord. No. 2871)

SEC. 19-242. DESIGNATED STREETS.

The city will only issue a special permit for operation or movement of an overweight vehicle upon designated streets. Designated streets shall be established by a resolution of the city council.
(Ord. No. 2871)

SEC. 19-243. AUTHORITY TO ISSUE SPECIAL PERMIT.

(A) The director or his/her designee is authorized to issue special permits under this division for either a single movement or on a yearly basis for continuous operation. Every permit issued for continuous operations shall expire on December 31 of the year for which it is issued. The director may issue or withhold a special permit in his/her discretion or may issue a special permit conditioned upon the following:

- (1) The number of trips authorized.
- (2) Seasonal or other time limitations within which the overweight vehicle may be operated or moved on the designated streets.
- (3) An undertaking or other security as may be deemed necessary to protect the city's streets, highways and bridges from damage.
- (4) Required proof of financial responsibility in an amount required for compliance with California Vehicle Code section 16500.5.
- (5) Such conditions of operation of the overweight vehicle as may be necessary to assure against undue damage to the road foundations, surfaces, bridges or other structures.
- (6) Potential negative safety or environmental impacts in the opinion of the city traffic engineer, fire chief, or the police chief.

(B) No special permit issued pursuant to this section shall authorize the transport of hazardous materials or hazardous wastes, as those terms are defined by local, state, and federal law.
(Ord. No. 2871)

SEC. 19-244. APPLICATION REQUIRED.

The city will issue a special permit only upon receipt of a signed and verified application describing the vehicle and load, including weight, and stating whether the special permit is requested for a single trip or continuous operations. Each application shall be accompanied with a special permit fee. The amount of all special permit fees shall be established by a resolution of the city council.
(Ord. No. 2871)

SEC. 19-245. SPECIAL PERMIT CONDITIONS.

Every special permit issued pursuant to this division shall provide that:

- (A) The maximum allowable gross combined vehicle weight to be permitted may not exceed 95,000 pounds with appropriate equipment and the vehicle, combination of vehicles, or mobile equipment shall conform to the axle weight limits specified in Section 35550 of the California Vehicle Code.
- (B) The maximum speed limit for any overweight vehicle shall be 30 miles per hour.
- (C) Each person to whom a special permit is issued shall agree to defend and indemnify city, its city council, boards, officers and employees from any and all damages, costs and expenses sustained or incurred by city, its boards, officers and employees resulting from or arising out of the issuance of a special permit and the use of city streets or highways whether designated or non-designated.
- (D) Each person to whom a special permit is issued shall agree to be responsible for all injuries or death of persons and for all damages to property of every kind caused by or resulting from or arising out of the issuance of a special permit and use of city streets or highways, whether designated or non-designated.

(E) Each person to whom a special permit is issued shall agree to carry a copy of the special permit in the overweight vehicle for which the permit is issued and furnish a copy to any peace officer upon demand.

(F) Each person to whom the special permit is issued shall furnish evidence satisfactory to the director that the overweight vehicle has undergone safety inspection by a governmental agency having jurisdiction within 90 days preceding the issuance of the special permit and at least once each 90 days during the permit period.

(G) Each person to whom a special permit is issued shall be prohibited from using an overweight vehicle to transport hazardous materials or hazardous wastes, as those terms are defined by local, state and federal laws, across any city street or highway, or portion thereof.

(H) Each person to whom a special permit is issued shall at all times comply with all laws, ordinances, rules and regulations of all federal, state and local governmental authorities having jurisdiction over the operation and maintenance of the overweight vehicle.

(I) No detour from a permitted route may be made without prior written permission of the director or his/her designee.

(J) Except for permitted detours, no route shall be on any street or highway, or portion thereof, not designated by a resolution of the city council.

(K) Every overweight vehicle permitted under this division and each special permit issued pursuant hereto shall be subject to inspection by the director or his/her designee, or any peace officer, at any time it is on a city street or highway within the limits of the city for the purpose of determining compliance with the provisions of the special permit.

(L) As a condition precedent to the city's issuance of a special permit, the applicant shall furnish the director evidence that each driver of an overweight vehicle shall have completed training in the operation of an overweight vehicle.

(Ord. No. 2871)

SEC. 19-246. VEHICLE TRIP LOGS.

All persons operating or moving an overweight vehicle pursuant to a continuous operation special permit shall maintain a vehicle trip log that evidences all vehicle trips on a city street or highway within the limits of the city for the then current year. Vehicle trip logs shall, at a minimum, contain the following information: license plate number, month and year, date of trip, driver's name or any other information that the director may deem appropriate. A copy of the vehicle trip log shall at all times be kept in the overweight vehicle and shall be presented to any peace officer upon demand. As a condition precedent to the city's issuance of any new continuous operation special permit, each application shall be accompanied by a vehicle trip log from the previous year.

(Ord. No. 2871)

SEC. 19-247. FURNISHING PROOF OF COMPLIANCE WITH THIS DIVISION.

All persons operating or moving an overweight vehicle shall carry a copy of any special permit issued pursuant to this division in the overweight vehicle for which the permit is issued and furnish a copy to any peace officer upon demand.

(Ord. No. 2871)

SEC. 19-248. REVOCATION OF PERMIT.

The director may revoke all continuous operation special permits issued to a person, if the person, his/her employee or agent is determined by the director to have violated any two special permit conditions or violate the same special permit on two occasions within any 90 calendar period. No special permit shall be issued to a person whose special permit has been revoked pursuant to this section for 90 calendar days following such revocation. Nothing contained in this division shall be deemed or construed as limiting the power of a peace officer to issue a citation for or otherwise enforce violations of law with respect to operation of an overweight vehicle upon designated streets upon discovery of a violation of a condition of a special permit.

(Ord. No. 2871)

SEC. 19-249. RULES AND REGULATIONS.

The director or his/her designee may adopt, repeal, amend and modify administrative regulations implementing the provisions of this division, including, but not limited to, operating requirements, trailer requirements, driver requirements, and any other matter deemed necessary for the effective administration of this division.

(Ord. No. 2871)

SEC. 19-250. OTHER PERMITS.

A special permit issued pursuant to this division shall be in addition to and obtained prior to applying for any other permit which may be required by law for the operation or movement of an overweight vehicle upon public streets or highways.

(Ord. No. 2871)



CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA AGENDA ITEM NO. K.3

DATE: September 7, 2021

TO: Housing Authority Board of Commissioners

FROM: Emilio Ramirez, Housing Director, (805) 385-8094, emilio.ramirez@oxnard.org

SUBJECT: Trade Services Agreement with Alltech Industries, Inc. for Security Services.

RECOMMENDATION

That the Board of Commissioners of the Housing Authority of the City of Oxnard approve and authorize the Executive Director to execute a firm-fixed price trade services agreement in the amount of \$106,055.04 with Alltech Industries, Inc. (Agreement No. 9292-21-HO) for the provision of security services at public housing sites.
(This item did not originate in Committee.)

BACKGROUND

The Housing Authority of the City of Oxnard owns and operates 520 public housing units scattered throughout Oxnard. Last year, the Resident Advisory Board consisting of Tenant Commissioners, public housing residents, and Section 8 program participants requested a meeting with the Oxnard Housing Authority to discuss safety concerns at various public housing sites. Residents of the Pleasant Valley Village and Colonia Village sites expressed concerns with an increase in criminal activity coupled with excessive unauthorized parking.

Residents expressed concern about the number of unauthorized individuals loitering in common areas that are not visible and vandalizing vacant units. For example, the basketball courts and community center located in the Squires Drive project and the road that connects the project with the nearby community park. There have been several cases of vandalism to vehicles and stolen items from backyards. Many vacant units have been vandalized multiple times after they have been move-in ready. Although the activity is reported to the police department, the perpetrators flee the scene before officers are able to respond. According to residents, these activities heighten after business hours and on weekends. In the Colonia area, several residents complained about vehicles parked in red zone areas, which many times have blocked residents' vehicles for several hours at a time. In addition, management has experienced challenges with vehicles blocking trash enclosures, which has resulted in the trash not being picked up in a timely manner.

Community meetings were held with residents to discuss possible solutions. In addition to adopting a new parking policy, improved enforcement of parking rules, increased lighting, and safety education, it was determined that a security firm is necessary for enforcement after business hours.

DISCUSSION

In February 2021, the Housing Authority of the City of Oxnard solicited bids for security services for various properties throughout the City of Oxnard. During the solicitation period one bid from Alltech Industries was received and evaluated.

Alltech Industries' proposal satisfies all threshold requirements outlined in the request for proposal. The scope of work includes routine patrolling, professional handling of security issues, and parking enforcement seven days a week during non-business hours at the Pleasant Valley Village, Colonia Village, Felicia Court, Cuesta del Mar, Fashion Park, Hill

Street, Concord Drive, Althea Court and Fremont Way public housing sites plus the Housing Authority offices. The contractor will provide patrol services with marked patrol vehicles and unarmed security officers. Foot patrols will be required behind buildings and dark areas where activity is noticed. All patrol visits will be on a rotating basis, three times per day, seven nights a week from 6 pm to 6am. The contractor will provide daily reporting and work with Oxnard Housing Authority's management team and the Oxnard Police Department to ensure the safety of residents. In the event of illegal activities, a full report including photos will be provided to the Oxnard Housing Authority within 12 hours of the event.

The contractor will also implement a parking enforcement program. The contractor will set up a system to track problem vehicles and issue citations for inoperable vehicles. With prior approval from Oxnard Housing Authority, the contractor will contact towing services to remove vehicles that are in an unsafe condition or parked in red fire lanes and in front of trash bins. Contractor will provide on an as-needed basis the service of delivering notices and reporting any possible maintenance problems in the community identified during patrolling. If the repair is an emergency item, such as broken windows, the office will contact the on-call Oxnard Housing Authority staff member immediately. Lastly, vacant units will be inspected nightly to ensure there is no visible vandalism, forced entry or other related issues.

STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness City Council priorities by investing in appropriate staffing levels.

FINANCIAL IMPACT

There is sufficient funds budgeted in Fiscal Year 2021 – 2022 Low Rent Public Housing (Non-City) budget to cover the cost of the agreement. It has no impact to the City's General Fund.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Emilio Ramirez, Housing Director

ATTACHMENTS

1. SECURITY AGREEMENT 9292-21-HO

AGREEMENT FOR TRADE SERVICES

THIS AGREEMENT FOR TRADE SERVICES ("**Agreement**") is entered into in Ventura County, California, this 20th day of April, 2021, by and between the Oxnard Housing Authority ("**Authority**") and Alltech Industries, Inc. ("**Vendor**"), subject to the following terms and conditions:

1. This Agreement is a firm-fixed price contract as defined by 24 CFR 85.36(4)(D) and the Department of Housing and Urban Development (HUD) Handbook 7460.8., rev. 2.
2. Vendor promises and agrees to furnish to Authority all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately provide the Authority with Security Monitoring services (the "**Services**"). The Services are more particularly described in **Exhibit A** attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.
3. Vendor shall complete the Services within the term of this Agreement as specified in Section 4 below. Vendor shall be excused for delays resulting from causes beyond the reasonable control of Vendor as determined by the Authority. Authority agrees to amend the performance termination date whenever Vendor is delayed by action or inaction of Authority and Vendor promptly notifies the Authority through the Housing Director of such delays.
4. The initial term of this Agreement shall begin on September 13, 2021 and shall end on September 12, 2022 (the "**Initial Term**"), unless terminated sooner as provided in this Agreement. Authority, in its sole and absolute discretion, shall have the option to extend the Initial Term of the Agreement for up to three (3) additional one-year terms (each an "**Extension Term**") through a written amendment signed by both Authority and Vendor at the rates provided in **Exhibit B**. In the event Authority desires to exercise its option to extend the Agreement for an Extension Term, Authority shall provide Vendor notice of its likely intention to extend the term of the Agreement at least ninety (90) days prior to expiration of the Initial Term or any Extension Term. In the event Authority and Vendor have not executed a written amendment extending the term of the Agreement at least thirty (30) days prior to expiration of the Initial Term or any Extension Term, Authority shall provide Vendor an additional notice of its likely intention to extend the term of the Agreement and issue to Vendor a formal written amendment of the Agreement term. Authority may terminate this Agreement at any time, with or

5. Vendor may not provide the Services under this Agreement until Authority has provided vendor with a written Notice to Proceed. Such notice shall specify the date the Services are to commence. No payments will be made to Vendor for any Services provided prior to the effective date of the Notice to Proceed.
6. Authority agrees to pay Vendor for the Services at the not to exceed rates provided in **Exhibit B** attached hereto and incorporated by this reference in full herein.
7.
 - a. To the fullest extent permitted by law, Vendor shall (1) immediately defend; (2) indemnify; and (3) hold harmless Authority, its Commission, each member thereof, and its directors, officers, and employees (the “**Indemnified Party**”) from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Vendor’s performance of this Agreement or Vendor’s failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys’ fees; court costs; and costs of alternative dispute resolution. Vendor’s obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section are the result of the sole active negligence or sole willful misconduct of the Indemnified Party.
 - b. The duty to defend is a separate and distinct obligation from Vendor’s duty to indemnify. Vendor shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the Indemnified Party immediately upon tender to Vendor of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of negligence or willful misconduct by the Indemnified Party shall not relieve Vendor from its separate and distinct obligation to defend the Indemnified Party. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes the obligation to provide independent defense counsel if Vendor asserts that liability is caused in whole or in part by the negligence or willful misconduct of the Indemnified Party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of the Indemnified Party, Vendor may submit a claim to Authority for reimbursement of reasonable attorneys’ fees and defense costs.
 - c. The review, acceptance or approval of Vendor’s work or work product by the Indemnified Party shall not affect, relieve or reduce Vendor’s indemnification or defense obligations. This Section shall survive completion of the Services or termination of this Agreement. The provisions

of this Section shall not be restricted by and do not affect the provisions of this Agreement relating to insurance.

8.
 - a. Vendor shall obtain and maintain during the performance of the Services the insurance coverages specified in Insurance Attachment **INS-4**, attached hereto and incorporated herein by reference, issued by a company satisfactory to the Administrative Services Manager, unless the Administrative Services Manager waives, in writing, the requirement that Vendor obtain and maintain such insurance coverages.
 - b. Vendor shall, prior to performance of the Services, file with the Administrative Services Manager evidence of insurance coverage as specified in Insurance Attachment **INS-4**. Evidence of insurance coverage shall be forwarded to the Administrative Services Manager, addressed as specified in Insurance Attachment **INS-4**.
 - c. Maintenance of insurance coverages by Vendor is a material element of this Agreement. Vendor's failure to maintain or renew insurance coverages or to provide evidence of renewal may be considered a material breach of this Agreement.
9. In performing the Services under this Agreement, Vendor is an independent contractor. Vendor and Vendor's agents, employees, subcontractors and other persons acting on Vendor's behalf are not officers or employees of Authority.
10. Vendor shall not, without the written consent of Authority's Contracting Officer, assign this Agreement, or any interest therein, or any money due thereunder.
11. In providing the Services under this Agreement, Vendor shall comply with all applicable laws, ordinances and regulations, including laws requiring the payment of prevailing wages. Before providing the Services under this Agreement, Vendor shall obtain all required licenses and permits, including a City of Oxnard business tax certificate.
12. The Services provided under this Agreement are paid totally or in part by funding provided by the Department of Housing and Urban Development (HUD) and as such, Contractor shall also fully and adequately comply with the provisions included in **Exhibit D** (General Conditions for Non-Construction Contracts) attached hereto and incorporated herein by this reference ("**Federal Requirements**"). In the event there is a conflict between the Federal Requirements and the terms of this Agreement and/or provisions of state law, the more stringent requirement shall control.
13. This Agreement may be amended only by a written document signed by both Authority and Vendor.

14. Any notices to Vendor may be delivered personally or by mail addressed to: Alltech Industries Inc., P.O. Box 4042, Montebello, CA 90640.
15. This Agreement constitutes the entire agreement of Authority and Vendor regarding the subject matter described herein and supersedes all prior communications, agreements and promises, either oral or written.

**HOUSING AUTHORITY OF CITY OF
OXNARD**

VENDOR

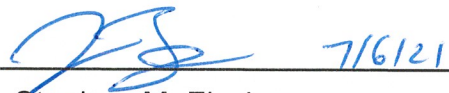
Emilio Ramirez
Housing Director



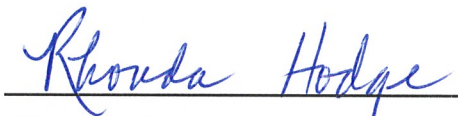
Hilda Perez
President

APPROVED AS TO FORM:

APPROVED AS TO INSURANCE:

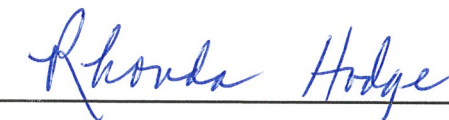


Stephen M. Fischer
Housing General Counsel



Rhonda Hodge
Housing Finance Officer

APPROVED AS TO COMPLIANCE:



Rhonda Hodge
Contract Administrator

EXHIBIT A

SCOPE OF WORK

All work performed by Contractor pursuant to this Agreement shall be performed according to industry standards as well as federal, State, local legal requirements, and to the satisfaction of the Authority. The Contractor shall provide security patrol services with marked patrol vehicles, utilizing unarmed guards.

Contractor's repeated failure, as determined by Authority, to provide satisfactory service shall result in termination of Contractor's contract for nonperformance. The Authority shall document the Contractor's failure to satisfactorily perform pursuant to this Agreement. Should the Contractor fail to satisfactorily perform the Services detailed in this Agreement, the Authority may prevent the Contract from bidding on services provided by the Authority.

These services shall include the following:

The Contractor shall provide patrol service with marked patrol vehicles, unarmed security officers, and provide the Authority with records detailing the number of visits contracted by Contractor. Contractor's officers shall provide heavy visibility and patrols (foot patrols are required behind buildings and dark areas where any activity is noticed) of all common areas of Housing Authority properties. For each location identified below, the Contractor shall provide a detailed report on the activities and incidents of each serviced day by no later than 10am the following morning.

Contractor shall provide coverage for all Authority sites as follows:

Three routine patrol visits, (including foot patrols) seven nights a week from 6 pm to 6 am. a week. All patrol visits shall be on a rotating random basis. Patrols should not be at the same time on any given evening or day of the week. Each patrol visit should include a foot patrol around community buildings and offices. Contractor shall notify the Oxnard Police Department immediately of any unlawful activity.

Services for the complexes shall at a minimum include:

Communication System

Contractor shall provide daily reports of all patrols and activities for each site within 24 hours of patrol noting condition of properties, any actions taken, etc. Also, in the event of illegal activities, a full report will be made available to property manager within 12 hours of event. Photos are also to be included in reports.

Contractor shall provide a toll free or local telephone contact number. Also, must maintain a data base for historical retrieval of information.

Order

Contractor shall provide a plan to combat trespassing, loitering and substance abuse.

Vehicles

Contractor shall provide a system to document, photograph, notify vehicle owner/residents, and keep track of problem vehicles and provide and issue citations for inoperable vehicles. Also, will contact OHA approved towing service and with approval from OHA remove previously identified inoperable vehicles or vehicles that are in an unsafe condition and/or parked in red fire lanes and in front of trash bins.

Servicing of Notices

Contractor shall provide, on an as-needed basis the service of notices. Service of notices shall be initiated within a minimum of 24 hours from receipt of request for service and submit copy of proof of service no later than 48 hours from date of service.

Maintenance Requests

Contractor shall, during their patrol, notate in writing any possible maintenance problems within the community to the property manager the following business day during normal business hours. Items to be included in this are broken windows, burned out lights, burned out security lighting, broken gates, etc. Emergency items should be called in to the On-Call Maintenance Person as needed.

Vacant Apartment Inspections

OHA will provide a list of vacant apartment/units for inspection to the contractor. The contractor shall conduct a **nightly** inspection of the vacant units. Contractor shall look for instances of vandalism, forced entry or other maintenance related issues and provide documentation to the property manager.

Service Locations

Services are to be provided at the following locations:

Service Sites:

Pleasant Valley 100-unit complex at Trevino Terrace and Squires Drive. Service Site also includes: Head Start Facility/2 standing vacant units and Administration, Maintenance and Shop/Warehouse at 5200 Squires Drive.	Colonia Village 70-unit complex located at Juanita & Marquita Streets, Gloria Court and Colonia Road. Service Site also includes Administration, Maintenance and Shop/Warehouse at 300 N Marquita. Also includes Administration Buildings located at 1470 Colonia Road and 1500 Camino Del Sol.
Felicia Court 100-unit complex at 1201-1363 Felicia Court. Service Site also includes vacant lots located on Carmelita, Dolores, and Eliza Courts.	

Scattered Sites:

640-666 Cuesta Del Mar (12 units)	2940-3026 Concord Drive (20 units)
230-257 Fashion Park (24 units)	1341-1387 Althea Court (20 units-8 units have been demolished)
215-237 West Hill Street (12 units)	1330-1356 Fremont Way (12 units)

If additional sites are added at a future date or additional services are needed, a separate cost proposal will be obtained for the additional site or service.

EQUAL EMPLOYMENT OPPORTUNITIES

During the performance of this agreement, Contractor/Firm shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or handicap.

APPROPRIATE LICENSE

Contractor shall be licensed in accordance with provisions of the Business and Professions Code: Private Security Services Act, Article 3 Section 7582. Additionally, all guards must possess the appropriate license issued by the State of California BSIS and local law enforcement. Contractor shall detail in their proposal what their recordkeeping procedure is for ensuring that employees are current on all licensing requirements.

All Contractors/Firms will be required to obtain the required business license.

WAGES

Must comply with local California wage compliance laws.

SECURITY PERSONNEL

All security personnel shall meet the requirements established for private security services by the State of California Bureau of Security and Investigative Services. Contractor shall detail the training, background investigation process for their officers.

EXHIBIT "B"

Cost Structure

Alltech Industries Inc. will furnish Oxnard Housing Authority licensed and insured security officers. The hourly rates for this project are:

\$24.28/hr. - Un-armed Vehicle Patrol Services

\$106,055.04 yearly cost.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/21/2021

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

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

PRODUCER THINK Ins & Fin Svs, LLC 101 W Mission Blvd Suite 224 Pomona CA 91766	CONTACT NAME: Joseph Esparza PHONE (A/C, No, Ext): 8554844654 FAX (A/C, No): E-MAIL ADDRESS: joe@think-ins.com														
INSURED ALLTECH INDUSTRIES, INC. 16350 MOJAVE DR VICTORVILLE CA 92395	<table border="1"><thead><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A: INFINITY SELECT INS CO</td><td>20260</td></tr><tr><td>INSURER B: STATE COMPENSATION INSURANCE FUND</td><td>35076</td></tr><tr><td>INSURER C: ZURICH / STEADFAST INSURANCE CO</td><td>26387</td></tr><tr><td>INSURER D:</td><td></td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></tbody></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: INFINITY SELECT INS CO	20260	INSURER B: STATE COMPENSATION INSURANCE FUND	35076	INSURER C: ZURICH / STEADFAST INSURANCE CO	26387	INSURER D:		INSURER E:		INSURER F:	
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INSURER D:															
INSURER E:															
INSURER F:															

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	☒ COMMERCIAL GENERAL LIABILITY	Y	Y	EOL0288581-03	03/20/2021	03/20/2022	EACH OCCURRENCE \$ 5,000,000
	☐ CLAIMS-MADE ☒ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
	☒ ERRORS & OMISSIONS						MED EXP (Any one person) \$ 5,000
	☒ ASSAULT & BATTERY						PERSONAL & ADV INJURY \$ 5,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:						GENERAL AGGREGATE \$ 5,000,000
							PRODUCTS - COMP/OP AGG \$ 5,000,000
A	AUTOMOBILE LIABILITY	Y	Y	504581038526001	02/16/2021	02/16/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	☐ ANY AUTO						BODILY INJURY (Per person) \$
	☐ OWNED AUTOS ONLY						BODILY INJURY (Per accident) \$
	☒ HIRED AUTOS ONLY						PROPERTY DAMAGE (Per accident) \$ 1,000,000
	☒ NON-OWNED AUTOS ONLY						
	UMBRELLA LIAB						EACH OCCURRENCE \$
	☐ EXCESS LIAB						AGGREGATE \$
	☐ DED ☐ RETENTION \$						
	☐ OCCUR						
	☐ CLAIMS-MADE						
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y	N/A	9218054-2021	03/17/2021	03/17/2022	☒ PER STATUTE ☐ OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	THIRD PARTY EMPLOYEE DISHONESTY	Y	Y	EOL0288581-02	03/20/2021	03/20/2022	EACH OCCURRENCE 100,000

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

PROJECT #: A-8293 ARMED SECURITY SVCS
"Ongoing Operations" Included on Additional Insured Endorsement.
"Primary Non-Contributory" Wording included in policy (see attached)

(SEE ATTACHED ACORD 101)

CERTIFICATE HOLDER**CANCELLATION**

City of Oxnard Housing Authority Attn: (cont. in ACORD 101) P.O. Box 100085 - OX Duluth GA 90096	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Joseph Esparza
--	---

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AGENCY CUSTOMER ID: _____

LOC #: _____



ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY THINK Ins & Fin Svs, LLC		NAMED INSURED ALLTECH INDUSTRIES, INC.
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: Certificate Of Liability Insurance

**Certificate Holder Name:

City of Oxnard Housing Authority Attn: Insurance Compliance

Reference No. A-8293 Armed Security Svcs



CITY COUNCIL AGENDA REPORT

PUBLIC HEARINGS AGENDA ITEM NO. L.1

DATE: September 7, 2021

TO: City Council

FROM: Jason Benites, Police Chief, (805) 385-7624, jason.benites@oxnardpd.org

SUBJECT: Edward Byrne Memorial Justice Assistance Grant Program FY2021 Local JAG

RECOMMENDATION

That City Council conduct a public hearing and adopt a resolution:

1. Authorizing the City Manager a prior execution and submission of an application for U.S. Department of Justice (DOJ) grant funds in the amount of \$107,007 from the Edward Byrne Memorial Justice Assistance Grant (JAG) Formula Program's FY 2021 Local Solicitation with no matching fund requirement;
2. Authorizing the City Manager to execute a Memorandum of Understanding with the County of Ventura and the City of San Buenaventura designating the City of Oxnard as the lead agency and fiscal agent for the JAG;
3. Authorizing the City Manager or designee to execute grant agreements and appropriate funds upon notification of grant award;
4. Authorizing the Chief Financial Officer or designee to submit financial reports and grant claims and approve administrative budget appropriation for the use of JAG funds upon award; and
5. Authorizing the Chief of Police or designee to submit all program-related progress or status reports.

(This item did not originate in Committee.)

Please click the following link to view the required Measure M pre-recorded presentation video:

<https://youtu.be/kTeaHsVnNXo>

BACKGROUND

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program is the primary provider of federal criminal justice funding to state and local jurisdictions. JAG- funded projects may address crime through the provision of services directly to individuals and/or communities and by improving the effectiveness and efficiency of criminal justice systems, processes, and procedures. A recent JAG funding allocation list provided by the Bureau of Justice Assistance (BJA) announced that the combined award amounts for agencies within Ventura County totals \$107,007. Of this amount, the City of Oxnard is eligible to receive an award of \$60,943. Matching funds are not required.

BJA requires that a joint application be submitted by agencies within Ventura County. The City of Oxnard, whose award amount is 57% of the overall JAG award eligibility among Ventura County and its cities, will serve as the grant's lead agency. The lead agency will submit the application on behalf of all parties, and will receive the award and then disburse it to other grantees within Ventura County. The City of Oxnard intends to reallocate ten percent (10%), or \$10,700 of the total countywide award eligibility to the City of Oxnard for costs related to administering the grant.

Of the \$107,007 in countywide JAG funding, the awards will be distributed as follows:

Agency	Agency Base Award Eligibility	10% Administration Fee	Agency Adjusted Award Amount	Oxnard Total
Oxnard City	60,943	6,094	54,849	65,549

San Buenaventura	34,141	3,414	30,727	
Ventura County	11,923	1,192	10,731	
Total	107,007	10,700	96,307	

Funds from this grant can be used to improve or enhance law enforcement programs and preserve and/or create jobs, which may include equipment/supplies, training, personnel, and/or contractual support. Grantees may utilize JAG funds for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, as well as research and evaluation activities that will improve or enhance law enforcement programs related to criminal justice. The grant monies may not supplant or replace funds that have been appropriated for the same purpose.

The Oxnard Police Department will apply its \$54,849 share of the JAG award towards the purchase of drone equipment, ballistic equipment, and office equipment.

The application deadline for JAG grant funding was August 16, 2021.

STRATEGIC PRIORITIES

This agenda item supports Public Safety strategy. The purpose of the Public Safety strategy is to restore and modernize the delivery of public safety services to provide for the safety of our neighborhoods and health of our community.

FINANCIAL IMPACT

Approval of this recommendation will not have an impact on the General Fund. This grant does not require any matching contribution. The funding will serve to supplement public safety and will not supplant existing efforts.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Delia Campbell, Police Finance Manager

ATTACHMENTS

1. Resolution
2. SF-424
3. City Council Presentation

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING SUBMITTAL OF GRANT APPLICATION AND APPROVING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING DESIGNATING THE CITY OF OXNARD AS THE LEAD AGENCY AND FISCAL AGENT FOR GRANT FUNDS

WHEREAS, City Council Resolution No. 12,053 sets out the procedure by which City staff may submit grant applications, following approval by resolution of the City Council; and

WHEREAS, U.S. Department of Justice grant funds in the amount of \$107,007 from the Edward Byrne Justice Assistance Grant (JAG) Formula Program has been allocated to law enforcement agencies within the County of Ventura; and

WHEREAS, a joint application for JAG funds must be submitted by law enforcement agencies within the County of Ventura; and

WHEREAS, the County of Ventura and the City of San Buenaventura have designated the City of Oxnard as the lead agency and fiscal agent for the JAG; and

WHEREAS, the Police Department has requested the City Council approve the submittal of a joint application to the U.S. Department of Justice for \$107,007 in JAG funds, with the City's portion to be used to purchase drone equipment, ballistic equipment, and office equipment.

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

1. The City Manager is authorized to execute and submit a grant application for the Edward Byrne Memorial Assistance Grant (JAG) Formula Program.
2. The City Manager is authorized to execute a Memorandum of Understanding with the County of Ventura and the City of San Buenaventura, designating the City of Oxnard as the lead agency and fiscal agent for the JAG.
3. The City Manager or designee is authorized to execute grant agreements.
4. The Chief Financial Officer or designee is authorized to submit financial reports and grant claims and approve administrative budget adjustments for the use of the grant funds.
5. The Chief of Police or designee is authorized to submit all program related progress or status reports.

PASSED AND ADOPTED THIS 7th day of September, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John Zaragoza, Mayor

ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

Application for Federal Assistance SF-424		
* 1. Type of Submission: ☐ Preapplication ☒ Application ☐ Changed/Corrected Application		
* 2. Type of Application: ☒ New ☐ Continuation ☐ Revision		
* If Revision, select appropriate letter(s): * Other (Specify): 		
* 3. Date Received: Completed by Grants.gov upon submission.		4. Applicant Identifier: 081790214
5a. Federal Entity Identifier: 		5b. Federal Award Identifier:
State Use Only:		
6. Date Received by State:		7. State Application Identifier:
8. APPLICANT INFORMATION:		
* a. Legal Name: CITY OF OXNARD		
* b. Employer/Taxpayer Identification Number (EIN/TIN): 956000756		* c. Organizational DUNS: 0817902140000
d. Address:		
* Street1: 305 WEST 3RD STREET		
Street2:		
* City: OXNARD		
County/Parish: VENTURA		
* State: CA: California		
Province:		
* Country: USA: UNITED STATES		
* Zip / Postal Code: 93030-5790		
e. Organizational Unit:		
Department Name: OXNARD POLICE DEPARTMENT		Division Name:
f. Name and contact information of person to be contacted on matters involving this application:		
Prefix:		* First Name: DELIA
Middle Name:		
* Last Name: CAMPBELL		
Suffix:		
Title: POLICE FINANCE MANAGER		
Organizational Affiliation: 		
* Telephone Number: 805-385-7612		Fax Number:
* Email: delia.campbell@oxnardpd.org		

Application for Federal Assistance SF-424

* 9. Type of Applicant 1: Select Applicant Type:

C: City or Township Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

* 10. Name of Federal Agency:

Bureau of Justice Assistance

11. Catalog of Federal Domestic Assistance Number:

16.738

CFDA Title:

Edward Byrne Memorial Justice Assistance Grant Program

* 12. Funding Opportunity Number:

O-BJA-2021-35004

* Title:

BJA FY 21 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation

13. Competition Identification Number:

C-BJA-2021-00150-PROD

Title:

Category 2 - Applicants with eligible allocation amounts of \$25,000 or more

14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment

Delete Attachment

View Attachment

* 15. Descriptive Title of Applicant's Project:

COUNTY OF VENTURA FY2021 JUSTICE ASSISTANCE GRANT

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

Application for Federal Assistance SF-424**16. Congressional Districts Of:*** a. Applicant * b. Program/Project

Attach an additional list of Program/Project Congressional Districts if needed.

[Add Attachment](#)[Delete Attachment](#)[View Attachment](#)**17. Proposed Project:*** a. Start Date: * b. End Date: **18. Estimated Funding (\$):**

* a. Federal	107,007.00
* b. Applicant	0.00
* c. State	0.00
* d. Local	0.00
* e. Other	0.00
* f. Program Income	0.00
* g. TOTAL	107,007.00

*** 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

- ☒ a. This application was made available to the State under the Executive Order 12372 Process for review on
- ☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- ☐ c. Program is not covered by E.O. 12372.

*** 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**☐ Yes ☒ No

If "Yes", provide explanation and attach

[Add Attachment](#)[Delete Attachment](#)[View Attachment](#)

21. *By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: * First Name:

Middle Name:

* Last Name:

Suffix:

* Title: * Telephone Number: Fax Number: * Email: * Signature of Authorized Representative: * Date Signed:

EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM FY2021 LOCAL JAG

- Denise Shadinger, Assistant Police Chief
- Delia Campbell, Police Finance Manager

The City Council conduct a public hearing and adopt a resolution:

- Authorizing the City Manager the prior execution and submission of a grant application for the U.S. Department of Justice grant funds in the amount of \$107,007 from the Edward Byrne Memorial Justice Assistance Grant Formula Program FY2021 Local Solicitation, also known as JAG grant.
- Authorizing the City Manager the execution of a Memorandum of Understanding with the County of Ventura and the City of San Buenaventura designating the City of Oxnard as the lead agency and fiscal agent of the grant.

The Edward Byrne Memorial Justice Assistance Grant (JAG) Local Program is the primary provider of federal criminal justice funding to state and local jurisdictions.

Funds from this grant can be used to improve or enhance law enforcement programs, which may include the purchase of equipment/supplies, training, personnel, and/or contractual support. It can not be used to supplant or replace funds that have been appropriated for the same purposes.

No matching contribution is required.

JAG is a non-competitive, formula based grant. It is based on the local government's proportion of the State's 3-year violent crime average and population.

Allocation

Agency	Agency Base Award Eligibility	10% Administrative Fee	Agency Adjusted Award Amount	Oxnard Total
Oxnard City	\$ 60,943	\$ 6,094	\$ 54,849	\$ 65,549
San Buenaventura	34,141	3,414	30,727	
Ventura County	11,923	1,192	10,731	
Total	\$ 107,007	\$ 10,700	\$ 96,307	

The Department will use its \$ 54,849 share of the award towards the purchase of:

- Drone equipment
- Ballistic equipment
- Office equipment



QUESTIONS



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. M.1

DATE: September 7, 2021

TO: City Council

FROM: Phillip Molina, City Treasurer, (805) 385-7808, phillip.molina@oxnard.org

SUBJECT: Quarterly Investment Report for the Period Ending June 30, 2021

RECOMMENDATION

That the City Council receive and file the Quarterly Investment Report for the period ending June 20, 2021.
(This item did not originate in Committee.)
Please click the following link to view the required Measure M pre-recorded presentation
video: <https://youtu.be/d8unqRYW3fE>

BACKGROUND

The City of Oxnard's June 2021 investment report will be brief this reporting period. This report is submitted to the City Council pursuant to California Government Code section 53646 and the Investment Policy adopted by the City Council.

But first, I wish to give a special thanks to Eden Alomeri, Assistant City Treasurer and Martha Guerra, Division Chief, of the City, without whose assistance this report could not be generated. This report does not show the fund balances, nor disbursements, nor total receipts of the City of Oxnard, because Oxnard Municipal Code identifies the Oxnard Finance Department is charged with producing that information. This report does reflect the monthly investment information in the similar format that has been presented in previous months along with the amounts in the Bank statements as of June 30, 2021. The following data is included in this report.

Not in this sequence, it is our intention to show the public, the Juneor, and City Council the amounts in each city bank account so that you can see the percentage of available cash to the amount actually invested. You will notice the large buildup of cash in the bank account for the city's general business. This is the result of the anticipated rate changes, but it is the intent of the Treasurer to greatly increase the amount of cash invested so that once again it approaches 90% by year end.

Next, we will show you in a bar chart the amounts invested separated by their maturity date or year. This will allow you to see the ladder or spread of the investments in order to generate a higher return. Third, we explain that the cash flows over the last 15 months so you can judge the management of the cash and determine whether there are periods during the year when more money is available for a short period, overnight investments versus 2-, 3-, 4-, or 5-year maturities. Fourth, we will show you the daily cash position for June 30, 2021 so that you can see how the Treasurer's Office reviews our cash balances every day to assure that the city has enough liquidity to cover its obligations.

And next, we attached the detailed list of every investment that the city currently holds as of the last day of June 30, 2021.

This information is being provided to you using both charts and graphs. The charts are presented so that the Mayor, Council and the public can begin to see the actual amounts in the city's bank accounts at Bank of America. The graphs

are created in order to show trends, and relationships that are best understood in that method of presentation. So, while this report is brief in the number of pages, we hope to respond to any question you may have.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

The City's total amount invested as of June 30, 2021 at market value was \$312,551,530 purchased at a cost of \$313,757,630. Because of the fluctuation in the market rates yield on new instruments going up and down, the City's current investments have a lesser value than they cost, resulting in a net market loss of \$1,206,100 if we had to sell them in the market one month ago. Everything else being equal this means the instruments purchased when rates were going down are now marketed below their thus producing the calculated potential loss.

ITEM	June 2021
Cost of investments (book value)	\$313,757,630.00
Par or face value	\$313,459,000.00
Market value as estimated	\$312,551,530.00
Gain/Loss if forced to sell today	-\$1,206,100.00

Cash balances on the 30th day of June 2021 in each authorized city bank account with Bank of America total \$51,374,747.31 in the accounts shown below:

City Treasurer's bank accounts	June 2021	May 2021	April 2021
City's General Fund bank account	\$44,487,108.21	\$106,646,701.42	\$81,822,770.85
Successor Agency bank account	\$6,716,983.17	\$6,874,194.40	\$5,511,867.82
W/C (workers compensation) account	\$170,655.93	\$238,742.25	\$152,262.56
Parking Citations updated	3,6155.1	\$99,524.18	\$104,957.47
TOTAL CASH IN BANK ACCOUNTS	\$51,374,747.31	\$113,859,162.25	\$87,591,858.70

(Per Bank Statements as of June 30, 2021)

The investments have a par value of \$313,459,000 with a current market value of \$312,551,530 were purchased months or years ago. To provide greater return we can try to reduce the amount in LAIF and spread that over the 2,3,4, and 5-year terms. Recently, LAIF was generating an average return that is moving further from the City's average portfolio return. LAIF's June average apportionment rate was .22%, which is less than the current GSE (government sponsored enterprises) rates. Reducing the amount in LAIF would, however, reduce the liquidity of the portfolio.

So now the cost of the investments, the face value, and the market value as of June 30, 2021 is provided so at a glance you can see the summary of the entire portfolio, the risk, and the earnings with the current yield on a 365-day basis of .70% year to date. We believe monthly rates for GSEs have begun the long-awaited upswing.(?)

ITEM	June 2021	May 2021	April 2021
Cost of investments (book value)	\$313,757,630.00	\$244,832,019.44	\$235,076,952.19
Par or face value	\$313,459,000.00	\$244,710,000.00	\$234,958,000.00
Market value as estimated	\$312,551,530.00	\$244,099,010.00	\$234,102,190.00
Gain/Loss if forced to sell today	-\$1,206,100.00	-\$733,009.44	-\$974,762.19
Total Earnings per period	\$131,118.52	\$114,324.57	\$106,459.64
Earned interest Yield this month	0.550%	0.700%	0.718%

Now when we look back at the monthly cash flows of over 15 months, we found that the month with the highest cash outflow was August 2018 with an outflow of \$37.4 million. And the fact that we had \$75 million invested in LAIF, which can be drawn down within one day, means there should be no normal condition that would require the Treasurer to sell investments before their maturity. Before we reveal the details, we want to know the level of efficiency in our

investment team. But, first we look to see how much cash is available, how much cash is invested to determine the efficiency of the team. The goal is to invest 100% of available cash, and we know that for normal operations we should retain a daily balance of \$3-5 million in the bank accounts.

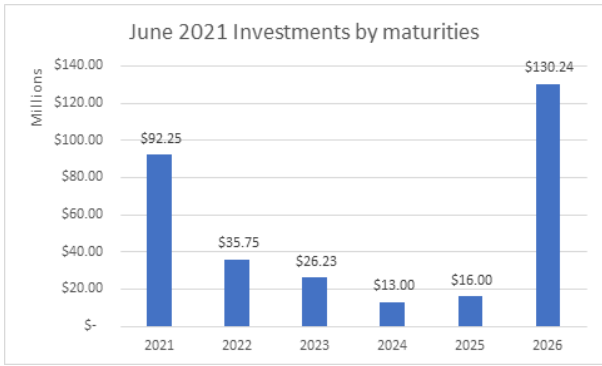
The daily cash report for the last working day in June shows sufficient available cash to satisfy the city's booked short-term obligations though somewhat reduced from prior months.

DAILY CASH POSITION WORKSHEET - GENERAL ACCOUNT		
DATE: 06/30/21		
-		
	CREDIT ESTIMATE	DESCRIPTION
Collected/Closing Avail Bal	51,992,287.30	As of 06/29/21
1 Day Float	369,140.27	As of 06/29/21
Credit Cards-C2G	45,781.79	
Credit Cards-One Point	17,498.84	
Auto Pay	77,343.37	
LAIF Withdrawal		
Investment Coupon	5,473.22	
Investment Call/Maturity		
Investment Call/Maturity		
Other	86,602.24	HUD
Other		
TOTAL CREDITS	\$ 52,594,127.03	
	DEBIT ESTIMATE	
Accounts Payable to Clear	300,000.00	
Investment Purchase	5,000,000.00	3130AMX64 1.1% due 6/30/26
Investment Purchase	3,000,000.00	3130AMXR8 1.125% due 6/26/26
Other	76,096.90	VCLA
Other	884,128.32	CalPERS
TOTAL DEBITS	\$ 9,260,225.22	
GENERAL ACCOUNT BALANCE	\$ 43,333,901.81	
SUCCESSOR AGENCY	\$ 6,716,983.17	
LAIF	\$ 75,000,000.00	

So, when we look at the detail, we see that the city is investing as a percent of total available cash. Bank of America provides a return of .19%. Thus, our efficiency rating is now 88.0%. The \$30 million for a loan to the General Fund, according to the CFO never materialized and the resolution provided that the loan would terminate if not needed by June 30th, therefore there is only one efficiency rating. It is important to note that in the recent 30 days the Treasurer has invested aggressively to maximize the efficient use of idle cash and will continue to remain active in the market for the near future:

EFFICIENCY RATING	June 2021	May 2021	April 2021
Total cash all bank accounts	\$51,374,747.31	\$113,859,162.25	\$87,591,858.70
less: CDC	\$6,716,983.17	\$6,874,194.40	\$5,511,867.82
Net available to invest	\$44,657,764.14	\$106,984,967.85	\$82,079,990.88
amount invested at cost	\$313,757,630.00	\$244,832,019.44	\$235,076,952.19
total available cash to invest	\$358,415,394.14	\$351,816,987.29	\$317,156,943.07
percent invested = efficiency	88%	70%	74%

The bar chart below, shows the maturities of City's investment portfolio and reflects the fact that as our older instruments are being called early, we find the need to acquire shorter term notes unless we can guarantee a rate of .19s % or higher as explained above. Starting in June and concluding in June we have invested all the ARPA money in s-t (less than 15 months) instruments where some we invested at the market rates below .19%.



COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Phillip Molina, City Treasurer

ATTACHMENTS

- 1. June Investments 06-2021



INVESTMENT INVENTORY WITH PREMIUM/DISCOUNT REPORT

As Of Date: 06/30/2021

Run: 07/23/2021 11:23:06 AM

Reporting Currency: Local

City of Oxnard

Inv No.	Description	Purch Date Mat Date	CUSIP CPR/PSA	Coupon YTM TR	Sch Bk Price Duration	Original Face Notional Face	Unamort Premium Unamort Discount	Current Par Current Book	Amort Premium Amort Discount	Accrued Interest
Mat Date: 8/20/2021										
17333	FHLB	06/02/2021	3130AJZ44	.12500	100.06032	7,250,000.00	4,372.96	7,250,000.00	0.00	3,297.74
		08/20/2021	0.00	.01000	.14000	0.00	0.00	7,254,372.96	0.00	
			Subtotal	.12500	100.06032	7,250,000.00	4,372.96	7,250,000.00	0.00	3,297.74
				.01000	.14000	0.00	0.00	7,254,372.96	0.00	
Mat Date: 11/29/2021										
17018	FHLB	12/30/2016	3130AABG2	1.87500	99.93873	2,000,000.00	0.00	2,000,000.00	0.00	3,333.33
		11/29/2021	0.00	2.00400	.41600	0.00	1,225.44	1,998,774.56	10,794.56	
17019	FHLB	12/30/2016	3130AABG2	1.87500	99.92537	2,000,000.00	0.00	2,000,000.00	0.00	3,333.33
		11/29/2021	0.00	2.03200	.41600	0.00	1,492.55	1,998,507.45	13,147.45	
			Subtotal	1.87500	99.93205	4,000,000.00	0.00	4,000,000.00	0.00	6,666.66
				2.01800	.41600	0.00	2,717.99	3,997,282.01	23,942.01	
Mat Date: 12/3/2021										
17337	FHLB	06/04/2021	3130AMS94	.03000	99.99770	5,000,000.00	0.00	5,000,000.00	0.00	112.50
		12/03/2021	0.00	.03500	.42700	0.00	115.00	4,999,885.00	0.00	
			Subtotal	.03000	99.99770	5,000,000.00	0.00	5,000,000.00	0.00	112.50
				.03500	.42700	0.00	115.00	4,999,885.00	0.00	
Mat Date: 1/13/2022										
17336	FHLMC	06/03/2021	3137EADB2	2.37500	102.35611	7,274,000.00	171,383.52	7,274,000.00	0.00	80,620.16
		01/13/2022	0.00	.03000	.53000	0.00	0.00	7,445,383.52	0.00	
			Subtotal	2.37500	102.35611	7,274,000.00	171,383.52	7,274,000.00	0.00	80,620.16
				.03000	.53000	0.00	0.00	7,445,383.52	0.00	
Mat Date: 4/6/2022										
17239	FFCB	07/06/2020	3133ELR89	.25000	100.02962	10,000,000.00	2,962.13	10,000,000.00	2,237.87	5,902.78
		04/06/2022	0.00	.22000	.76600	0.00	0.00	10,002,962.13	0.00	
			Subtotal	.25000	100.02962	10,000,000.00	2,962.13	10,000,000.00	2,237.87	5,902.78
				.22000	.76600	0.00	0.00	10,002,962.13	0.00	
Mat Date: 5/1/2022										
17246	MUNI	08/12/2020	446216HF3	.46900	100.00000	250,000.00	0.00	250,000.00	0.00	195.42
		05/01/2022	0.00	.46900	.83500	0.00	0.00	250,000.00	0.00	
			Subtotal	.46900	100.00000	250,000.00	0.00	250,000.00	0.00	195.42
				.46900	.83500	0.00	0.00	250,000.00	0.00	
Mat Date: 5/23/2022										
17062	FHLB	05/23/2017	3130ABCF1	2.50000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	5,277.78
		05/23/2022	0.00	2.50000	.89300	0.00	0.00	2,000,000.00	0.00	



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Subtotal				2.50000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	5,277.78
				2.50000	.89300	0.00	0.00	2,000,000.00	0.00	
Mat Date: 5/24/2022										
17063	CD	05/24/2017	1404203A6	2.40000	100.00000	245,000.00	0.00	245,000.00	0.00	596.05
		05/24/2022	0.00	2.40000	.89400	0.00	0.00	245,000.00	0.00	
17064	CD	05/24/2017	14042RFW6	2.40000	100.00000	245,000.00	0.00	245,000.00	0.00	596.05
		05/24/2022	0.00	2.40000	.89400	0.00	0.00	245,000.00	0.00	
Subtotal				2.40000	100.00000	490,000.00	0.00	490,000.00	0.00	1,192.10
				2.40000	.89400	0.00	0.00	490,000.00	0.00	
Mat Date: 5/26/2022										
17070	CD	05/26/2017	87165EMK0	2.40000	100.00000	245,000.00	0.00	245,000.00	0.00	563.84
		05/26/2022	0.00	2.40000	.90000	0.00	0.00	245,000.00	0.00	
Subtotal				2.40000	100.00000	245,000.00	0.00	245,000.00	0.00	563.84
				2.40000	.90000	0.00	0.00	245,000.00	0.00	
Mat Date: 5/31/2022										
17076	CD	05/31/2017	38148PKJ5	2.40000	100.00000	245,000.00	0.00	245,000.00	0.00	467.18
		05/31/2022	0.00	2.40000	.91100	0.00	0.00	245,000.00	0.00	
17073	CD	05/31/2017	20033AUB0	2.35000	100.00000	245,000.00	0.00	245,000.00	0.00	0.00
		05/31/2022	0.00	2.35000	.90800	0.00	0.00	245,000.00	0.00	
Subtotal				2.37500	100.00000	490,000.00	0.00	490,000.00	0.00	467.18
				2.37500	.90950	0.00	0.00	490,000.00	0.00	
Mat Date: 9/15/2022										
17332	FFCB	06/01/2021	3133EMD66	.08000	99.98710	5,000,000.00	0.00	5,000,000.00	0.00	333.33
		09/15/2022	0.00	.09000	1.20800	0.00	645.00	4,999,355.00	0.00	
Subtotal				.08000	99.98710	5,000,000.00	0.00	5,000,000.00	0.00	333.33
				.09000	1.20800	0.00	645.00	4,999,355.00	0.00	
Mat Date: 12/2/2022										
17334	FFCB	06/03/2021	3133EME24	.07000	99.99019	10,000,000.00	0.00	10,000,000.00	0.00	563.88
		12/02/2022	0.00	.07700	1.42200	0.00	980.56	9,999,019.44	0.00	
Subtotal				.07000	99.99019	10,000,000.00	0.00	10,000,000.00	0.00	563.88
				.07700	1.42200	0.00	980.56	9,999,019.44	0.00	
Mat Date: 2/6/2023										
17245	FHLMC	08/12/2020	3134GWL06	.30000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	1,208.33
		02/06/2023	0.00	.30000	1.59600	0.00	0.00	1,000,000.00	0.00	
Subtotal				.30000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	1,208.33



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				.30000	1.59600	0.00	0.00	1,000,000.00	0.00	
Mat Date: 6/26/2023										
17109	CD	06/26/2018	02589AAM4	3.30000	100.00000	245,000.00	0.00	245,000.00	0.00	88.59
		06/26/2023	0.00	3.30000	1.94100	0.00	0.00	245,000.00	0.00	
			Subtotal	3.30000	100.00000	245,000.00	0.00	245,000.00	0.00	88.59
				3.30000	1.94100	0.00	0.00	245,000.00	0.00	
Mat Date: 6/27/2023										
17110	CD	06/27/2018	254673QR0	3.30000	100.00000	245,000.00	0.00	245,000.00	0.00	66.44
		06/27/2023	0.00	3.30000	1.94400	0.00	0.00	245,000.00	0.00	
			Subtotal	3.30000	100.00000	245,000.00	0.00	245,000.00	0.00	66.44
				3.30000	1.94400	0.00	0.00	245,000.00	0.00	
Mat Date: 6/28/2023										
17111	CD	06/28/2018	17312QN96	3.30000	100.00000	245,000.00	0.00	245,000.00	0.00	44.53
		06/28/2023	0.00	3.30000	1.94600	0.00	0.00	245,000.00	0.00	
			Subtotal	3.30000	100.00000	245,000.00	0.00	245,000.00	0.00	44.53
				3.30000	1.94600	0.00	0.00	245,000.00	0.00	
Mat Date: 6/29/2023										
17113	CD	06/29/2018	05580ANG5	3.30000	100.00000	245,000.00	0.00	245,000.00	0.00	22.32
		06/29/2023	0.00	3.30000	1.94900	0.00	0.00	245,000.00	0.00	
			Subtotal	3.30000	100.00000	245,000.00	0.00	245,000.00	0.00	22.32
				3.30000	1.94900	0.00	0.00	245,000.00	0.00	
Mat Date: 8/3/2023										
17244	FNMA	08/12/2020	3135G05P4	.30000	99.95056	1,000,000.00	0.00	1,000,000.00	0.00	1,233.33
		08/03/2023	0.00	.32000	2.08400	0.00	494.38	999,505.62	95.62	
			Subtotal	.30000	99.95056	1,000,000.00	0.00	1,000,000.00	0.00	1,233.33
				.32000	2.08400	0.00	494.38	999,505.62	95.62	
Mat Date: 9/11/2023										
17247	FHLB	09/11/2020	3130AK4S2	.28000	99.95414	5,000,000.00	0.00	5,000,000.00	0.00	4,277.78
		09/11/2023	0.00	.29800	2.19000	0.00	2,292.92	4,997,707.08	457.08	
			Subtotal	.28000	99.95414	5,000,000.00	0.00	5,000,000.00	0.00	4,277.78
				.29800	2.19000	0.00	2,292.92	4,997,707.08	457.08	
Mat Date: 10/13/2023										
17250	FFCB	10/21/2020	3133EMCQ3	.28000	99.99077	2,000,000.00	0.00	2,000,000.00	0.00	1,213.33
		10/13/2023	0.00	.28400	2.27900	0.00	184.58	1,999,815.42	35.42	



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Subtotal				.28000	99.99077	2,000,000.00	0.00	2,000,000.00	0.00	1,213.33
				.28400	2.27900	0.00	184.58	1,999,815.42	35.42	
Mat Date: 10/24/2023										
17248	FNMA	09/24/2020	3136G43C5	.30000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	808.33
		10/24/2023	0.00	.30000	2.30900	0.00	0.00	1,000,000.00	0.00	
Subtotal				.30000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	808.33
				.30000	2.30900	0.00	0.00	1,000,000.00	0.00	
Mat Date: 11/7/2023										
17118	CD	11/07/2018	90348JFQ8	3.50000	100.00000	245,000.00	0.00	245,000.00	0.00	540.36
		11/07/2023	0.00	3.50000	2.25500	0.00	0.00	245,000.00	0.00	
Subtotal				3.50000	100.00000	245,000.00	0.00	245,000.00	0.00	540.36
				3.50000	2.25500	0.00	0.00	245,000.00	0.00	
Mat Date: 11/16/2023										
17251	FNMA	11/16/2020	3135G06F5	.31000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	387.50
		11/16/2023	0.00	.31000	2.37000	0.00	0.00	1,000,000.00	0.00	
Subtotal				.31000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	387.50
				.31000	2.37000	0.00	0.00	1,000,000.00	0.00	
Mat Date: 11/24/2023										
17252	FHLMC	11/24/2020	3134GXCA0	.32000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	328.89
		11/24/2023	0.00	.32000	2.39200	0.00	0.00	1,000,000.00	0.00	
17253	FHLMC	11/24/2020	3134GXDT8	.35000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	359.72
		11/24/2023	0.00	.35000	2.39100	0.00	0.00	1,000,000.00	0.00	
17254	FHLMC	11/24/2020	3134GXDT8	.35000	100.00000	5,000,000.00	0.00	5,000,000.00	0.00	1,798.61
		11/24/2023	0.00	.35000	2.39100	0.00	0.00	5,000,000.00	0.00	
Subtotal				.34571	100.00000	7,000,000.00	0.00	7,000,000.00	0.00	2,487.22
				.34571	2.39114	0.00	0.00	7,000,000.00	0.00	
Mat Date: 11/27/2023										
17255	FHLB	11/27/2020	3130AKGL4	.30000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	283.33
		11/27/2023	0.00	.30000	2.40100	0.00	0.00	1,000,000.00	0.00	
Subtotal				.30000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	283.33
				.30000	2.40100	0.00	0.00	1,000,000.00	0.00	
Mat Date: 11/30/2023										
17256	FFCB	11/30/2020	3133EMHL9	.31000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	266.94
		11/30/2023	0.00	.31000	2.40900	0.00	0.00	1,000,000.00	0.00	
Subtotal				.31000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	266.94



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				.31000	2.40900	0.00	0.00	1,000,000.00	0.00	
Mat Date: 12/15/2023										
17257	FNMA	12/15/2020	3135GA6D8	.32000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	284.44
		12/15/2023	0.00	.32000	2.45000	0.00	0.00	2,000,000.00	0.00	
			Subtotal	.32000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	284.44
				.32000	2.45000	0.00	0.00	2,000,000.00	0.00	
Mat Date: 12/29/2023										
17258	FNMA	12/29/2020	3135GABN0	.28000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	15.56
		12/29/2023	0.00	.28000	2.49000	0.00	0.00	1,000,000.00	0.00	
17249	FHLMC	10/07/2020	3134GWXB7	.30000	99.99148	2,000,000.00	0.00	2,000,000.00	0.00	33.33
		12/29/2023	0.00	.30300	2.49000	0.00	170.32	1,999,829.68	49.68	
			Subtotal	.29333	99.99432	3,000,000.00	0.00	3,000,000.00	0.00	48.89
				.29533	2.49000	0.00	170.32	2,999,829.68	49.68	
Mat Date: 2/16/2024										
17290	MTN	02/16/2021	06048WL24	.30000	100.00000	3,000,000.00	0.00	3,000,000.00	0.00	1,100.00
		02/16/2024	0.00	.30000	2.61700	0.00	0.00	3,000,000.00	0.00	
			Subtotal	.30000	100.00000	3,000,000.00	0.00	3,000,000.00	0.00	1,100.00
				.30000	2.61700	0.00	0.00	3,000,000.00	0.00	
Mat Date: 7/22/2024										
17266	FFCB	01/22/2021	3133EMNK4	.31000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	2,738.33
		07/22/2024	0.00	.31000	3.04500	0.00	0.00	2,000,000.00	0.00	
17267	FFCB	01/22/2021	3133EMNK4	.31000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	1,369.17
		07/22/2024	0.00	.31000	3.04500	0.00	0.00	1,000,000.00	0.00	
			Subtotal	.31000	100.00000	3,000,000.00	0.00	3,000,000.00	0.00	4,107.50
				.31000	3.04500	0.00	0.00	3,000,000.00	0.00	
Mat Date: 8/26/2024										
17302	FHLB	02/26/2021	3130ALES9	.33000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	2,291.67
		08/26/2024	0.00	.33000	3.13800	0.00	0.00	2,000,000.00	0.00	
			Subtotal	.33000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	2,291.67
				.33000	3.13800	0.00	0.00	2,000,000.00	0.00	
Mat Date: 9/30/2024										
17317	FHLB	03/30/2021	3130ALNC4	.50000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	1,263.89
		09/30/2024	0.00	.50000	3.23100	0.00	0.00	1,000,000.00	0.00	
			Subtotal	.50000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	1,263.89
				.50000	3.23100	0.00	0.00	1,000,000.00	0.00	



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Inv No.	Description	Purch Date Mat Date	CUSIP CPR/PSA	Coupon YTM TR	Sch Bk Price Duration	Original Face Notional Face	Unamort Premium Unamort Discount	Current Par Current Book	Amort Premium Amort Discount	Accrued Interest
Mat Date: 11/12/2024										
17289	FFCB	02/12/2021	3133EMQQ8	.30000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	408.33
		11/12/2024	0.00	.30000	3.35300	0.00	0.00	1,000,000.00	0.00	
17300	FFCB	02/25/2021	3133EMQQ8	.30000	99.76420	2,000,000.00	0.00	2,000,000.00	0.00	816.67
		11/12/2024	0.00	.36800	3.35300	0.00	4,716.08	1,995,283.92	283.92	
Subtotal				.30000	99.84280	3,000,000.00	0.00	3,000,000.00	0.00	1,225.00
				.34530	3.35300	0.00	4,716.08	2,995,283.92	283.92	
Mat Date: 11/26/2024										
17301	FHLB	02/26/2021	3130AKWM4	.30000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	1,041.67
		11/26/2024	0.00	.30000	3.39200	0.00	0.00	1,000,000.00	0.00	
Subtotal				.30000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	1,041.67
				.30000	3.39200	0.00	0.00	1,000,000.00	0.00	
Mat Date: 2/3/2025										
17282	MTN	02/01/2021	89236THZ1	.40000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	3,333.33
		02/03/2025	0.00	.40000	3.56400	0.00	0.00	2,000,000.00	0.00	
Subtotal				.40000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	3,333.33
				.40000	3.56400	0.00	0.00	2,000,000.00	0.00	
Mat Date: 3/11/2025										
17303	MTN	03/01/2021	459058JA2	.75000	100.88335	1,000,000.00	8,833.45	1,000,000.00	66.55	2,291.67
		03/11/2025	0.00	.52600	3.64600	0.00	0.00	1,008,833.45	0.00	
Subtotal				.75000	100.88335	1,000,000.00	8,833.45	1,000,000.00	66.55	2,291.67
				.52600	3.64600	0.00	0.00	1,008,833.45	0.00	
Mat Date: 3/24/2025										
17313	FHLB	03/24/2021	3130ALNU4	.68000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	1,832.22
		03/24/2025	0.00	.68000	3.68600	0.00	0.00	1,000,000.00	0.00	
Subtotal				.68000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	1,832.22
				.68000	3.68600	0.00	0.00	1,000,000.00	0.00	
Mat Date: 8/1/2025										
17260	MTN	01/08/2021	06051GFS3	3.87500	113.52988	1,000,000.00	135,298.78	1,000,000.00	2,061.22	16,145.83
		08/01/2025	0.00	.80400	3.78300	0.00	0.00	1,135,298.78	0.00	
Subtotal				3.87500	113.52988	1,000,000.00	135,298.78	1,000,000.00	2,061.22	16,145.83
				.80400	3.78300	0.00	0.00	1,135,298.78	0.00	
Mat Date: 8/20/2025										
17270	MTN	01/26/2021	037833DX5	.55000	100.05611	1,000,000.00	561.11	1,000,000.00	8.89	2,001.39
		08/20/2025	0.00	.53700	4.09000	0.00	0.00	1,000,561.11	0.00	



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Subtotal				.55000	100.05611	1,000,000.00	561.11	1,000,000.00	8.89	2,001.39
				.53700	4.09000	0.00	0.00	1,000,561.11	0.00	
Mat Date: 10/20/2025										
17263	FHLB	01/20/2021	3130AKNK8	.50000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,236.11
		10/20/2025	0.00	.50000	4.26600	0.00	0.00	1,000,000.00	0.00	
Subtotal				.50000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,236.11
				.50000	4.26600	0.00	0.00	1,000,000.00	0.00	
Mat Date: 10/26/2025										
17262	FHLB	01/20/2021	3130AKNK8	.50000	100.00000	5,000,000.00	0.00	5,000,000.00	0.00	11,180.56
		10/26/2025	0.00	.50000	4.28200	0.00	0.00	5,000,000.00	0.00	
Subtotal				.50000	100.00000	5,000,000.00	0.00	5,000,000.00	0.00	11,180.56
				.50000	4.28200	0.00	0.00	5,000,000.00	0.00	
Mat Date: 10/29/2025										
17281	FHLB	01/29/2021	3130AKVQ6	.47000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	1,984.44
		10/29/2025	0.00	.47000	4.29300	0.00	0.00	1,000,000.00	0.00	
Subtotal				.47000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	1,984.44
				.47000	4.29300	0.00	0.00	1,000,000.00	0.00	
Mat Date: 12/30/2025										
17259	FHLB	12/30/2020	3130AKLL8	.50000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	27.78
		12/30/2025	0.00	.50000	4.45500	0.00	0.00	2,000,000.00	0.00	
17315	FHLB	03/30/2021	3130ALNF7	1.00000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,527.78
		12/30/2025	0.00	1.00000	4.42100	0.00	0.00	1,000,000.00	0.00	
Subtotal				.66667	100.00000	3,000,000.00	0.00	3,000,000.00	0.00	2,555.56
				.66667	4.44367	0.00	0.00	3,000,000.00	0.00	
Mat Date: 1/15/2026										
17261	FHLB	01/20/2021	3130AKN36	.52500	100.00729	2,000,000.00	145.83	2,000,000.00	0.00	4,841.66
		01/15/2026	0.00	.52500	4.48300	0.00	0.00	2,000,145.83	0.00	
17274	MTN	01/27/2021	24422EVK2	.70000	100.03889	3,000,000.00	1,166.67	3,000,000.00	0.00	10,150.00
		01/15/2026	0.00	.70000	4.46100	0.00	0.00	3,001,166.67	0.00	
17276	MTN	01/28/2021	53961LAF6	.95000	100.00000	1,510,000.00	0.00	1,510,000.00	0.00	2,988.54
		01/15/2026	0.00	.95000	4.44300	0.00	0.00	1,510,000.00	0.00	
Subtotal				.70422	100.02016	6,510,000.00	1,312.50	6,510,000.00	0.00	17,980.20
				.70422	4.46358	0.00	0.00	6,511,312.50	0.00	
Mat Date: 1/22/2026										
17264	FHLB	01/22/2021	3130AKQ74	.62500	100.00000	5,000,000.00	0.00	5,000,000.00	0.00	13,802.08



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17265	FHLMC	01/22/2026	0.00	.62500	4.49200	0.00	0.00	5,000,000.00	0.00	
		01/22/2021	3134GXXJ2	.55000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	4,858.33
		01/22/2026	0.00	.55000	4.50000	0.00	0.00	2,000,000.00	0.00	
		Subtotal		.60357	100.00000	7,000,000.00	0.00	7,000,000.00	0.00	18,660.41
				.60357	4.49429	0.00	0.00	7,000,000.00	0.00	
Mat Date: 1/26/2026										
17268	FHLB	01/26/2021	3130AKMD5	.50000	99.95000	5,000,000.00	0.00	5,000,000.00	0.00	10,763.89
		01/26/2026	0.00	.51000	4.51600	0.00	2,500.00	4,997,500.00	0.00	
17269	FHLB	01/26/2021	3130AKNR3	.56000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,411.11
		01/26/2026	0.00	.56000	4.51000	0.00	0.00	1,000,000.00	0.00	
		Subtotal		.51000	99.95833	6,000,000.00	0.00	6,000,000.00	0.00	13,175.00
				.51834	4.51500	0.00	2,500.00	5,997,500.00	0.00	
Mat Date: 1/27/2026										
17271	FHLB	01/27/2021	3130AKU61	.30000	100.00000	5,000,000.00	0.00	5,000,000.00	0.00	6,416.67
		01/27/2026	0.00	.30000	4.54100	0.00	0.00	5,000,000.00	0.00	
17272	FHLB	01/27/2021	3130AKU61	.30000	100.00000	5,000,000.00	0.00	5,000,000.00	0.00	6,416.67
		01/27/2026	0.00	.30000	4.54100	0.00	0.00	5,000,000.00	0.00	
		Subtotal		.30000	100.00000	10,000,000.00	0.00	10,000,000.00	0.00	12,833.34
				.30000	4.54100	0.00	0.00	10,000,000.00	0.00	
Mat Date: 1/28/2026										
17273	FHLB	01/28/2021	3130AKQX7	.70000	100.01000	2,000,000.00	200.00	2,000,000.00	0.00	5,950.00
		01/28/2026	0.00	.69800	4.50000	0.00	0.00	2,000,200.00	0.00	
17275	FHLB	01/28/2021	3130AKRN8	.65000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	5,525.00
		01/28/2026	0.00	.65000	4.50600	0.00	0.00	2,000,000.00	0.00	
17277	FHLB	01/28/2021	3130AKQX7	.70000	100.00000	5,000,000.00	0.00	5,000,000.00	0.00	14,875.00
		01/28/2026	0.00	.70000	4.50000	0.00	0.00	5,000,000.00	0.00	
17278	FHLB	01/28/2021	3130AKQ82	.60000	100.00000	1,500,000.00	0.00	1,500,000.00	0.00	3,825.00
		01/28/2026	0.00	.60000	4.51100	0.00	0.00	1,500,000.00	0.00	
		Subtotal		.67619	100.00190	10,500,000.00	200.00	10,500,000.00	0.00	30,175.00
				.67581	4.50271	0.00	0.00	10,500,200.00	0.00	
Mat Date: 1/29/2026										
17279	FHLB	01/29/2021	3130AKPN0	.60000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	5,066.67
		01/29/2026	0.00	.60000	4.51400	0.00	0.00	2,000,000.00	0.00	
17280	FHLB	01/29/2021	3130AKVN3	.52000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,195.56
		01/29/2026	0.00	.52000	4.52300	0.00	0.00	1,000,000.00	0.00	
		Subtotal		.57333	100.00000	3,000,000.00	0.00	3,000,000.00	0.00	7,262.23



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				.57333	4.51700	0.00	0.00	3,000,000.00	0.00	
Mat Date: 2/8/2026										
17283	MTN	02/08/2021	037833EB2	.70000	99.99500	1,000,000.00	0.00	1,000,000.00	0.00	2,780.56
		02/08/2026	0.00	.70100	4.52800	0.00	50.00	999,950.00	0.00	
			Subtotal	.70000	99.99500	1,000,000.00	0.00	1,000,000.00	0.00	2,780.56
				.70100	4.52800	0.00	50.00	999,950.00	0.00	
Mat Date: 2/9/2026										
17284	FHLB	02/09/2021	3130AKWD4	.30000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	1,183.33
		02/09/2026	0.00	.30000	4.57500	0.00	0.00	1,000,000.00	0.00	
17285	FHLB	02/09/2021	3130AKWD4	.30000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	1,183.33
		02/09/2026	0.00	.30000	4.57500	0.00	0.00	1,000,000.00	0.00	
17286	FHLB	02/09/2021	3130AKTJ5	.54000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	4,260.00
		02/09/2026	0.00	.54000	4.54800	0.00	0.00	2,000,000.00	0.00	
17287	FHLB	02/09/2021	3130AKVA1	.30000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	2,366.67
		02/09/2026	0.00	.30000	4.57500	0.00	0.00	2,000,000.00	0.00	
			Subtotal	.38000	100.00000	6,000,000.00	0.00	6,000,000.00	0.00	8,993.33
				.38000	4.56600	0.00	0.00	6,000,000.00	0.00	
Mat Date: 2/12/2026										
17288	FHLB	02/12/2021	3130AKVR4	.55000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,123.61
		02/12/2026	0.00	.55000	4.55500	0.00	0.00	1,000,000.00	0.00	
			Subtotal	.55000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,123.61
				.55000	4.55500	0.00	0.00	1,000,000.00	0.00	
Mat Date: 2/24/2026										
17291	FHLB	02/24/2021	3130AL7M0	.62500	99.75000	2,000,000.00	0.00	2,000,000.00	0.00	4,409.72
		02/24/2026	0.00	.67600	4.58000	0.00	5,000.00	1,995,000.00	0.00	
17292	FHLB	02/24/2021	3130AKXJ0	.60000	99.92000	1,000,000.00	0.00	1,000,000.00	0.00	2,116.67
		02/24/2026	0.00	.61600	4.58300	0.00	800.00	999,200.00	0.00	
17293	FHLB	02/24/2021	3130AKXJ0	.60000	99.92000	5,000,000.00	0.00	5,000,000.00	0.00	10,583.33
		02/24/2026	0.00	.61600	4.58300	0.00	4,000.00	4,996,000.00	0.00	
17294	FHLB	02/24/2021	3130AKXJ0	.60000	100.00000	3,000,000.00	0.00	3,000,000.00	0.00	6,350.00
		02/24/2026	0.00	.60000	4.58300	0.00	0.00	3,000,000.00	0.00	
17295	FHLB	02/24/2021	3130AKXJ0	.60000	99.95000	1,000,000.00	0.00	1,000,000.00	0.00	2,116.67
		02/24/2026	0.00	.61000	4.58300	0.00	500.00	999,500.00	0.00	
17296	FHLB	02/24/2021	3130AKXJ0	.60000	99.95000	1,000,000.00	0.00	1,000,000.00	0.00	2,116.67
		02/24/2026	0.00	.61000	4.58300	0.00	500.00	999,500.00	0.00	
17298	FHLB	02/24/2021	3130ALCB8	.68000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,398.89



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17299	FHLB	02/24/2026	0.00	.68000	4.57400	0.00	0.00	1,000,000.00	0.00	
		02/24/2021	3130AL7M0	.62500	99.95000	1,000,000.00	0.00	1,000,000.00	0.00	2,204.86
		02/24/2026	0.00	.63500	4.58000	0.00	500.00	999,500.00	0.00	
17297	MTN	02/24/2021	06048WL32	.80000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,822.22
		02/24/2026	0.00	.80000	4.56100	0.00	0.00	1,000,000.00	0.00	
		Subtotal				.62219	99.92938	16,000,000.00	0.00	16,000,000.00
				.63643	4.58050	0.00	11,300.00	15,988,700.00	0.00	
Mat Date: 3/2/2026										
17304	FAMCA	03/02/2021	31422XAS1	.61000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,016.39
		03/02/2026	0.00	.61000	4.60400	0.00	0.00	1,000,000.00	0.00	
		Subtotal				.61000	100.00000	1,000,000.00	0.00	1,000,000.00
				.61000	4.60400	0.00	0.00	1,000,000.00	0.00	
Mat Date: 3/10/2026										
17305	FHLB	03/10/2021	3130ALFS8	.80000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,466.67
		03/10/2026	0.00	.80000	4.60600	0.00	0.00	1,000,000.00	0.00	
		Subtotal				.80000	100.00000	1,000,000.00	0.00	1,000,000.00
				.80000	4.60600	0.00	0.00	1,000,000.00	0.00	
Mat Date: 3/16/2026										
17306	FHLB	03/16/2021	3130ALDN1	.80000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,333.33
		03/16/2026	0.00	.80000	4.62200	0.00	0.00	1,000,000.00	0.00	
		17307	FHLB	03/16/2021	3130ALDN1	.80000	100.00000	1,000,000.00	0.00	1,000,000.00
03/16/2026	0.00			.80000	4.62200	0.00	0.00	1,000,000.00	0.00	
Subtotal				.80000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	4,666.66
				.80000	4.62200	0.00	0.00	2,000,000.00	0.00	
Mat Date: 3/17/2026										
17308	FHLB	03/17/2021	3130ALM35	.92000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,657.78
		03/17/2026	0.00	.92000	4.61200	0.00	0.00	1,000,000.00	0.00	
		17309	FHLB	03/17/2021	3130ALGB4	8.00000	100.00000	1,000,000.00	0.00	1,000,000.00
03/17/2026	0.00			8.00000	3.93200	0.00	0.00	1,000,000.00	0.00	
Subtotal				4.46000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	25,768.89
				4.46000	4.27200	0.00	0.00	2,000,000.00	0.00	
Mat Date: 3/23/2026										
17310	FHLB	03/23/2021	3130ALGJ7	1.00000	100.00000	975,000.00	0.00	975,000.00	0.00	2,654.17
		03/23/2026	0.00	1.00000	4.62000	0.00	0.00	975,000.00	0.00	
		17311	FHLB	03/23/2021	3130ALGC2	.87500	100.00000	1,000,000.00	0.00	1,000,000.00
03/23/2026	0.00			.87500	4.63400	0.00	0.00	1,000,000.00	0.00	



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Reporting Currency: Local

City of Oxnard

Inv No.	Description	Purch Date Mat Date	CUSIP CPR/PSA	Coupon YTM TR	Sch Bk Price Duration	Original Face Notional Face	Unamort Premium Unamort Discount	Current Par Current Book	Amort Premium Amort Discount	Accrued Interest
Subtotal				.93671	100.00000	1,975,000.00	0.00	1,975,000.00	0.00	5,036.11
				.93671	4.62709	0.00	0.00	1,975,000.00	0.00	
Mat Date: 3/24/2026										
17312	FHLB	03/24/2021	3130ALLN2	.50000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	2,694.44
		03/24/2026	0.00	.50000	4.67800	0.00	0.00	2,000,000.00	0.00	
Subtotal				.50000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	2,694.44
				.50000	4.67800	0.00	0.00	2,000,000.00	0.00	
Mat Date: 3/30/2026										
17314	FHLB	03/30/2021	3130ALNN0	1.05000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,654.17
		03/30/2026	0.00	1.05000	4.63400	0.00	0.00	1,000,000.00	0.00	
17316	FHLB	03/30/2021	3130ALQX5	1.12500	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,843.75
		03/30/2026	0.00	1.12500	4.62600	0.00	0.00	1,000,000.00	0.00	
Subtotal				1.08750	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	5,497.92
				1.08750	4.63000	0.00	0.00	2,000,000.00	0.00	
Mat Date: 4/27/2026										
17318	FHLB	04/27/2021	3130ALXC3	1.20000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,133.33
		04/27/2026	0.00	1.20000	4.69300	0.00	0.00	1,000,000.00	0.00	
Subtotal				1.20000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,133.33
				1.20000	4.69300	0.00	0.00	1,000,000.00	0.00	
Mat Date: 4/28/2026										
17319	FHLB	04/28/2021	3130ALXM1	1.25000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,187.50
		04/28/2026	0.00	1.25000	4.69000	0.00	0.00	1,000,000.00	0.00	
17320	FHLB	04/28/2021	3130ALXM1	1.25000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,187.50
		04/28/2026	0.00	1.25000	4.69000	0.00	0.00	1,000,000.00	0.00	
Subtotal				1.25000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	4,375.00
				1.25000	4.69000	0.00	0.00	2,000,000.00	0.00	
Mat Date: 4/29/2026										
17321	FHLB	04/29/2021	3130ALXE9	1.20000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	2,066.67
		04/29/2026	0.00	1.20000	4.69800	0.00	0.00	1,000,000.00	0.00	
17322	FHLB	04/29/2021	3130AM2F8	1.12500	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	1,937.50
		04/29/2026	0.00	1.12500	4.70700	0.00	0.00	1,000,000.00	0.00	
17323	FHLB	04/29/2021	3130AM4L3	.50000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	861.11
		04/29/2026	0.00	.50000	4.77500	0.00	0.00	1,000,000.00	0.00	
Subtotal				.94167	100.00000	3,000,000.00	0.00	3,000,000.00	0.00	4,865.28
				.94167	4.72667	0.00	0.00	3,000,000.00	0.00	



INVESTMENT INVENTORY WITH PREMIUM/DISCOUNT REPORT

As Of Date: 06/30/2021

Run: 07/23/2021 11:23:06 AM

Reporting Currency: Local

City of Oxnard

Inv No.	Description	Purch Date Mat Date	CUSIP CPR/PSA	Coupon YTM TR	Sch Bk Price Duration	Original Face Notional Face	Unamort Premium Unamort Discount	Current Par Current Book	Amort Premium Amort Discount	Accrued Interest
Mat Date: 5/12/2026										
17335	FHLB	06/03/2021	3130AMCM2	.25000	99.98958	1,250,000.00	0.00	1,250,000.00	0.00	425.35
		05/12/2026	0.00	.25500	4.83900	0.00	130.21	1,249,869.79	0.00	
			Subtotal	.25000	99.98958	1,250,000.00	0.00	1,250,000.00	0.00	425.35
				.25500	4.83900	0.00	130.21	1,249,869.79	0.00	
Mat Date: 5/14/2026										
17324	MTN	05/14/2021	06048WL99	1.40000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	1,827.78
		05/14/2026	0.00	1.40000	4.71900	0.00	0.00	1,000,000.00	0.00	
17325	MTN	05/14/2021	06048WL99	1.40000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	3,655.56
		05/14/2026	0.00	1.40000	4.71900	0.00	0.00	2,000,000.00	0.00	
17326	MTN	05/14/2021	06048WL99	1.40000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	3,655.56
		05/14/2026	0.00	1.40000	4.71900	0.00	0.00	2,000,000.00	0.00	
			Subtotal	1.40000	100.00000	5,000,000.00	0.00	5,000,000.00	0.00	9,138.90
				1.40000	4.71900	0.00	0.00	5,000,000.00	0.00	
Mat Date: 5/26/2026										
17327	FHLB	05/26/2021	3130AMCT7	1.11000	100.00000	2,000,000.00	0.00	2,000,000.00	0.00	2,158.33
		05/26/2026	0.00	1.11000	4.78300	0.00	0.00	2,000,000.00	0.00	
17328	FHLB	05/26/2021	3130AMJH6	1.05000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	1,020.83
		05/26/2026	0.00	1.05000	4.79000	0.00	0.00	1,000,000.00	0.00	
			Subtotal	1.09000	100.00000	3,000,000.00	0.00	3,000,000.00	0.00	3,179.16
				1.09000	4.78533	0.00	0.00	3,000,000.00	0.00	
Mat Date: 5/27/2026										
17329	FHLB	05/27/2021	3130AML42	.60000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	566.67
		05/27/2026	0.00	.60000	4.84200	0.00	0.00	1,000,000.00	0.00	
17330	FHLB	05/27/2021	3130AMFH0	1.07000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	1,010.56
		05/27/2026	0.00	1.07000	4.79000	0.00	0.00	1,000,000.00	0.00	
17331	FHLB	05/27/2021	3130AMFH0	1.07000	100.00000	1,000,000.00	0.00	1,000,000.00	0.00	1,010.56
		05/27/2026	0.00	1.07000	4.79000	0.00	0.00	1,000,000.00	0.00	
			Subtotal	.91333	100.00000	3,000,000.00	0.00	3,000,000.00	0.00	2,587.79
				.91333	4.80733	0.00	0.00	3,000,000.00	0.00	
Mat Date: 6/10/2026										
17338	FHLB	06/10/2021	3130AMP22	1.10000	100.00000	5,000,000.00	0.00	5,000,000.00	0.00	3,208.33
		06/10/2026	0.00	1.10000	4.82300	0.00	0.00	5,000,000.00	0.00	
			Subtotal	1.10000	100.00000	5,000,000.00	0.00	5,000,000.00	0.00	3,208.33
				1.10000	4.82300	0.00	0.00	5,000,000.00	0.00	



INVESTMENT INVENTORY WITH PREMIUM/DISCOUNT REPORT

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Run: 07/23/2021 11:23:06 AM

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City of Oxnard

Inv No.	Description	Purch Date Mat Date	CUSIP CPR/PSA	Coupon YTM TR	Sch Bk Price Duration	Original Face Notional Face	Unamort Premium Unamort Discount	Current Par Current Book	Amort Premium Amort Discount	Accrued Interest
Mat Date: 6/16/2026										
17339	FHLB	06/16/2021	3130AMPQ9	1.05000	100.00000	5,000,000.00	0.00	5,000,000.00	0.00	2,187.50
		06/16/2026	0.00	1.05000	4.84500	0.00	0.00	5,000,000.00	0.00	
17340	FHLB	06/16/2021	3130AMM41	1.00000	100.00000	5,000,000.00	0.00	5,000,000.00	0.00	2,083.33
		06/16/2026	0.00	1.00000	4.85100	0.00	0.00	5,000,000.00	0.00	
Subtotal				1.02500	100.00000	10,000,000.00	0.00	10,000,000.00	0.00	4,270.83
				1.02500	4.84800	0.00	0.00	10,000,000.00	0.00	
Mat Date: 6/23/2026										
17341	FHLB	06/23/2021	3130AMPT3	1.03000	100.00000	5,000,000.00	0.00	5,000,000.00	0.00	1,144.44
		06/23/2026	0.00	1.03000	4.86700	0.00	0.00	5,000,000.00	0.00	
Subtotal				1.03000	100.00000	5,000,000.00	0.00	5,000,000.00	0.00	1,144.44
				1.03000	4.86700	0.00	0.00	5,000,000.00	0.00	
Mat Date: 6/24/2026										
17342	FHLB	06/24/2021	3130AMR79	1.05000	100.00000	5,000,000.00	0.00	5,000,000.00	0.00	1,020.83
		06/24/2026	0.00	1.05000	4.86700	0.00	0.00	5,000,000.00	0.00	
Subtotal				1.05000	100.00000	5,000,000.00	0.00	5,000,000.00	0.00	1,020.83
				1.05000	4.86700	0.00	0.00	5,000,000.00	0.00	
Mat Date: 6/26/2026										
17344	FHLB	06/30/2021	3130AMXR8	1.12500	100.00000	3,000,000.00	0.00	3,000,000.00	0.00	93.75
		06/26/2026	0.00	1.12500	4.86500	0.00	0.00	3,000,000.00	0.00	
Subtotal				1.12500	100.00000	3,000,000.00	0.00	3,000,000.00	0.00	93.75
				1.12500	4.86500	0.00	0.00	3,000,000.00	0.00	
Mat Date: 6/30/2026										
17343	FHLB	06/30/2021	3130AMX64	1.10000	100.00000	5,000,000.00	0.00	5,000,000.00	0.00	152.78
		06/30/2026	0.00	1.10000	4.87900	0.00	0.00	5,000,000.00	0.00	
Subtotal				1.10000	100.00000	5,000,000.00	0.00	5,000,000.00	0.00	152.78
				1.10000	4.87900	0.00	0.00	5,000,000.00	0.00	
Mat Date: 6/30/2030										
17090	VENTURA COUNTY INVE	01/24/2018		1.22000	100.00000	0.00	0.00	1,000,000.00	0.00	41,914.52
		06/30/2030	0.00	1.22000	8.57800	0.00	0.00	1,000,000.00	0.00	
16434	LOCAL AGENCY INVEST	07/01/2002		.33000	100.00000	0.00	0.00	75,000,000.00	0.00	62,562.50
		06/30/2030	0.00	.33000	8.09700	0.00	0.00	75,000,000.00	0.00	
Subtotal				.34171	100.00000	0.00	0.00	76,000,000.00	0.00	104,477.02
				.34171	8.10333	0.00	0.00	76,000,000.00	0.00	
Grand Total		Count 117		.63988	100.09527	237,459,000.00	324,924.45	313,459,000.00	4,374.53	511,368.45



INVESTMENT INVENTORY WITH PREMIUM/DISCOUNT REPORT

As Of Date: 06/30/2021

Run: 07/23/2021 11:23:06 AM

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City of Oxnard

<u>.57509</u>	<u>4.55134</u>	<u>0.00</u>	<u>26,297.04</u>	<u>313,757,627.41</u>	<u>24,863.73</u>	<u></u>
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CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. M.2

DATE: September 7, 2021

TO: City Council

FROM: Brian Yanez, Acting Public Works Director, (805) 200-5412, brian.yanez@oxnard.org

SUBJECT: Approval of Purchase Order #8164 with VAC-CON, Inc., for a New Sewer Cleaning Vehicle. (0/5/5)

RECOMMENDATION

That the City Council approve and authorize the Mayor to execute Purchase Order #8164 with VAC-CON, Inc. for the purchase of a new VAC-CON sewer cleaning combination truck, model VPD4211HE/1300, mounted on a Freightliner 114SD truck chassis in the amount of \$558,637.71.

(Public Works and Transportation Committee approved 3-0)

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/5V86_mS2wQ

BACKGROUND

The Wastewater Division currently owns three (3) Sewer Cleaning Vehicles (SCVs) for the purpose of maintaining and cleaning over 415 miles of sewer pipeline and 7,600 sewer manholes throughout the City's sewer collection system. Routine maintenance allows the collection system to efficiently convey wastewater to the treatment plant. These vehicles use high pressure water to scour the inside of the sewer collection system and remove debris and materials, minimizing the potential for sanitary sewer overflow. This new SCV will have an increased capacity tank that will allow for more efficient operation. The Wastewater Division has a performance goal to clean a minimum of 200 miles of sewer pipe every year (nearly 4 miles every week). To meet this goal the Wastewater Division requires three (3) reliable and dependable SCVs.

DISCUSSION

On May 7, 2021, the Wastewater Division received a Sourcewell competitively solicited quote, for a new SCV. This new SCV will replace vehicle #3591 which was purchased in 2003, the oldest of the three (3) existing SCVs and has over 109,000 miles. The Fleet Division has determined that vehicle #3591 has exceeded its useful life and requires excessive maintenance due to mechanical failures. Furthermore, repair parts are obsolete and difficult to procure, thus extending the time the vehicle is unavailable. The new SCV will be purchased in the current FY 2021-22 and the lead time is approximately 60-120 days.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

The cost for this Purchase Order with VAC-CON in the amount of \$558,637.71 will be funded from the approved Fiscal Year 2021-22 Adopted Budget from the Wastewater Operating Fund 611 (account 611-6103-891-8606). There is no impact to the General Fund.

COMMITTEE OUTCOME

The Public Works Transportation Committee approved 3-0 on July 13, 2021 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Jan Hauser, Wastewater Division Manager

ATTACHMENTS

1. PO 8164 VAC-CON, Inc
2. VAC-CON Quote
3. Presentation



PURCHASE ORDER
CITY OF OXNARD
300 WEST 3RD STREET
OXNARD, CA 93030

**PURCHASE
ORDER NO.
008164**

DATE: 6/17/2021

VENDOR PHONE: (904)493-4969

VENDOR FAX: () -

VENDOR #: 22750

VENDOR ADDRESS: VAC-CON, INC
969 HALL PARK ROAD
GREEN COVE SPRINGS, FL 32043

SHIP TO: WASTEWATER TREATMENT PLT
6001 S. PERKINS ROAD
OXNARD, CA 93033

Our P.O. # MUST Appear on ALL Invoices, Packages and Correspondence

DELIVER BY		REQUISITION #	REQUISITION DATE	CONFIRMED BY	
06/03/2022		0000005486	06/03/2021		
FOB		ACCOUNT NUMBER		AUTHORIZED BY	
		61161038918606		EDWIN RAMOS	
ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE		UNIT COST	EXTENDED COST

1	NEW REPLACEMENT VEHICLE		
	558,637.71	1.0000	558,637.71
	/ DL		

PW transportation committee - 7/13/2021
Council - 9/7/2021

Utilizing the same Sourcewell contract
122017-AMI/VAC that was used to purchase the last
Sewer Cleaning Vehicle back in FY2019/20

The purchase was included in the FY 22 budget
proposal and the funds will be expended in FY 22
EMAILED LUIS RQSTING MORE INFO*AM
FY22 PROPOSED FUNDING \$735K

TOTAL PURCHASE AMOUNT	\$558,637.71
------------------------------	---------------------

By acceptance of this purchase order, you agree to the attached terms and conditions of the City of Oxnard

PURCHASE ORDER

CITY OF OXNARD
300 WEST 3RD STREET
OXNARD, CA 93030

**PURCHASE
ORDER NO.
008164**

DATE: 6/17/2021

VENDOR PHONE: (904)493-4969

VENDOR FAX: () -

VENDOR #: 22750

VENDOR ADDRESS: VAC-CON, INC
969 HALL PARK ROAD
GREEN COVE SPRINGS, FL 32043

SHIP TO: WASTEWATER TREATMENT PLT
6001 S. PERKINS ROAD
OXNARD, CA 93033

Our P.O. # MUST Appear on ALL Invoices, Packages and Correspondence

DELIVER BY		REQUISITION #	REQUISITION DATE	CONFIRMED BY	
06/03/2022		0000005486	06/03/2021		
FOB		ACCOUNT NUMBER		AUTHORIZED BY	
		61161038918606		EDWIN RAMOS	
ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE		UNIT COST	EXTENDED COST

**In order to receive payment, email all invoices to:
invoices@oxnard.org**

**In the subject line, reference the Purchase
Order number above.**

AUTHORIZED SIGNATURE. _____

By acceptance of this purchase order, you agree to the attached terms and conditions of the City of Oxnard

PURCHASE ORDERS
TERMS AND CONDITIONS

The City Purchasing Officer and the Vendor agree as follows:

1. Vendor shall furnish to City the labor, materials, equipment, supplies and/or services described in the Purchase Order preceding this page.
2. City shall pay to Vendor the price, or prices, specified in the Purchase Order upon delivery of the labor, materials, equipment, supplies and/or services, and acceptance thereof by the City Purchasing Officer, or upon the completion of the services to be performed and acceptance thereof.
3. If the Purchase Order is continuing in nature, City shall pay to Vendor the amount due Vendor for labor, materials, equipment or supplies furnished, or services completed and accepted.
4. Vendor shall deliver the labor, materials, equipment or supplies, or cause the services to be performed, within the time and in the manner specified in the Purchase Order. Vendor shall be excused in performance for delays resulting from causes beyond the control of Vendor.
5. If services are performed or labor furnished to City under the Purchase Order, Vendor agrees to indemnify, hold harmless and defend City, its City Council, and each member thereof, and every officer, employee, representative or agent of City, from any and all liability claims, demands, actions, damages (whether in contract or tort, including personal injury, death at any time, or property damage), costs and financial loss, including all costs and expenses and fees of litigation or arbitration, that arise directly or indirectly from any acts or omissions related to this Agreement performed by Vendor or its agents, employees, subcontractors, consultants and other persons acting on Vendor's behalf. This agreement to indemnify, hold harmless and defend shall apply whether such acts or omissions are the product of active negligence, passive negligence, willfulness or acts for which Vendor or its agents, employees, subcontractors, consultants and other persons acting on Vendor's behalf would be held strictly liable. Vendor's obligation to defend shall arise when a claim, demand or action is made or filed, whether or not such claim, demand or action results in a determination of liability or damages as to which Vendor is obligated to indemnify and hold harmless.
6. Insurance
 - a) Vendor shall obtain and maintain during the performance of any services under this Agreement the following insurance coverage issued by a company satisfactory to the Risk Manager, unless the Risk Manager waives, in writing, the requirement that Vendor obtain and maintain such insurance coverage.
 - i. Commercial general liability insurance, including a contractual liability endorsement, in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability coverage (Occurrence Form CG0001ED, November 1988);
 - ii. Business automobile liability insurance in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Auto Liability Insurance Services Office coverage (Occurrence Form CA000TED, June 1992) covering Code No. 1, "any auto";
 - iii. Workers' compensation insurance in compliance with the laws of the State of California, including employer's liability insurance in an amount not less than \$1,000,000 per claimant.
7. Vendor, in the performance of any services or the furnishing of any labor under this Purchase Order, shall be considered an independent contractor, and Vendor and Vendor's agents and employees shall not be considered officers or employees of the City.
8. Vendor, without the written consent of the City Purchasing Officer, shall not:
 - a) Assign the Purchase Order, or any interest therein, or any money due thereunder; or
 - b) Make any changes, alterations or variations in the terms of the Purchase Order.
9. The cost of inspection on deliveries, or offers to make deliveries that do not meet specifications, will be paid by Vendor or deducted by City from amounts due Vendor.
10. Vendor shall indemnify and hold harmless City, its officers and employees, from liability, claims, loss or expense of any kind or nature on account of any copyrighted or uncopyrighted composition, patented or unpatented process or invention, article or appliance furnished or used under this Purchase Order.
11. Vendor shall comply with all applicable federal, state and local ordinance, laws and regulations and shall obtain and pay for all required licenses and permits, including a City of Oxnard business license.
12. Return or exchange of materials, equipment or supplies will not be permitted without written approval by the City Purchasing Officer.
13. All materials, supplies and equipment furnished under the Purchase Order shall, where applicable, be in full compliance with the Safety Orders and Regulations of the Division of Industrial Safety of the State of California and the Williams-Steiger Federal Occupational Health and Safety Act of 1970.
14. City may terminate this Purchase Order at any time by giving written notice of termination to Vendor. If termination is for cause, termination shall become effective on the date of the notice or at a later date, specified in the notice. If termination is without cause, termination shall become effective five days after the date of the notice or at a later date specified in the notice.
15. Vendor shall comply with all applicable equal employment opportunity requirements of the California Department of Fair Employment and Housing in performing or contracting for any services under this Purchase Order.
16. For public projects, Vendor shall pay prevailing wages in accordance with Labor Code Sections 1720 et seq.

ADDITIONAL REQUIREMENTS FOR GRANT-FUNDED PROJECTS

17. The following requirements apply to any Purchase Order funded in whole or in part by federal grant funds.
 - a) Upon expiration of the time specified on the reverse side, this Purchase Order shall terminate unless City and Vendor have mutually agreed in writing to an extension of time.
 - b) If legal action is brought by either party because the other has failed to comply with terms or conditions of this Purchase Order, the prevailing party shall be awarded its attorney's fees and costs in addition to its damages and/or equitable relief.
 - c) Vendor shall comply with all applicable requirements of Executive Order 11246 as amended by Executive Order 11375 and the regulations adopted pursuant thereto (41 CFR Chapter 60), which provide that no person shall be discriminated against on the basis of race, color, religion, sex or national origin.
 - d) Vendor shall insure that the grantee (City), the Federal Grantor Agency, the Comptroller General of the United States, or any duly authorized representative, shall have access to any books, records, documents and papers, specifically relating to this Purchase Order, for the purpose of making audit, examination, excerpts and transcriptions for not less than three years after completion of the project and/or until the completion of the final project audit as required by the Federal Grants Agency.



CSLB #980409
DIR 1000004282
www.source-mme.com
Toll Free 1-888-484-9968

May 13, 2021

City of Oxnard
6001 South Perkins Road
Oxnard, CA 93033

Tel: 805-488-3517
rodolfo.camacho@oxnard.org

Attention: Rudy Camacho

We are pleased to provide the enclosed contract pricing sheet off the Sourcewell Contract No. 122017-AMI/VAC for the Vac-Con VPD4211HE/1300 mounted on a new Freightliner 114SD truck chassis for your review.

Summary:	Complete Unit per attached Sourcewell price sheet	
	Price F.O.B. Oxnard, CA	\$511,322.85
	9.25% Estimated Sales Tax	47,297.36
	CA Tire Fee (10 @ \$1.75 Each)	17.50
	Total	<u>\$558,637.71</u>

- **City's Purchase Order to be prepared and sent directly to Vac-con, Inc.**
969 Hall Park Drive, Green Cove Springs, FL 32043
M.J. Dubois (410) 924-1004 mjdubois@ducollc.com
- Pricing includes delivery and on-site training.
- Normal delivery 150-210 days A.R.O., depending on chassis availability.
- Sales tax applicable at time of delivery will be shown on invoice.
- Terms per Sourcewell Program.
- Quotation valid for 30 days.

Thank you for your interest in this fine product. Should you have any questions or need additional information, please let us know. We look forward to being of service.

Sincerely,

James Wheeler,
General Manager

Enclosure



05/13/2021

COMBINATION JET/VACUUM SEWER CLEANER
Sourcewell Contract: 122017-AMI/VAC

Customer: CITY OF OXNARD Shipping: CALIFORNIA

Requirement Specification	
Combination jet/vacuum sewer cleaner with all standard equipment VPD4211HE/1300	
Freightliner model 114SD 6 x 4 chassis with 370 HP diesel engine, 66,000 GVWR, Allison automatic transmission and A/C	
Body mounting on Chassis	
10' Aluminum Telescoping boom with joy stick and remote pendant control (telescopes hydraulically 10' forward from the stowed position) - 8" diameter intake hose and boom, travel tie down post with latch, 270 degree boom rotation	
Front mounted articulating to driver side hose reel, 800' (1") capacity	
1300 Gallon polyethylene water tank capacity with 10 year warranty	
11 cubic yard capacity debris tank 3/16" corten steel, (5 year warranty) with full opening rear door (minimum 50 degree debris tank dumping, power up and down	
Automatic vacuum breaker (prevents operation when full and contains debris when moving unit) and overflow protection	
800' of 1" Jet hose continuous	
Positive Displacement Blower Roots model 827 @ 18" HG	
Hydrostatic drive of vacuum system	
Giant water pump rated at 80 GPM @ 3000 PSI, with a GM 8.8 Gas 208 HP auxiliary engine with aux engine hydraulics	
6" Knife valve with center post and handle in lieu of 5" butterfly valve	
Gravity drain system, plumbing to gate valve at mid-passenger side of unit, allowing return of liquids to the manhole	
Hydraulic rear door opener, removes door grabber	
Two Rear door drain valve flush out connections	
Rear splash shield	

Requirement Specification	
Rear hydraulic pump off system, 400 gpm with 20' lay flat hose	
Rubber pad on standard deflector	
1/4 Turn ball valve water drain	
100' Capacity hand gun hose reel	
Debris body Power Flush-out system with 8 jets	
Hydro-excavation Package	
Variable flow valve	
Water pump remote oil drain	
Hose footage counter, curbside	
Auxiliary engine remote oil drain	
Three Cone storage rack	
Heavy reinforced elbow "Wear Back"	
Long handle storage - PVC	
Rear mounted tow hooks	
Remote boom grease zerk assembly	
Remote debris body grease zerk assembly	
LED 4 strobes, 2 front bumper, 2 rear bumper	
LED Arrow board	
Boom mounted LED flood lights	
LED Flood light - level wind guide area	
Mid-body LED flood lights with guards	
LED Rear mounted flood lights with limb guard	
Two LED rear mounted strobe with limb guard	
Mid-body LED strobe, frame mounted	
Two LED mirror mounted strobes with guards	

Requirement Specification	
Curbside camera placement	
Driver's side camera placement	
Front bumper camera placement	
Front hose reel camera placement	
Low water alarm with light	
Omnibus Precision Power System	
Rear camera placement	
Wireless remote control	
Traffic camera with color monitor	
Add rear lower water tanks for a total of 1300 gallon capacity	
Both low pressure and high pressure retractable reels to be behind cab	
Two Bucket holders on Driver's and Passenger side behind cab (Igloo 5 gallon style with no top)	
Four (4) Tool storage racks behind cab	
In-Cab switch pack to be mounted in cab headliner	
Mesh screen covering complete rear door with hinge for cleaning	
Replace front Drivers side lower water tank with tool box	
Standard analog water pressure gauge at front hose reel	
Two (2) tube PVC pole storage on each side of debris body	
Upgrade 6 light corner strobes to 500V series Whelen lights	
Upgrade arrow board to 16 light board Whelen TA16SNF2	
Upgrade level wind light	
Upgrade mirror mount and rear strobes to Whelen MC16PA	
Vacuum drive switch	
1" Nozzle rack	
1" x 15' leader hose	

Requirement Specification	
Lazy Susan pipe rack (holds 5 pipes)	
Roll out shelves (2) for storage box behind cab	
Four 6' x 8" Aluminum pipe extension	
Four 8" Quick clamp, spares	
Chassis Dealer to Paint Cab	
Paint Module and Chassis Dupont Yellow 748720	
Standard Striping Package - White	
Remote chassis engine start switch	
Add knife valve to pump off flange and nipple with male/female cam to bypass debris body for pump off	
Two standard ENZ nozzles, one sanitary (egg) and one Chisel point penetrator	
ICC lighting	
Hose guide (tiger tail) for hose protection, hydrant wrench, 25' of fill hose	
20 gpm @ 600 PSI wash down system with hand gun and 25' of 1/2" hand gun hose	
Steel Surcharge	
Local dealer pre delivery inspection	
On site customer training	
Delivery to customer facility	
Additional Discount Offered by Local Dealer	
TOTAL PRICE OFFERED TO SOURCEWELL MEMBER	\$511,322.85
SALES TAX - 9.25%	\$47,297.36
California Tire Fee	\$17.50
TOTAL PRICE OFFERED TO SOURCEWELL MEMBER INCLUDING TAX	\$558,637.71

Sourcewell Contract NO 122017-AMI/VAC

VENDOR/CONTRACT HOLDER: VAC-CON, INC. 969 HALL PARK RD

GREEN COVE SPRINGS, FL 32043

CONTACT: M.J. DUBOIS

EMAIL

MJDUBOIS@ducollc.com

PHONE: 410-924-1004

PURCHASE OF A SEWER CLEANING VEHICLE FROM VAC-CON, INC.

Public Works and Transportation Committee
July 13, 2021

City Council
September 7, 2021

Ray Trevino
Wastewater Collections Manager

FOR THE PUBLIC WORKS AND TRANSPORTATION COMMITTEE:

That the Public Works and Transportation Committee recommend that the City Council approve and authorize the Mayor to execute Purchase Order #8164 with VAC-CON, Inc. for the purchase of a new VAC-CON sewer cleaning combination truck, model VPD4211HE/1300, mounted on a Freightliner 114SD truck chassis in the amount of \$558,637.71.

FOR THE CITY COUNCIL:

That the City Council approve and authorize the Mayor to execute Purchase Order #8164 with VAC-CON, Inc. for the purchase of a new VAC-CON sewer cleaning combination truck, model VPD4211HE/1300, mounted on a Freightliner 114SD truck chassis in the amount of \$558,637.71.

- The Wastewater Division owns three (3) sewer cleaning vehicles (SCV) for the purpose of maintaining
 - over 415 miles of sewer pipeline
 - 7,600 sewer manholes
- SCVs use high pressure water to scour collection system pipeline
- Wastewater Division has set a sewer cleaning performance goal of 4 miles per week

- Wastewater staff utilize high pressure water to remove any buildup within the collection system
- Routine maintenance ensures proper flow of wastewater
- Minimizes potential for sanitary sewer overflow



- On May 7, 2021, the City of Oxnard obtained a Sourcewell competitively solicited quote for a new SCV
- The new SCV will replace vehicle #3591:
 - Over 18 years old
 - Oldest of 3 SCVs in the fleet
- Fleet Division has determined that vehicle #3591 has exceeded its useful life due to:
 - 109,000+ miles
 - Frequently out of service
 - Repair parts are obsolete and difficult to procure



Lead time for this purchase is 60-120 days upon order

- Cost for this purchase with VAC-CON, Inc. is \$558,637.71
- Funded from appropriations in the approved Fiscal Year 2021-22 budget from Wastewater Operating Fund 611
- There is no impact to the General Fund.



QUESTIONS



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. M.3

DATE: September 7, 2021

TO: City Council

FROM: Brian Yanez, Acting Public Works Director, (805) 200-5412, brian.yanez@oxnard.org

SUBJECT: Proposed Formation of the City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay) and Approval of Deposit and Reimbursement Agreement and Special Tax Disbursement Agreement. (0/5/5)

RECOMMENDATION

That the City Council adopt the following resolutions:

1. A Resolution Approving a Deposit and Reimbursement Agreement A-8373 and Special Tax Disbursement Agreement A-8374 Relating to the Proposed City of Oxnard Community Facilities District No. 9 (Northshore At Mandalay Bay);
 2. A Resolution of Intention to Establish City of Oxnard Community Facilities District No. 9 (Northshore At Mandalay Bay); and
 3. A Resolution of Intention to Incur Bonded Indebtedness in the Amount Not to Exceed \$22,000,000 within the Proposed City of Oxnard Community Facilities District No. 9 (Northshore At Mandalay Bay).
- (Finance and Governance Committee approved 3-0.)

Please click the following link to view the required Measure M pre-recorded presentation video:

https://youtu.be/9Nde_zwZfTA

BACKGROUND

Community Facilities Districts ("CFDs") are established pursuant to the provisions of the California Government Code Section 53311 et seq. (commonly known as the "Mello-Roos Community Facilities Act of 1982") (the "Act"), and are a form of financing district that can be used by cities, counties, school district, and special districts. CFDs raise money through special taxes that must be approved by 2/3 of the voters within a CFD. The City Council is the legislative body of any CFD the City forms. Most often, CFDs are formed by the landowner prior to subdivision. A CFD can be formed to finance a wide list of improvements, which include roads, water facilities, sewers and schools. They are also used to finance ongoing maintenance services of the facilities or for services such as remediation of hazardous substances, landscaping, streets, lighting and drainage facilities. The taxes are secured by a continuing lien and are levied against property within the CFD on an annual basis. The revenue stream is used to pay debt service on bonds, to finance facilities on a pay-as-you-go basis, and to pay for services, or a combination thereof.

The City established Community Facilities District No. 6 (North Shore at Mandalay Bay) (the "2006 CFD") in 2006 for the prior proposed development located in the City, at the northeastern corner of the intersection of West Fifth Street and Harbor Boulevard, and now commonly known as "Northshore at Mandalay Bay" (the "Property"), to finance the cost and expense of providing public improvements and services within the 2006 CFD.

There were two special tax components to the 2006 CFD. Special Tax A (currently at \$5,581,558.89) is the special tax which could be levied each year to fund the annual facilities special tax component. Special Tax A can be levied until Fiscal Year 2045/46. The other special tax component is Special Tax B (currently at \$1,897,411.41), which can be levied

to fund the annual services special tax component. Special Tax B can be levied in perpetuity in order to satisfy the services special tax requirement. The City has not yet issued bonds for the 2006 CFD, but the City is authorized to incur bonded indebtedness in a maximum aggregate principal amount not to exceed \$30,000,000.

The City has never levied Special Tax A as no bonds were sold and has not levied Special Tax B on parcels in the 2006 CFD since Fiscal Year 2014/15 and did not levy a 2020/21 special tax for the 2006 CFD. There are currently no services being performed in the 2006 CFD. 2006 CFD has a balance of a little over \$500,000 of collected special taxes.

The current owner and developer, MPL Property Holdings LLC (the “Landowner”), has requested either a replacement CFD or a modification to the existing 2006 CFD to include (a) a facilities special tax for the life of any bond issues, (b) a services special tax in perpetuity and (c) an environmental special tax for remediation, operation and maintenance activities as required and approved, and for the duration needed, by the Department of Toxic Substances Control (“DTSC”). Staff recommends a new CFD rather than trying to amend the 2006 CFD to allow the City to prioritize facilities and fees to be financed (50% direct facilities to be acquired and 50% impact fees to be paid by bond proceeds) while also making sure the effective tax rate for residences is under 2% when looking at the combined general taxes and the three CFD special taxes. The new CFD will have a not to exceed bond authorization of \$22,000,000. Once the new CFD is formed and special taxes voted for, the 2006 CFD will be dissolved.

The current development plan is for 292 single family residences.

DISCUSSION

Purpose. A replacement CFD is proposed to be established for the purpose of funding the following:

(a) public infrastructure facilities and other governmental facilities, including fees related thereto, with an estimated useful life of five years or longer, including but not limited to all or a portion of sanitary sewer, water, street, storm drain and park facilities, public art or other real or tangible property, and related costs including design, inspection, professional fees, and acquisition costs (the “Facilities”) through the levy of a Special Tax – Facilities to pay debt service on one or more bond issues or pay-as-you-go facilities as long as bonds are outstanding;

(b) services including, but not limited to, landscaping, streetlighting, maintenance of sewer, storm drain, irrigation systems, beaches and parks, beach patrol, and weed abatement (the “General Services”) through the levy of a Special Tax – Services on an annual basis in perpetuity; and

(c) the remediation of any hazardous substance released or threatened to be released into the environment on the Property and any associated operation, maintenance and/or monitoring activities as more particularly described in the Response Plan approved by DTSC on December 17, 2018 (the “Response Plan”), the Operation and Maintenance Plan approved by DTSC on March 7, 2019 (“O&M Plan”) and any additional remedial activities or protective measures (collectively, the “Remediation Services”) through the levy of a Special Tax- Environmental on an annual basis as long as determined by DTSC.

All parties have reviewed the parameters of the special tax formula or the Rate and Method of Apportionment (the “RMA”), which includes the assigned and maximum special taxes for the Facilities, the General Services and the Remediation Services. The Special Taxes will be levied each year according to the RMA and placed on the County property tax rolls.

The first Resolution, Attachment 2, approves the form of a deposit and reimbursement agreement with the Landowner. The Landowner has made a deposit of \$60,000 to the City toward the costs of forming the CFD, including the costs of staff and consultant time. The costs of forming the CFD are the responsibility of the Landowner. If bonds are issued, the Landowner will be reimbursed from the proceeds of the bonds.

Special Tax – Facilities. The annual Special Tax – Facilities levy is used to pay debt service on bonds or for facilities on a pay-as-you-go basis, or a combination thereof. Upon completion of the formation and election process for the CFD and once development has progressed sufficiently as determined by the City (estimated to be sometime in next few years), the City anticipates that the CFD will issue one or more series of Special Tax Bonds (the “Bonds”), to acquire the Facilities built by the Landowner and to pay or reimburse the Landowner for the payment of certain impact fees related to Facilities

as provided in a Funding and Acquisition Agreement (to be brought before the Council at the next meeting), and to reimburse the Landowner for formation costs of the CFD as provided in the Deposit and Reimbursement Agreement. The proposed bond authorization for the District is not to exceed \$22,000,000 million. It is the intent of the proposed CFD to issue one or more series of Bonds with a 30-year maturity with escalating debt service of 2% per year.

The RMA includes an assigned tax and a back-up tax for the Special Tax – Facilities for developed property in case the number of residential units built is less than estimated. Once developed property is taxed, undeveloped and contingent property will be taxed if needed. The maximum Special Tax –Facilities escalates at a rate of 2% commencing July 1, 2023.

Exhibit A, attached hereto contains a description of the estimated facilities and impact fees and an estimated budget therefore. The budget exceeds the amount of facilities and fees which are currently estimated to be financed by the Bonds. Facilities, including fees, not financed by the CFD are still required to be provided by the Landowner.

Special Tax – Services. The Special Tax – Services will be levied annually in perpetuity to finance the General Services. **Exhibit B**, attached hereto contains a description and estimated budget of the general services to be provided. Once developed property is taxed at the maximum rate, undeveloped and contingent property will be taxed if needed. The maximum Special Tax – Service escalates at the greater of 2% or a CPI escalation factor not to exceed 5% commencing July 1, 2023. The Special Tax – Services takes the place of a traditional maintenance assessment district.

Special Tax – Environmental. The Special Tax – Environmental will be collected by the CFD and turned over to the newly formed nonprofit, the Northshore Environmental Conservancy (“NEC”), to pay for the annual budget of the Remediation Services approved by DTSC, all as provided in a Special Tax and Disbursement Agreement among the City (on behalf of itself and the proposed CFD), the Landowner and NEC, with DTSC as a beneficiary thereto. The Special Tax Disbursement Agreement will be relied on by the Landowner and DTSC as a means by which the Remediation Services will be funded and is considered a debt or obligation of the proposed CFD.

The RMA includes an assigned tax and a back-up tax for the Special Tax – Environmental for developed property in case the number of residential units built is less than estimated. Once developed property is taxed at the maximum rate, undeveloped and contingent property will be taxed if needed. The maximum Special Tax – Environmental escalates at the rate of 2% commencing July 1, 2023.

Upon the issuance of a certificate of completion or its substantial equivalent by DTSC for all the Remediation Services, the Special Tax – Environmental will no longer be levied.

Process/Proposed Timeline. A petition to form the CFD has been received from the Landowner covering the Property, consisting of approximately 90 acres (Attachment 1). The formal Council approval process to create a new CFD takes approximately 60 to 75 days.

First Step (at Finance and Governance Committee meeting on July 27): Finance Committee recommended City Council's approval of the three items in the Recommendations.

Second Step (at City Council meeting on September 7): City Council adopts the resolution approving the forms of the Deposit and Reimbursement agreement and the Special Tax Disbursement Agreement (Attachments 2 and 5).

Third Step (at City Council meeting on September 7): City Council adopts a resolution of intention to form the CFD (“ROI”) and a resolution of intention to incur debt (Attachments 3 and 4). Once the City has declared its intention to establish the CFD to be named “City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay)”, a public hearing will be held (scheduled for October 5, 2021).

Fourth Step (at City Council meeting on October 5): City Council holds a public hearing (Landowner has waived the 30-day waiting period). Provided there is no majority protest, the CFD will be established.

Fifth and Sixth Steps (at City Council meetings of October 5 and October 19): City Council, acting as the legislative body of the CFD, conducts a special mailed ballot election and adopts an ordinance levying the special tax. The Landowner has waived election time lines, so an election may be held on October 5, 2021 to authorize the levy of an

annual special tax on such property. Should the proposition pass with a two-thirds vote from the qualified voters (the Landowner), the City may hold the first reading of an ordinance on October 5, 2021 and adopt the ordinance on October 19, 2021, along with a resolution transferring assets of the 2006 CFD to the CFD and approving the dissolution of the 2006 CFD.

At a later date, the CFD in its sole discretion will determine the final amount of Bonds issued. The proposed maximum bond authorization is \$22,000,000. The “not to exceed” bond amount for the CFD is based on Facilities costs and available Special Tax - Facilities.

If the action is approved, the formation of the replacement CFD, special election and approval of other related documents will occur on October 5, 2021. Currently, it is not expected that Bonds will be authorized for issuance or sale until the development is well underway and the Facilities are at or near completion, at which time documents relating to the issuance and sale of the bonds will be brought to the Council for its approval.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

There is no direct financial impact in approving these resolutions. There is no financial impact to the General Fund.

COMMITTEE OUTCOME

The Finance and Governance Committee approved 3-0 on July 27, 2021 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Steve Howlett, Assistant Public Works Director

ATTACHMENTS

1. Oxnard CFD 2020-1 (Northshore at Mandalay Bay) Petition and Waiver
2. Resolution Approving Deposit Agreement and Special Tax Disbursement Agreement
3. Special Tax Disbursement Agreement A-8374
4. Resolution of Intention
5. Resolution of Intention to Incur Debt
6. Deposit and Reimbursement Agreement A-8373 - Oxnard Northshore at Mandalay Bay
7. CFD 9 Northshore Special Tax Analysis
8. Special Districts Map_Legend
9. Staff Report Exhibit A
10. Staff Report Exhibit B
11. CFD Presentation

**PETITION REQUESTING THE ESTABLISHMENT
OF A COMMUNITY FACILITIES DISTRICT
(INCLUDING CONSENT AND WAIVER OF CERTAIN PROCEDURES
AND TIME REQUIREMENTS WITH RESPECT TO PUBLIC HEARING
AND LANDOWNER ELECTION)**

The undersigned, on behalf of MPL PROPERTY HOLDINGS, LLC, a Delaware limited liability company (the “Property Owner”), does hereby certify under penalty of perjury that the following statements are all true and correct:

1. The undersigned is authorized to represent the Property Owner and has the authority to petition the City Council (the “Council”) of the City of Oxnard (the “City”) and to give the consent and waiver contained herein with respect to a Community Facilities District to be established over the properties included within this petition (the “CFD”) to be formed under the provisions of the Mello-Roos Community Facilities Act of 1982 (the “Act”), being Chapter 2.5 of Part 1 of Division 2 of title 5 (commencing with Section 53311) of the California Government Code.

2. The undersigned hereby certifies that as of the date of this Petition, the Property Owner is the owner of all of the property within the proposed boundary of the CFD, consisting of approximately 90.26 acres of land (the “Property”) as described in Exhibit “A” hereto.

3. The undersigned, pursuant to Section 53318 of the Act, hereby requests that proceedings be commenced (i) to establish the CFD (A) for the purpose of replacing the previously established City of Oxnard Community Facilities District No. 6, (B) for the purpose of financing the purchase, construction, expansion, modification, rehabilitation or improvement of all or a portion of certain public capital improvements and fees related thereto, including but not limited to sanitary sewer, water, street, storm drain and park facilities, public art or other real or tangible property with an estimated useful life of five years or longer and (C) for the provision of certain services, including but not limited to landscaping, streetlighting, maintenance of sewer, storm drain, irrigation systems, beaches and parks, beach patrol, weed abatement, and the remediation, operation, maintenance and monitoring of any hazardous substance released or threatened to be released into the environment on the Property as more particularly described in the Response Plan approved by DTSC on December 17, 2018 (the “Response Plan”), the Operation and Maintenance Plan approved by DTSC on March 7, 2019 (“O&M Plan”) and any additional remedial activities or protective measures (ii) to authorize the issuance of bonds for the CFD, and (iii) to establish an appropriations limit for the CFD.

4. The undersigned has had an opportunity to consult with legal counsel with respect to the matters contained herein and is fully and completely informed of and understands the matters contained herein.

5. The undersigned hereby certifies that, to the undersigned’s actual knowledge, there are no registered voters residing within the Property and the undersigned does not anticipate that there will be any, during the 90-day period preceding the October 5, 2021 public hearing to be conducted by the City Council pursuant to Government Code Section 53339.5.

6. The Property Owner hereby requests that the City conduct a formation proceeding as soon as possible notwithstanding Section 53321 of the Act, hereby waives the requirement of Section 53321 of the Act requiring at least 30 days between adoption of the resolution of intention to form the CFD and the public hearing, hereby consents to the legislative body of the District setting the public hearing for 28 days from the adoption of the resolution of intention to form the CFD, and hereby indemnifies the City and its officers, agents, successors and assigns from and against all claims, losses and damages, including legal fees and expenses, arising out of or due to the waiver of time limits under the Act.

7. On or about June 8, 2021, the Property Owner and the appropriate officers thereof were made aware of the October 5, 2021 public hearing to be held regarding the formation of the CFD. The undersigned agrees that it received adequate notice of the hearing. The Property Owner and the appropriate officers thereof have received necessary and relevant information regarding the CFD and the imposition of the special tax and the CFD has made available to the Property Owner sufficient opportunity to obtain such information.

8. In accordance with the provisions of the Act, and specifically Sections 53326(a) and 53327(b) thereof allowing certain time and conduct requirements relative to a special landowner election to be waived with the unanimous consent of all the landowners to be included in a community facilities district and concurrence of the election official conducting the election, the undersigned (i) expressly consents to the conduct of the special election at the earliest possible time following the adoption by the City Council of a resolution forming the CFD and (ii) expressly waives any requirement to have the special election conducted within the time periods specified in Section 53326 of the Act or in the California Elections Code.

9. The undersigned waives any requirement for the mailing of the ballot for the special election and expressly agrees that said election may be conducted by mailed or hand-delivered ballot to be returned as quickly as possible to the designated election official, being the office of the City Clerk and the undersigned requests that the results of said election be canvassed and reported to the Council at the same meeting of the Council as the public hearing on the formation of the CFD or the next available meeting.

10. The undersigned expressly waives all applicable waiting periods for the election and waives the requirement for analysis and arguments relating to the special election, as set forth in Section 53327 of the Act, and consents to not having such materials provided to the landowner in the ballot packet, and expressly waives any requirements as to the form of the ballot.

11. The undersigned expressly waives all notice requirements relating to hearings and special elections, whether by posting, publishing or mailing, and whether such requirements are found in the California Elections Code, the California Government Code or other laws or procedures, including but not limited to any notice provided for by compliance with the provisions of Section 4101 of the California Elections Code.

12. Property Owner hereby appoints Thomas Feldstein, as its authorized representative to vote in the election referred to herein and certifies that his true and exact signature is set forth below:

[signature]

13. The undersigned hereby consents to and expressly waives any and all claims based on any irregularity, error, mistake or departure from the provisions of the Act (other than the holding and accurate counting of votes at the election) or other laws of the State and any and all laws and requirements incorporated therein, and no step or action in any proceeding relative to the CFD or the special election therein shall be invalidated or affected by any such irregularity, error, mistake or departure.

IN WITNESS WHEREOF, we hereunto set our hand this ____ day of _____, 2021.

MPL PROPERTY HOLDINGS, LLC,
a Delaware limited liability company

[MPL SIGNATURE BLOCK]

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF OXNARD THIS
____ DAY OF _____, 2021.

City Clerk

EXHIBIT A
DESCRIPTION OF THE PROPERTY
AND
PROPOSED BOUNDARY OF
CITY OF OXNARD CFD NO. 9 (NORTHSHORE AT MANDALAY BAY)

The following described property is situated in the City of Oxnard, County of Ventura, State of California:

Tracts 5592-1 & 5592-2

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD, CALIFORNIA,
APPROVING A DEPOSIT AND REIMBURSEMENT AGREEMENT AND SPECIAL TAX
DISBURSEMENT AGREEMENT RELATING TO THE PROPOSED CITY OF OXNARD
COMMUNITY FACILITIES DISTRICT NO. 9 (NORTHSHORE AT MANDALAY BAY)

WHEREAS, the City Council (the “City Council”) of the City of Oxnard (the “City”) intends to form a community facilities district pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”), to be known as the City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay) (the “CFD”) to replace the previously formed City of Oxnard Community Facilities District No. 6; and

WHEREAS, Section 53314.9 of the Act provides that, at any time either before or after the formation of a community facilities district, the legislative body may accept advances of funds from any source, including, but not limited to, private persons or private entities and may provide, by resolution, for the use of those funds for any authorized purpose, including, but not limited to, paying any cost incurred by the local agency in creating a community facilities district (including the issuance of bonds thereby); and

WHEREAS, MPL Property Holdings LLC (“MPL”), as owner of the property to be included within the CFD (the “Property”), has made a security deposit with the City to cover certain costs of formation which are eligible for reimbursement upon the sale of bonds by the CFD from the proceeds of such bonds; and

WHEREAS, MPL has petitioned the City that an integral part of the CFD be the inclusion of services to finance the remediation, operation, maintenance and monitoring of the Property as more particularly described in the Response Plan approved by the California Department of Toxic Substances Control (“DTSC”) on December 17, 2018, the Operation and Maintenance Plan approved by DTSC on March 7, 2019, and any additional remedial activities or protective measures as may be required by DTSC or other regulatory body with jurisdiction over the remediation of the Property (“Remediation Services”); and

WHEREAS, there have been submitted to this City Council a Deposit and Reimbursement Agreement relating to the security deposit and a Special Tax Disbursement Agreement relating to the levy, collection and disbursement of a special tax for the Remediation Services by the proposed CFD, and this City Council, with the aid of its staff, has reviewed said documents and found them to be in proper order.

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

PART 1. The above recitals are true and correct.

PART 2. The City Council hereby approves the Deposit and Reimbursement Agreement by and between the City and MPL, in substantially the form presented to the City Council at this meeting. The Mayor, the City Manager, the Assistant City Manager and Finance

Director are hereby authorized to execute the Deposit and Reimbursement Agreement with such revisions, amendments and completions as shall be approved by the officer executing the same, such approval to be conclusively evidenced by the execution and delivery thereof.

PART 3. Pursuant to Section 53317 of the Act, debt includes any binding obligation of the CFD to pay or repay a sum of money, including obligations in the form of long-term contracts such as the Special Tax Disbursement Agreement. In accordance with the Act and subject to its terms, the City Council hereby declares that the Special Tax Disbursement Agreement constitutes debt of the proposed CFD to finance the Remediation Services.

PART 4. The City Council hereby approves the Special Tax Disbursement Agreement by and among the City, on behalf of itself and the proposed CFD, MPL and the Northshore Environmental Conservancy, with DTSC as a beneficiary thereto, in substantially the form presented to the City Council at this meeting. The Mayor, the City Manager, the Assistant City Manager and Finance Director are hereby authorized to execute the Special Tax Disbursement Agreement with such revisions, amendments and completions as shall be approved by the officer executing the same, such approval to be conclusively evidenced by the execution and delivery thereof.

PART 5. The City Clerk shall certify to the adoption of this Resolution.

The foregoing Resolution was adopted at a regular meeting of the City Council of the City of Oxnard, State of California, held on the ____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

John Zaragoza, Mayor

ATTEST:

APPROVED AS TO FORM:

Rose Chaparro, City Clerk

Stephen M. Fischer, City Attorney

SPECIAL TAX DISBURSEMENT AGREEMENT

by and among

**CITY OF OXNARD,
("City")**

**MPL PROPERTY HOLDINGS LLC,
("MPL")**

**NORTHSHORE ENVIRONMENTAL CONSERVANCY MBC,
("NEC")**

relating to

City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay)

SPECIAL TAX DISBURSEMENT AGREEMENT

This **SPECIAL TAX DISBURSEMENT AGREEMENT** (this "**Agreement**"), is entered into as of [Dated Date], among the CITY OF OXNARD ("**City**") on behalf of itself and the proposed City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay) (the "**District**"), MPL PROPERTY HOLDINGS LLC ("**MPL**"), and NORTHSORE ENVIRONMENTAL CONSERVANCY ("**NEC**"), (each individually, a "**Party**," or collectively, "**Parties**"). The California Department of Toxic Substances Control ("**DTSC**") is a beneficiary to this Agreement, to the extent it utilizes the Special Tax proceeds in the event of a default under this Agreement by NEC, as more particularly described below.

RECITALS:

WHEREAS, MPL is the owner of that certain real property located in the City, at the northeastern corner of the intersection of West Fifth Street and Harbor Boulevard, as more particularly depicted on Exhibit A (Site Plan) and described on Exhibit B (Legal Description) attached hereto and incorporated herein by reference (the "**Property**");

WHEREAS, MPL petitioned the City for the formation of a community facilities district (the "**District**") pursuant to the "Mello-Roos Community Facilities Act of 1982" (the "**Act**"), Government Code Sections 53311 *et seq.*) to finance certain facilities and services, one service of which is the remediation, operation, maintenance and monitoring of the Property as more particularly described in the Response Plan approved by DTSC on December 17, 2018 (the "**Response Plan**"), the Operation and Maintenance Plan approved by DTSC on March 7, 2019 ("**O&M Plan**") (collectively, the "**Response Action Documents**") and any additional remedial activities or protective measures as may be required by DTSC or other regulatory body with jurisdiction over the remediation of the Property ("**O&M Obligations**");

WHEREAS, MPL agreed to perform the O&M Obligations described in the Response Action Documents pursuant to that certain standard agreement for participating under California's Land Reuse and Revitalization Act Program between DTSC and MPL dated April 10, 2018 (the "**CLRRA Agreement**");

WHEREAS, the CLRRA Agreement has been assigned to and assumed by NEC pursuant to that certain Assignment and Assumption Agreement (the "**Assignment and Assumption Agreement**") dated _____, a copy of which is attached hereto as Exhibit C, which Assignment and Assumption DTSC has approved;

WHEREAS, NEC has agreed to perform the O&M Obligations under the Assignment and Assumption Agreement in accordance with the terms and conditions of the Response Action Documents;

WHEREAS, DTSC will continue to serve as the lead agency which will supervise and approve the O&M Obligations until such time that DTSC issues a Certificate of Completion or its equivalent that memorializes its determination that the O&M Obligations have been completed and no further action is needed;

WHEREAS, upon formation of the District, City will each year levy a Special Tax, as defined below, on taxable parcels or lots within the Property, the revenues from which will be used solely to finance the O&M Obligations until such time as DTSC issues a Certificate of Completion or its equivalent or otherwise determines that such revenues are no longer needed for this purpose because the O&M Obligations have been completed; and

WHEREAS, the parties hereto desire to enter into this Agreement in accordance with Sections 53316.2, 53316.4 and 53316.6 of the Act in order to provide for the financing of the O&M Obligations through the levy of special taxes by the District;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City, MPL, and NEC agree as follows:

ARTICLE 1 DEFINITIONS.

1.1 Definitions. Unless otherwise defined in the Recitals above, capitalized terms used herein shall have the meanings set forth below:

"Agreement" means this Special Tax Disbursement Agreement, as amended, modified, supplemented or restated from time to time including all the exhibits, appendices and schedules attached hereto, all of which are incorporated herein by this reference and made a part hereof.

"County" means the County of Ventura.

"Disbursement" means disbursement of the Special Tax (as defined below) collected for the Remediation Work.

"Environmental Regulations" mean any federal, state or local law, statute, code, ordinance, regulation, requirement or rule relating to dangerous, toxic or hazardous pollutants, Hazardous Substances (as defined below), hazardous materials, chemical waste, petroleum hydrocarbons or constituents thereof.

"Hazardous Substances" mean (a) any oil, flammable substance, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other wastes, materials or pollutants which (i) pose a hazard to the Project or to persons on or about the Project or (ii) cause the Project to be in violation of any Environmental Regulation ; (b) asbestos in any form which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls, or radon gas; (c) any chemical, material or substance defined as or included in the definition of "waste," "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous waste," "restricted hazardous waste," or "toxic substances" or words of similar import under any Environmental Regulation including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC §§ 9601 et seq.; the Resource Conservation and Recovery Act, 42 USC §§ 6901 et seq.; the Hazardous Materials Transportation Act, 49 USC §§ 1801 et seq.; the Federal Water Pollution Control Act, 33 USC §§ 1251 et seq.; the California Hazardous Waste Control Law, Cal. Health & Safety Code §§ 25100 et seq.; the Hazardous Substance Account Act ("HSAA"), Cal. Health & Safety

Code §§ 25300 et seq.; the Underground Storage of Hazardous Substances Act, Cal. Health & Safety Code §§ 25280 et seq.; the Porter-Cologne Water Quality Control Act, Cal. Water Code §§ 13000 et seq., the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65); and Title 22 of the California Code of Regulations, Division 4, Chapter 30; (d) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any governmental authority or agency or may or could pose a hazard to the health and safety of the occupants of the Project or the owners and/or occupants of property adjacent to or surrounding the Project, or any other person coming upon the Project or adjacent property; or (e) any other chemical, materials or substance which may or could pose a hazard to the environment.

"Project" means the planned development within the Property and the Remediation Work.

"Remediation Work" means the O&M Obligations, including but not limited to the remediation, operation, maintenance and monitoring of the Property pursuant to the Response Action Documents.

"RMA" means the Rate and Method of Apportionment for Special Taxes for the District.

"Special Tax" means the separate special tax levied and collected in the District specifically for the O&M Obligations, less administrative expenses as defined in the RMA, referred to in the RMA as Special Tax - Environmental.

1.2 Other Interpretive Provisions. References to "Articles," "Sections," "subsections," "paragraphs," "subparagraphs," "Appendices," "Recitals" and "Exhibits" shall be to Articles, Sections, subsections, paragraphs, subparagraphs, Appendices, Recitals, and Exhibits of this Agreement unless otherwise specifically provided. Any of the terms defined in this Article 1 may be used in singular or plural form. As used herein, the singular includes the plural, and the masculine gender includes the feminine and neuter genders, and vice versa, unless the context otherwise requires. In interpreting the meaning of this Agreement or of the Indenture: (i) "includes" and "including" shall not be limiting; (ii) "or" shall not be exclusive; and (iii) "all" shall include "any," and "any" shall include "all." Except as otherwise provided herein, references to any document or instrument defined in this Article 1 are to such document or instrument as amended or supplemented from time to time with City's consent or as otherwise permitted by this Agreement. The titles and headings of articles, sections or subsections of this Agreement are intended for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement. No listing of specific instances, items or matters as examples shall in any way limit the scope or generality of any language of this Agreement. The language of this Agreement shall be construed as a whole according to its fair meaning, and not strictly for or against any party.

ARTICLE 2 ESTABLISHMENT OF COMMUNITY FACILITIES DISTRICT AND LEVY OF SPECIAL TAX.

2.1 Establishment of Community Facilities District. City shall proceed with the formation of the District to fund the Remediation Work pursuant to the Act, it being understood that City will not form the District without the ballot and appropriate waivers of the MPL and

any other property owner or owners of all of the land to be within the boundaries of the District at the time of formation. The RMA for the District shall include a separate special tax to fund the Remediation Work, plus administrative expenses and reasonable reserves, which special tax shall commence in fiscal year 2021-22 and shall terminate upon the issuance by DTSC of a Certificate of Completion or its equivalent that memorializes its determination that the Remediation Work has been completed and no further action is needed. The form of the resolution of intention to form the District shall be provided to DTSC, as well as the proposed RMA.

2.2 Approval of Budgets by DTSC. The annual budgets for the Remediation Work have been approved by DTSC in accordance with the Response Action Documents (the “**Annual Budgets**”) and are attached hereto as Exhibit F. If there are approved deviations from the Annual Budgets, NEC shall provide the changes to the City on or before [May 1] in such year for the following fiscal year (the “**Revised Budget**”), subject to the Maximum Special Tax.

2.3 Initial Deposit. MPL shall deposit funds (the “**Initial Deposit**”) into a segregated account known as “CFD No. 9 (Northshore at Mandalay Bay) Remediation Fund” (the “**Remediation Fund**”) with NEC, which fund shall be established and maintained by NEC and used for the purposes set forth in the Approved Budgets.

2.4 Agreement to Levy. Not later than forty-five (45) days of City’s receipt of each Annual Budget, the Special Tax Consultant, at the direction of City, shall set the Special Tax levy at the amount necessary to generate sufficient Special Taxes to fund the amount budgeted in the approved Annual Budget, subject to and in accordance with the RMA and shall post the levy on the tax roll for the County. In no event shall the Special Tax be levied at an amount greater than the Maximum Special Tax – Environmental described in the RMA.

2.5 Reporting Information Pursuant to the Act. MPL and NEC agree to assist with all statutorily required information regarding the District to be filed with, or provided notices to, any local or state agency, including pursuant to Section 53313(f) of the Act which requires notice to State Department of Health Care Services and local health and building departments of any cleanup activity pursuant to such subdivision at least thirty (30) days prior to commencement of the activity.

ARTICLE 3 DISBURSEMENTS.

3.1 Collection, and Deposit of the Special Tax. The City on the District’s behalf shall receive the Special Tax payments from the County and deposit into a segregated account known as “CFD No. 9 (Northshore at Mandalay Bay) Remediation Special Tax Fund” (the “**Special Tax Fund**”) and within ten days shall transfer said Special Tax payments, less City and District administrative expenses for such fiscal year, to NEC for deposit into the Remediation Fund.

3.2 Use of the Special Tax. NEC may make disbursements from the Remediation Fund to pay for costs of the Remediation Work as provided for in the Annual Budget or Revised Budget, as applicable, as set forth in a Requisition in form attached hereto as Exhibit E. The City may rely on the representations in the Requisition and shall have no obligation to

independently verify the same. To the extent moneys in the Remediation Fund are insufficient to pay for the Remediation Work in any fiscal year, NEC may advance the shortfall and such shortfall amount shall be added to the budget for the next fiscal year, subject to the Maximum Special Tax and approval of extra work by DTSC. The Initial Deposit is intended to be requisitioned by NEC for Remediation Work during fiscal year 2021-22 prior to the initial collection of the Special Tax. Moneys in the Special Tax Fund may only be used for Remediation Work.

3.3 Deposit and Use of Special Tax Upon a Default of NEC. In the event of: (i) a default under this Agreement or the Assignment and Assumption Agreement by NEC which NEC fails to cure within thirty (30) days of receipt of a written notice of default by City or DTSC, or if such a cure cannot be feasibly completed within such a thirty (30) day period, which NEC fails promptly to commence and diligently to undertake a cure within this thirty (30) day period and thereafter, or (ii) City's receipt of a written notice by DTSC stating that NEC has materially deviated from the CLRRRA Agreement and has failed to cure such a deviation as provided in the CLRRRA Agreement (collectively, an "**NEC Default**"), all Parties acknowledge and agree that DTSC or its designee shall: (x) have the right to submit a Requisition and use all funds disbursed from the Remediation Fund for the purposes described in this Agreement, the CLRRRA Agreement and the Response Plan, and (y) have all other rights and assume all obligations of NEC under this Agreement. Subject to DTSC's prior written approval, which shall not be unreasonably withheld or delayed, DTSC may designate any person or entity it chooses to exercise the rights and bear the obligations described in this Section 3.3 in the event of an NEC Default, which designation shall become effective upon DTSC's delivery of a written notice to City, DTSC and NEC that designates any such designee.

3.4 Conditions and Request for Disbursement. The conditions for each disbursement from the Remediation Fund are set forth in the form of Requisition included as Exhibit E. Each Requisition shall be true and accurate and the use of Special Tax shall constitute a reaffirmation by NEC of the representations, warranties and covenants contained in this Agreement, unless otherwise indicated in the Requisition. NEC shall make disbursements, subject to the requirements of this Agreement, to or at the direction of [MPL/NEC] or to the persons, firms or business entities entitled thereto, as set forth in the Exhibit E.

ARTICLE 4 NO LIABILITY OF CITY OR DISTRICT.

4.1 No City or District Liability; No Effect on Other Agreements. In no event shall any actual or alleged act by the City or the District, or any actual or alleged omission, negligence, or failure to act by the City or the District with respect to performance of its obligations hereunder shall subject the City or the District to any liability therefor, whether monetary or otherwise (except only as to transfer amounts available from the Special Tax Fund to the Remediation Fund). In no event shall any actual or alleged act by the City, the District, DTSC, MPL or NEC, or any actual or alleged omission, negligence, or failure to act by such parties with respect to performance of its obligations hereunder adversely impact the levy, collection, or application of special taxes of the District (other than the Special Taxes) to pay debt service on bonds or finance improvements or other services by the District. Further, nothing in this Agreement shall be construed as affecting the City's, the District's, or MPL's duty to perform their respective obligations under any other agreements between the Parties hereto, or

the City's enforcement of applicable laws, ordinances, rules, policies and regulations pertaining to public improvement standards and/or specifications, as well as land use and subdivision requirements related to the Project, all of which are and shall remain independent of MPL's and City's obligations under this Agreement.

4.2 The City and the District shall have no liability, responsibility or ownership whatsoever for the Remediation Work due to their performance under this Agreement.

ARTICLE 5 COVENANTS AND AGREEMENTS.

5.1 Payment of Special Taxes. MPL and NEC shall be current in the payment of all due and payable general property taxes, and all special taxes of the District, on property owned by MPL or NEC, respectively, within the District. In clarification of the foregoing, the payment of general property taxes and all special taxes of the District (including the Special Tax) are not joint and several obligations of MPL and NEC.

5.2 Certification of No Loan Default. MPL shall certify that it is not in default with respect to any loan secured by any interest in the Project.

5.3 Insurance. MPL shall furnish to City a certificate or certificates of insurance, with an insurance carrier acceptable to DTSC, evidencing insurance coverage with a limit of liability not less than \$1,000,000 per occurrence, extending to losses as follows:

5.3.1 Remedy failure;

5.3.2 Third party claims, such as those by on- or off-site property owners, that could arise from such unanticipated occurrences;

5.3.3 Governmental agency orders requiring new or different response actions not reflected in the current plans for Remediation Work;

5.3.4 A change in regulatory standards that require new or different response actions;

5.3.5 Errors and omissions for professional and non-professional positions and representations made by any of the directors or subcontractors not covered by the contractor's insurance.

ARTICLE 6 MISCELLANEOUS.

6.1 Notices. All notices and other communications to City, District, NEC, MPL and DTSC hereunder shall be in writing, which shall include electronic means.

6.2 Construction of Documents. The Parties hereto acknowledge that they were represented by counsel in connection with the negotiations and drafting of the Agreement and the Agreement shall not be subject to the principle of construing its meaning against the party that drafted the Agreement or any portion thereof.

6.3 No Third Party Beneficiaries Except DTSC. The Agreement is solely for the benefit of the Parties (City, District, NEC and MPL) and DTSC (a beneficiary to this Agreement for the limited purpose specified above), and nothing contained in this Agreement shall be deemed to confer upon anyone other than City, District, NEC, MPL and DTSC any right to insist upon or to enforce the performance or observance of any of the obligations contained therein.

6.4 Reimbursement of Expenses. MPL covenants and agrees to pay and indemnify the City and the District against all reasonable fees, costs and charges, including reasonable fees and expenses of attorneys, accountants, consultants and other experts, incurred in good faith and arising out of or in connection with this Agreement. These obligations and those in Section 6.5 shall remain valid and in effect notwithstanding prepayment or termination of the Special Tax or termination of this Agreement.

6.5 Indemnification. (a) To the fullest extent permitted by law, MPL agrees to indemnify, hold harmless and defend the City, the District and each of their respective officers, governing members, directors, officials, employees, attorneys and agents (collectively, the "Indemnified Parties"), against any and all losses, damages, claims, actions, liabilities, costs and expenses of any conceivable nature, kind or character (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject under any statutory law (including federal or state securities laws) or at common law or otherwise, arising out of or based upon or in any way relating to:

(i) this Agreement or the execution or amendment hereof or thereof or in connection with transactions contemplated hereby;

(ii) any act or omission of MPL, NEC or any of its agents, contractors, servants, employees, tenants or licensees in connection with the Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about the Project or any part thereof;

(iii) any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on City or the District in respect of any portion of the Project, other than those incurred by City or District after City or District or its assignee or designee become the legal or beneficial owner of the Project by foreclosure or deed in lieu of foreclosure;

(iv) any violation by MPL of any Environmental Regulations with respect to, or the release of any Hazardous Substances from, the Project or any part thereof;

(v) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact relating to MPL, the Project, or this Agreement that MPL certifies to in writing, contained in any offering or disclosure document or disclosure or continuing disclosure document for the Special Tax or any of the documents relating to the Special Tax, or any omission or alleged omission from any offering or disclosure document or disclosure or continuing disclosure document for the Special Tax of any material fact necessary to be stated therein in order to make the

statements made therein, in the light of the circumstances under which they were made, not misleading; except (A) in the case of the foregoing indemnification of the City or any of its respective officers, members, directors, officials, employees, attorneys and agents, to the extent such damages are caused by the negligence or willful misconduct of such Indemnified Party; or (B) in the case of the foregoing indemnification of the District or any of their officers, members, directors, officials, employees, attorneys and agents, to the extent such damages are caused by the negligence or willful misconduct of such Indemnified Party. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, MPL, upon written notice from the Indemnified Party, shall assume the investigation and defense thereof, including the employment of counsel selected by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and MPL shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at the expense of MPL if in the judgment of such Indemnified Party a conflict of interest exists by reason of common representation or if all parties commonly represented do not agree as to the action (or inaction) of counsel. Notwithstanding any provision of this Agreement to the contrary, MPL shall not be required to indemnify the Indemnified Parties with respect to payment of the Special Tax for the District, or costs associated with collection thereof, including foreclosure proceedings and administrative expenses otherwise payable from the Special Tax.

(b) The rights of any persons to indemnity hereunder and rights to payment of fees and reimbursement of expenses pursuant to Section 6.4 and this Section 6.5 shall survive the final payment or defeasance of the Special Tax. The provisions of this Section shall survive the termination of this Agreement.

6.6 Governing Law. This Agreement shall be governed by and enforced in accordance with the laws of the State of California.

6.7 Severability. The invalidity, illegality or unenforceability of any provision of this Agreement shall not affect the validity, legality or enforceability of any other provision, and all other provisions shall remain in full force and effect.

6.8 Entire Agreement; Amendment and Waiver. This Agreement contains the complete and entire understanding of the Parties with respect to the matters covered. This Agreement may not be amended, modified or changed, nor shall any waiver of any provisions hereof be effective, except by a written instrument signed by the party against whom enforcement of the waiver, amendment, change, or modification is sought, and then only to the extent set forth in that instrument. There shall be no amendment which alters the purpose of this Agreement, set forth at Section 3.1 and 3.2 above, unless approved in writing by the Parties and DTSC. No specific waiver of any of the terms of this Agreement shall be considered as a general waiver. Without limiting the generality of the foregoing, no Disbursement shall constitute a waiver of

any conditions to City's obligation to make further Disbursements nor, in the event MPL is unable to satisfy any such conditions, shall any such waiver have the effect of precluding City from thereafter declaring such inability to constitute an Event of Default under this Agreement.

6.9 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original document and all of which together shall constitute one agreement.

6.10 Captions. The captions of the sections of this Agreement are for convenience only and shall be disregarded in construing this Agreement.

6.11 Limitation on Liability. City shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with the Special Tax and this Agreement, except only to the extent amounts are received for the payment thereof from MPL.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Agreement or caused this Agreement to be duly executed and delivered by their respective authorized representatives as of the date first set forth above.

PARTIES:

[MPL Signature Block]

By: _____

Name:

Title:

[NEC Signature Block]

By: _____

Name:

Title:

CITY OF OXNARD

By: _____

Authorized Signatory

BENEFICIARY:

CALIFORNIA DEPARTMENT OF
TOXIC SUBSTANCES CONTROL

By: _____

Authorized Signatory

EXHIBIT "A"

LEGAL DESCRIPTION

Environmental CC&R's

Legal Description

ALL of Tract No. 5592-1 in the City of Oxnard, County of Ventura, State of California, as per the map filed August 25, 2015 as Document No. 2015825-00128963-0 in Book 163, Pages 30 to 34, inclusive, of Miscellaneous Records (Maps), in the Office of the County Recorder of said County;

EXCEPT THEREFORM Lot A of said Tract No. 5592-1.

TOGETHER WITH ALL of Tract No. 5592-2 in the City of Oxnard, County of Ventura, State of California, as per the map filed November 21, 2019 as Document No. 20191121-00145402-0 in Book 167, Pages 90 to 101, inclusive, of Miscellaneous Records (Maps), in the Office of the County Recorder of said County.

Prepared by: Stantec
Under the direction of:



Kenneth J. Wilson, PLS 7911
September 8, 2020
PN 2064175200



EXHIBIT "B"

SITE PLAN

[ATTACHED]

EXHIBIT "C"

ASSIGNMENT & ASSUMPTION AGREEMENT

[ATTACHED]

EXHIBIT "D"

Requisition: Authorized Signors

Any one of the following person(s) is/are authorized to sign any Requisition from the Remediation Fund:

Name		Specimen Signature
Jim Levine		
Charles Robinson		
Fernando Villa		

MPL's Initials

EXHIBIT "E"
Form of Requisition
Remediation Fund

City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay)

Date: _____

To be filed with:

City of Oxnard
Attention: Special Assessments District Manager

Subject: Requisition - Use of Special Tax

1. The Disbursement was made pursuant to this requisition subject to the terms and conditions of the Special Tax Disbursement Agreement by and among the City of Oxnard ("City") on behalf of itself and the City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay) (the "District"), MPL Property Holdings LLC ("MPL"), and Northshore Environmental Conservancy ("NEC"), dated _____ 2020 for the above-referenced community facilities district. Unless otherwise provided in this Requisition, all capitalized terms in this Requisition shall have the same meaning as ascribed to them in the Special Tax Disbursement Agreement.

2. MPL [or NEC or DTSC] hereby certifies a Disbursement in the amount of \$_____ was made to the following party:

[Insert name and address and, if applicable, wire instructions]

3. Attached to this Requisition are:

(a) An annual budget that provides a detailed breakdown of the cost of activities projected for the next year to be performed under the Response Plan;

(b) A copy of DTSC's written approval of this annual budget and its determination that the activities described in this annual budget would comply with the Response Plan and the CLRRRA Agreement; and

(c) conditional and unconditional partial releases of lien (on forms required by applicable law) from each materials dealer, laborer and subcontractor who has done work or furnished materials for Remediation Work covered by the Request for Disbursement.

MPL [or NEC or DTSC] represents and warrants that all representations and warranties in the Agreement are true and correct and that no event of default has occurred and is continuing, nor potential event of default exists under the CLRRRA Agreement.

MPL [or NEC or DTSC] certifies that all information in, or accompanying this Requisition is true, complete and correct.

[MPL, NEC or DTSC Signature Block]

By: _____
Name/Title:

EXHIBIT "F"
Annual Budgets

RESOLUTION NO. _____

RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF OXNARD,
CALIFORNIA, TO ESTABLISH CITY OF OXNARD COMMUNITY FACILITIES
DISTRICT NO. 9 (NORTHSHORE AT MANDALAY BAY)

WHEREAS, the City Council (the “Council”) of the City of Oxnard (the “City”) has received a petition (the “Petition”) requesting the institution of proceedings for (i) formation of a community facilities district (the “CFD”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the California Government Code (the “Act”), (ii) authorization of the levying and collection of Special Taxes as defined below, (iii) authorization of the issuance of debt for the CFD, (iv) establishment of an appropriations limit for the CFD, and (v) replacement of the previously formed City of Oxnard Community Facilities District No. 6 in accordance with the terms of this Resolution; and

WHEREAS, the Council has determined that the Petition complies with the requirements of Government Code Section 53318(c) and now intends to initiate such proceedings; and

WHEREAS, it is the intention of the Council to finance the purchase, construction, expansion, modification, rehabilitation or improvement of the Facilities (as defined below) and to finance the Services (as defined below) or any combination thereof through the formation of the CFD, subject to the authorization of debt and the levy of a special tax being approved at an election to be held within the boundaries of the CFD.

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

PART 1. The Council hereby proposes to institute proceedings for the formation of a community facilities district under the terms of the Act. The exterior boundaries of the CFD are hereby specified and described to be as shown on that certain map now on file in the office of the City Clerk entitled “Map of Proposed Boundaries City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay)” and as depicted hereto as Exhibit A, which map indicates by a boundary line the extent of the territory included in the CFD, and shall govern for all details as to the extent of the CFD. On the original and one copy of the map on file in the City Clerk’s office, the City Clerk shall endorse the certificate evidencing the date and adoption of this Resolution. The City Clerk shall file the original of such map in her office and, within fifteen (15) days after the adoption of this Resolution, the City Clerk shall file a copy of such map so endorsed in the records of the County Recorder, County of Ventura, State of California.

PART 2. The name of the proposed community facilities district shall be “City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay).”

PART 3. The facilities proposed to be financed by the CFD are public infrastructure facilities and other governmental facilities, including fees related thereto, with an estimated useful life of five years or longer, which the CFD is authorized by law to construct, own or operate and that are necessary to meet increased demands placed upon the City as a result of development occurring within the proposed the CFD, including but not limited to all or a portion of sanitary

sewer, water, street, storm drain and park facilities, public art or other real or tangible property, and related costs including design, inspection, professional fees, and acquisition costs (the “Facilities”). Such Facilities need not be physically located within the CFD.

The types of services proposed to be provided for and financed by the CFD include, but shall not be limited to, landscaping, streetlighting, maintenance of sewer, storm drain, irrigation systems, beaches and parks, beach patrol, and weed abatement (the “General Services”), and the remediation, operation, maintenance and/or monitoring of any hazardous substance released or threatened to be released into the environment on the Property as more particularly described in the Response Plan approved by the Department of Toxic Substances Control (“DTSC”) on December 17, 2018 (the “Response Plan”), the Operation and Maintenance Plan approved by DTSC on March 7, 2019 (“O&M Plan”) and any additional remedial activities or protective measures (the “Remediation Services” and together with the General Services, the “Services”), which Services are in addition to and do not supplant those services already provided in the territory within the CFD prior to the establishment of the CFD.

PART 4. Except where funds are otherwise available, it is the intention of the Council to levy annually in accordance with procedures contained in the Act (i) a special tax within the CFD sufficient to pay for the costs of financing the purchase, construction, expansion, modification, rehabilitation or improvement of the Facilities (the “Special Tax – Facilities”), including the principal of and interest on two or more series of the bonds proposed to be issued to finance the Facilities and other periodic costs, the establishment and replenishment of reserve funds, the remarketing, credit enhancement and liquidity fees, the costs of administering the levy and collection of the Special Taxes and all other costs of the levy of the Special Taxes and issuance of the bonds, including any foreclosure proceedings, architectural, engineering, inspection, legal, fiscal, and financial consultant fees, discount fees, interest on bonds (but not to exceed two years), election costs and all costs of issuance of the bonds, including, but not limited to, fees for bond counsel, disclosure counsel, financing consultants and printing costs, and all other administrative costs of the tax levy and bond issues, (ii) a special tax within the CFD sufficient to pay for the costs of financing the General Services (the “Special Tax - Services”), and (iii) a special tax within the CFD sufficient to pay for the costs of financing the Remediation Services (the “Special Tax - Environmental,” and together with Special Tax - Facilities and the Special Tax - Services, the “Special Taxes”), including the obligation of the CFD with respect to Special Tax - Environmental under the Special Tax Disbursement Agreement (the “Special Tax Disbursement Agreement”), by and among the City, on behalf of itself and the CFD, MPL Property Holdings LLC, and Northshore Environmental Conservancy. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the Streets and Highways Code of the State of California, a continuing lien to secure each levy of the Special Taxes shall attach to all nonexempt real property in the CFD, and that lien shall continue in force and effect until collection of the Special Taxes ceases.

The schedule of the rate and method of apportionment (the “RMA”) and manner of collection of the Special Taxes are described in detail in Exhibit B attached hereto and by this reference incorporated herein. The Special Taxes are based upon the cost of financing the Facilities and the Services in the CFD, the demand that each parcel will place on the Facilities and the Services and the benefit (direct and/or indirect) received by each parcel from the Facilities and the Services. The RMA provides sufficient detail to allow each owner of nonexempt real property within the CFD to estimate the maximum amount that such person will have to pay for the Facilities and the Services.

The Special Taxes are apportioned to each parcel on the foregoing basis pursuant to Section 53325.3 of the Act and as described in the RMA and such Special Taxes are not levied on or based upon the value or ownership of real property. In the event that a portion of the property within the CFD shall become for any reason exempt, wholly or partially, from the levy of the Special Taxes, the Council shall, on behalf of the CFD, increase the levy to the extent necessary upon the remaining property within the CFD which is not delinquent or exempt in order to yield the required payments, subject to the maximum tax. Under no circumstances, however, shall the Special Tax - Facilities levied in any fiscal year against any parcel used for private residential purposes be increased as a consequence of delinquency or default by the owner or owners of any other parcel or parcels within the CFD by more than 10 percent above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults. Furthermore, the maximum Special Tax - Facilities authorized to be levied against any parcel used for private residential purposes shall not be increased over time in excess of 2 percent per year.

Special Tax - Facilities shall not be levied or collected after fiscal year 2065-66, except that Special Tax - Facilities that was lawfully levied in or before such final tax year and that remains delinquent may be collected in subsequent years. Special Tax - Services shall be levied and collected in perpetuity. Special Tax - Environmental shall be levied and collected as provided in the RMA.

The Council hereby determines that the maximum Special Tax – Facilities may include an increase of no more than 2% per year as described in the RMA.

PART 5. Pursuant to Section 53340 of the Act, and except as provided in Section 53317.3 of the Act or in the RMA, properties of entities of the state, federal, and local governments shall be exempt from the levy of the Special Taxes.

PART 6. The Council hereby finds that the proposed Facilities and Services are necessary to meet increased demands put upon the City as a result of the new development within the proposed the CFD.

PART 7. In the petition, the landowner waived the 30-day notice of the holding of a public hearing (the “Hearing”) on the establishment of the CFD and the proposed rate and method of apportionment of the Special Tax. The Hearing shall be held on October 5, 2021, at 6:00 p.m., or as soon thereafter as practicable, at the chambers of the City Council of the City of Oxnard, 305 West Third Street, Oxnard, CA 93030. At the time and place set forth for the Hearing, any interested person, including all persons owning lands or registered to vote within the proposed CFD may appear or be heard. Any protests may be made orally or in writing, except that any protests pertaining to the regularity or sufficiency of such proceedings shall be in writing and shall clearly set forth the irregularities and defects to which the objection is made. All written protests shall be filed with the City Clerk on or before the time fixed for such Hearing, and any written protest may be withdrawn in writing at any time before the conclusion of such Hearing. If written protests against the formation of the CFD are filed by (a) fifty percent (50%) or more of the registered voters, or six (6) registered voters, whichever is greater, residing within the proposed CFD, or (b) the owners of one-half (½) or more of the area of land included within the proposed CFD, the proceedings shall be abandoned. If said majority protest is limited to certain types of services or certain provisions of the special tax, those services or those provisions of the tax must be eliminated by the Council.

PART 8. Each officer of the City who is or will be responsible for the Facilities and the Services to be financed by the CFD, if it is established, is hereby directed to study the proposed the CFD and, at or before the time of the above-mentioned Hearing, file the following reports with the Council which are to be made a part of the record of the Hearing: (a) a report containing a brief description of the Facilities and Services by type which will in his or her opinion be required to adequately meet the needs of the CFD and his or her estimate of the cost of providing the Facilities and Services, and (b) a remedial action plan based upon factors comparable to those described in subdivision (d) of Section 25356.1 of the Health and Safety Code, which may consist of the Response Action Documents as defined in the Special Tax Disbursement Agreement. The Project Manager Special Assessment Districts is directed to estimate the fair and reasonable cost of all incidental expenses, including the cost of planning and designing the Facilities and Services to be financed pursuant to the Act, including the cost of environmental evaluations of such Facilities, all costs associated with the creation of the CFD, issuance of debt, determination of the amount of any Special Taxes, collection of any Special Taxes, or costs otherwise incurred in order to carry out the authorized purposes of the City with respect to the CFD, and any other expenses incidental to the construction, completion and inspection of the authorized work to be paid through the proposed financing.

PART 9. Pursuant to Section 53314.9 of the Act, the City may accept advances of funds from any sources, including private persons or private entities, and is authorized and directed to use such funds for any authorized purpose, including any cost incurred by the City in creating the CFD. The City may enter into an agreement to repay all of such funds as are not expended or committed for any authorized purpose at the time of the election on the levy of the Special Tax, if the proposal to levy such tax should fail, and to repay all of such funds advanced if the levy of the Special Tax shall be approved by the qualified electors of the CFD.

PART 10. The City Clerk is hereby directed to publish a notice ("Notice") of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of the proposed CFD. Such Notice shall contain the text or a summary of this Resolution, state the time and place of the Hearing, a statement that the testimony of all interested persons or taxpayers will be heard, a description of the protest rights of the registered voters and landowners in the proposed CFD, as provided in Section 53322 of the Act and a description of the proposed voting procedure for the election required by the Act. Such publication shall be completed at least seven (7) days prior to the date of the Hearing.

PART 11. Pursuant to Section 53344.1 of the Act, the Council hereby reserves to itself, in its sole discretion, the right and authority by subsequent resolution to allow any owner of property within the CFD, subject to the provisions of Section 53344.1 of the Act and those conditions as it may impose, and any applicable prepayment penalties as prescribed in the bond indenture or comparable instrument or document, to tender to the CFD treasurer in full payment or part payment of any installment of the special taxes or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

PART 12. The voting procedures to be followed in conducting the special election, if the CFD is established, on the propositions with respect to the levy of Special Taxes on the land within

proposed CFD to fund the Facilities and the Services, the incurrence of indebtedness and the establishment of an appropriations limit for the CFD (the "Election"), shall be as follows:

(a) If at least 12 persons have been registered to vote within the territory of the proposed CFD for each of the ninety (90) days preceding the close of the Hearing, the vote in the Election shall be by the registered voters of the CFD with each voter having one vote. In that event, the Election shall be conducted by the City Clerk (the "Election Official") and shall be held on a date selected by the City Council in conformance with the provisions of Section 53326 of the Act and pursuant to the provisions of the Elections Code of the State of California governing elections of cities, insofar as they may be applicable, and pursuant to said Section 53326 the ballots for the Election shall be distributed to the qualified electors of the proposed CFD by mail with return postage prepaid, and the Election shall be conducted as a mail ballot election.

(b) If at the time of the close of the Hearing, and for at least one day of the preceding ninety (90) days, less than 12 persons have been registered to vote within the territory of the proposed CFD, and pursuant to Section 53326 of the Act, the vote is therefore to be by the landowners of the proposed CFD, with each landowner of record at the close of the Hearing having one vote for each acre or portion of an acre of land that he or she owns within the proposed CFD, the Election shall be conducted by the Election Official as follows:

(1) The Election shall be held on the earliest date, following the Hearing and adoption of a resolution submitting the propositions, upon which such Election can be held pursuant to said Section 53326 which may be selected by the Council, or such earlier date as the owners of land within the proposed CFD and the Election Official agree and concur is acceptable.

(2) Pursuant to said Section 53326, the Election may be held earlier than ninety (90) days following the close of the Hearing if the qualified electors of the proposed CFD waive the time limits for conducting the elections set forth in said Section 53326 by unanimous written consent and the Election Official concurs in such earlier election date as shall be consented to by the qualified electors.

(3) Pursuant to said Section 53326, ballots for the Election shall be distributed to the qualified electors by the Election Official by mail with return postage prepaid, or by personal service.

(4) Pursuant to applicable sections of the Elections Code of the State of California governing the conduct of mail ballot elections of cities, and the City, the Election Official shall, among other things, mail or deliver or cause to be mailed or delivered to each qualified elector an official ballot in a form specified by the Council in the resolution calling the Election, and a return identification envelope with prepaid postage thereon addressed to the Election Official for returning voted official ballots.

(5) The official ballot to be mailed or delivered by the Election Official to each landowner-voter shall have printed or typed thereon the name of the landowner-voter and the number of votes to be voted by the landowner-voter and shall have appended to it a certification to be signed by the person voting the official ballot which shall certify that the person signing the certification is the person who voted the official ballot, that he or she has been authorized to vote

such official ballot on behalf of the landowner-voter and if the landowner-voter is other than a natural person, that he or she is an officer of or other person affiliated with the landowner-voter entitled to vote such official ballot.

(6) The return identification envelope mailed or delivered by the Election Official to each landowner-voter shall have printed or typed thereon the following: (i) the name of the landowner, (ii) the address of the landowner, (iii) a declaration under penalty of perjury stating that the voter is the landowner or the authorized representative of the landowner entitled to vote the enclosed ballot and is the person whose name appears on the identification envelope, (iv) the printed name and signature of the voter, (v) the address of the voter, (vi) the date of signing and place of execution of said declaration, and (vii) a notice that the envelope contains an official ballot and is to be opened only by the Election Official.

(7) The instruction to voter form to be mailed or delivered by the Election Official to the landowner-voters shall inform them that the official ballots shall be returned to the Election Official properly voted as provided thereon and with the certification appended thereto properly completed and signed in the sealed return identification envelope with the certification thereon completed and signed and all other information to be inserted thereon properly inserted by the hour on the date of the Election which is specified by the Election Official for the receipt of ballots; provided that if all qualified voters have voted, the Election may be closed by the Election Official.

(8) Upon receipt of the return identification envelopes which are returned prior to the voting deadline on the date of the Election, the Election Official shall canvass the votes cast in the Election, and shall file a statement with the Council as to the results of such canvass and the election on each proposition set forth in the official ballot.

The procedures set forth in this section for conducting the Election, if held, may be modified as the Council may determine to be necessary or desirable.

PART 13. The City Clerk shall certify to the adoption of this Resolution.

The foregoing Resolution was adopted at a regular meeting of the City Council of the City of Oxnard, State of California, held on the ____ day of September, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

John Zaragoza, Mayor

ATTEST:

APPROVED AS TO FORM:

Rose Chaparro, City Clerk

Stephen M. Fischer, City Attorney

EXHIBIT A
PROPOSED BOUNDARY MAP OF
CITY OF OXNARD COMMUNITY FACILITIES DISTRICT NO. 9
(NORTHSHORE AT MANDALAY BAY)

EXHIBIT B

PROPOSED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

RESOLUTION NO. _____

RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF OXNARD,
CALIFORNIA, TO INCUR BONDED INDEBTEDNESS IN THE AMOUNT NOT TO
EXCEED \$22,500,000 WITHIN THE PROPOSED CITY OF OXNARD COMMUNITY
FACILITIES DISTRICT NO. 9 (NORTHSHORE AT MANDALAY BAY)

WHEREAS, the City Council (the “City Council”) of the City of Oxnard (the “City”) has heretofore adopted Resolution No. _____ (the “Resolution of Intention”), stating the City Council’s intention to establish City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay) (the “CFD”), pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the California Government Code (the “Act”), to replace the previously formed City of Oxnard Community Facilities District No. 6, to finance the purchase, construction, expansion, modification, rehabilitation or improvement of certain public capital improvements and fees related thereto with an estimated useful life of five years or longer, which the CFD is authorized by law to construct, own or operate and that are necessary to meet increased demands placed upon the City as a result of development occurring within the proposed CFD, including but not limited to sanitary sewer, water, street, storm drain and park facilities, public art and related costs including design, inspection, professional fees, and acquisition costs (the “Facilities”); and

WHEREAS, in order to finance the Facilities it is necessary to incur bonded indebtedness on behalf of the CFD in the aggregate amount not to exceed \$22,500,000, the repayment of which is to be secured by Special Tax - Facilities levied in accordance with Section 53340 et seq. of the Act on all property within the CFD, other than those properties exempted from taxation as provided in the rate and method of apportionment attached as Exhibit B to the Resolution of Intention.

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

PART 1. The above recitals are true and correct.

PART 2. It is necessary to incur bonded indebtedness in one or more series within the CFD in the aggregate amount not to exceed \$22,500,000 to finance the costs of the Facilities.

PART 3. The bonded indebtedness will be incurred for the purpose of financing the costs of purchasing, constructing, expanding, modifying, rehabilitating or improving the Facilities, the acquisition of necessary equipment and property therefor and fulfilling contractual commitments and carrying out the powers and purposes of the CFD, including, but not limited to, the financing of the costs associated with the issuance of the bonds and all other costs necessary to finance the Facilities which are permitted to be financed pursuant to the Act.

PART 4. It is the intent of the City Council, acting as the legislative body of the CFD, to authorize the sale of bonds in one or more series, in the maximum aggregate principal amount not to exceed \$22,500,000, bearing interest payable semi-annually or in such other manner as the City Council shall determine at a maximum interest rate of 12 percent per annum or such rate not in excess of the maximum rate permitted by law at the time the bonds are issued. The term of the

bonds of each series shall be determined pursuant to a resolution of the City Council authorizing the issuance of the bonds of such series, but such term shall in no event exceed 40 years or such longer term as is then permitted by law.

PART 5. A public hearing (the “Hearing”) on the proposed debt issue shall be held on October 5, 2021, at 6:00 p.m., or as soon thereafter as practicable, at the chambers of the City Council of the City of Oxnard, 305 West Third Street, Oxnard, CA 93030.

PART 6. At the Hearing at the time and place set forth above, any interested persons, including all persons owning land or registered to vote within the proposed CFD, may appear and be heard.

PART 7. The proposition to incur bonded indebtedness in the maximum aggregate principal amount not to exceed \$22,500,000 shall be submitted to the qualified electors of the CFD. A special community facilities district election shall be conducted on October 5, 2021. The special election shall be conducted by hand delivered or mailed ballot election with return postage prepaid. The ballots shall be returned to the office of the election officer no later than 11:00 o’clock p.m. on October 5, 2021.

PART 8. The City Clerk is hereby directed to publish a notice (“Notice”) of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of the proposed CFD. Such Notice shall contain information set forth in Section 53346 of the Act.

PART 9. The City Clerk shall certify to the adoption of this Resolution.

The foregoing Resolution was adopted at a regular meeting of the City Council of the City of Oxnard, State of California, held on the ____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

John Zaragoza, Mayor

ATTEST:

APPROVED AS TO FORM:

Rose Chaparro, City Clerk

Stephen M. Fischer, City Attorney

DEPOSIT AND REIMBURSEMENT AGREEMENT

THIS DEPOSIT AND REIMBURSEMENT AGREEMENT (this “**Deposit Agreement**”), dated as of _____, 2021, is by and between the City of Oxnard, California (the “**City**”) and MPL Property Holdings LLC, a Delaware limited liability company (the “**Owner**”).

RECITALS

WHEREAS, the City is considering to initiate proceedings to create a community facilities district to be designated “City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay) (the “**Community Facilities District**”) under the Mello-Roos Community Facilities Act of 1982, as amended (the “**Act**”); and

WHEREAS, Owner is the owner of the real property within the proposed Community Facilities District described in Exhibit A attached hereto (the “**Property**”); and

WHEREAS, in accordance with City’s policy regarding use of the Act, the Owner is required to reimburse the City for all costs actually incurred by the City on a reasonable basis in the formation of the Community Facilities District and issuance of bonds for the Community Facilities District; and

WHEREAS, Section 53314.9 of the Act provides that, at any time either before or after the formation of a community facilities district, the legislative body may accept advances of funds from any source, including, but not limited to, private persons or private entities and may provide, by resolution, for the use of those funds for any authorized purpose, including, but not limited to, paying any cost incurred by the local agency in creating a community facilities district (including the issuance of bonds thereby); and

WHEREAS, Section 53314.9 of the Act further provides that the legislative body may enter into an agreement, by resolution, with the person or entity advancing the funds, to repay all or a portion of the funds advanced, as determined by the legislative body, with or without interest under all of the following conditions: (a) the proposal to repay the funds is included in both the resolution of intention to establish a community facilities district adopted pursuant to Section 53521 of the Act and in the resolution of formation to establish the community facilities district pursuant to Section 53325.1 of the Act (including the issuance of bonds thereby), (b) any proposed special tax is approved by the qualified electors of the community facilities district pursuant to the Act, and (c) any agreement shall specify that if the qualified electors of the community facilities district do not approve the proposed special tax, the local agency shall return any funds which have not been committed for any authorized purpose by the time of the election to the person or entity advancing the funds; and

WHEREAS, the City and the Owner desire to enter into this Deposit Agreement in accordance with Section 53314.9 of the Act in order to provide for the advancement of funds by the Owner to be used to pay actual costs incurred in connection with the formation of the Community Facilities District and issuance of special tax bonds for the Community Facilities District (the “**Bonds**”), and to provide for the reimbursement to the Owner of such funds advanced, without interest, from the proceeds of the Bonds;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

Section 1. The Deposits and Application Thereof.

(a) The Owner has previously deposited with the City the amount of Sixty Thousand Dollars (\$60,000) (the “**Initial Deposit**”) which is being held by the City pursuant to Section 1(b) below. The City, by its execution hereof, acknowledges receipt of, and accepts, the Initial Deposit.

(b) The Initial Deposit, together with any subsequent deposit required to be made by the Owner pursuant to the terms hereof (collectively, the “**Deposits**”), are to be used to pay for any costs incurred for any authorized purpose in connection with the formation of the Community Facilities District and the issuance of the Bonds including, without limitation, (i) the fees and expenses of any consultants to the City employed in connection with the formation of the Community Facilities District and the issuance of the Bonds, including an engineer, special tax consultant, financial advisor, bond counsel, disclosure counsel and issuer’s counsel, and any other consultant reasonably deemed necessary or advisable by the City, (ii) the costs of appraisals, market absorption and/or feasibility studies and other reports reasonably deemed necessary or advisable by the City in connection with the formation of the Community Facilities District and issuance of the Bonds, (iii) the costs of publication of notices, preparation and mailing of ballots and other costs related to any hearing, election or other action or proceeding undertaken in connection with the formation of the Community Facilities District and issuance of the Bonds, (iv) reasonable charges for City staff time incurred in connection with the formation of the Community Facilities District and the issuance of the Bonds by the Community Facilities District, including a reasonable allocation of City overhead expense related thereto, and (v) any and all other actual costs and expenses incurred by the City in connection with the formation of the Community Facilities District and the issuance of the Bonds (collectively, the “**Initial Costs**”). The City may draw upon the Deposits from time to time to pay the Initial Costs.

(c) At such time the Owner requests the City to initiate proceedings to issue Bonds, the Owner shall make an additional deposit in the amount determined by the City. If, at any time, the unexpended and unencumbered balance of the Deposits is less than Five Thousand Dollars (\$5,000), the City may request, in writing, that the Owner make an additional deposit in an amount estimated to be sufficient, together with any such unexpended and unencumbered balance, to pay for all Initial Costs (an “**Additional Deposit**”). The Owner shall make the Additional Deposit with the City within two weeks of the receipt by the Owner of the City’s written request therefor. If the Owner fails to make any such Additional Deposit within such two week period, the City may cease all work related to the formation of the Community Facilities District and/or the issuance of the Bonds. Upon receipt of the Additional Deposit, all work will resume.

(d) The Deposits shall be kept separately at the City and the City shall at all times maintain records as to the expenditure of the Deposits.

(e) The City shall draw upon the Deposits and pay the Initial Costs after executing a certificate request (the “**Certificate**”) in the form attached hereto as Exhibit B and by this reference incorporated herein.

(f) The City shall provide the Owner with a written monthly summary of expenditures made from the Deposits, and the unexpended balance thereof, within 15 business days of receipt of the City of a written request therefor submitted by the Owner. The cost of providing any such summary shall be charged to the Deposits.

Section 2. Return of Deposits; Reimbursement.

(a) As provided in Section 53314.9 of the Act, the approval by the qualified electors of the Community Facilities District of the proposed special tax to be levied therein is a condition to the repayment to the Owner of the funds advanced by the Owner pursuant hereto. Therefore, if the qualified electors of the Community Facilities District do not approve the proposed special tax to be levied thereon, the City shall have no obligation to repay the Owner any portion of the Deposits expended or encumbered to pay Initial Costs. In accordance with Section 53314.9 of the Act, if the qualified electors of the Community Facilities District do not approve the proposed special tax to be levied therein, the City shall return to the Owner any portion of the Deposits and interest, if any, which have not been expended or encumbered to pay Initial Costs by the time of the election on said proposed special tax.

(b) If proceedings for the issuance of the Bonds are terminated, the City shall, within 15 business days after official action by the City or the Community Facilities District to terminate said proceedings, return the then unexpended and unencumbered portion of the Deposits to the Owner.

(c) If the Bonds are issued by the Community Facilities District, the City shall reimburse the Owner, without interest, for the portion of the Deposits that has been expended or encumbered, said reimbursement to be made within 15 business days after the issuance of such Bonds, solely from the proceeds of such Bonds and only to the extent otherwise permitted under the Act. The City shall, within 15 business days after the issuance of such Bonds, return the then unexpended and unencumbered portion of the Deposits and interest, if any, to the Owner.

Section 3. Abandonment of Proceedings. The Owner acknowledges and agrees that the issuance of the Bonds shall be in the sole discretion of the City. No provision of this Deposit Agreement shall be construed as an agreement, promise or warranty of the City to issue the Bonds.

Section 4. Deposit Agreement Not Debt or Liability of City. To the extent provided in Section 53314.9(b) of the Act, this Deposit Agreement does not constitute a debt or liability of the City, but shall constitute a debt and liability of the Community Facilities District upon its formation. The City shall not be obligated to advance any of its own funds to pay Initial Costs or any other costs incurred in connection with the formation of the CFD and issuance of the Bonds. No member of the City Council of the City and no officer, employee or agent of the City shall to any extent be personally liable hereunder.

Section 5. Notices. Any notices, requests, demands, documents, approvals or disapprovals given or sent under this Deposit Agreement from one Party to another (collectively, "Notices") may be personally delivered, transmitted by facsimile (FAX) transmission, electronic mail or deposit with the United States Postal Service for mailing, postage prepaid, to the address of the other Party as stated in this Section, and shall be deemed to have been given or sent at the

time of personal delivery, electronic mail or FAX transmission or, if mailed, seventy-two hours following the date of deposit in the course of transmission with the United States Postal Service. Notices shall be sent as follows:

If to City:

City of Oxnard
Attn: City Manager
300 West Third Street, 3rd Floor
Oxnard, California 93030

with copy to:

City Attorney
City of Oxnard
305 West Third Street, Suite 100E
Oxnard, California 93030

If to Owner:

MPL Property Holdings LLC
Attn: Scott Bordogna
c/o GTIS Partners
787 Seventh Avenue, 50th Floor
New York, NY 10019
Email: sbordogna@gtispartners.com

and

Thomas M. Feldstein
Senior Managing Director, General Counsel
And Chief Operating Officer
GTIS Partners LP
1808 Wedemeyer Street, Suite 324
The Presidio
San Francisco, CA 94129
Email: tfeldstein@gtispartners.com

Each such notice, statement, demand, consent, approval, authorization, offer, designation, request or other communication hereunder shall be deemed delivered to the party to whom it is addressed (a) if personally served or delivered, upon delivery, (b) if given by electronic communication, whether by telex, telegram or telecopier upon the sender's receipt of an appropriate answerback or other written acknowledgement, (c) if given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, 72 hours after such notice is deposited with the United States mail, (d) if given by overnight courier, with

courier charges prepaid, 24 hours after delivery to said overnight courier, or (e) if given by any other means, upon delivery at the address specified in this Section.

Section 6. Indemnification. The Owner hereby agrees to indemnify, defend (with counsel acceptable to the City), protect and hold harmless the City and its elective or appointive boards, council members, officers, and employees from any and all claims, rights, grievances, demands, damages, debts, liabilities, obligations, costs, expenses, causes of action, or damages of any kind or nature, including attorneys' fees, whether known or unknown, existing or potential, anticipated or unanticipated, or which may hereafter be sustained, arising out of or related to any acts or omissions taken by the Owner's officers, employees, contractors and agents with respect to this Deposit Agreement, the formation of the Community Facilities District, or the issuance of the Bonds, unless the same are caused by the negligence or willful misconduct of the City or its elective or appointive boards, council members, officers, and employees. This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable or insurance proceeds are available to the Owner. Any such policy limits do not act as a limitation upon the amount of indemnification to be provided by the Owner.

Section 7. Release. Except in the event of the City's, or its elective or appointive boards, council members, officers, and employees, negligence or willful misconduct, and except as to the terms and conditions of this Deposit Agreement, the Owner hereby fully and irrevocably releases, waives, acquits and discharges the City and its electives or appointive boards, council members, officers, and employees of and from any and all claims, rights, grievances, demands, debts, liabilities, obligations, costs, expenses, causes of action, or damages of any nature, including attorney's fees, whether known or unknown, existing or potential, anticipated or unanticipated, or which may hereafter be sustained, arising out of, related to, or having any connection with this Deposit Agreement, the formation of the Community Facilities District, or the issuance of the Bonds.

To this end, except as to the terms and conditions of this Deposit Agreement, the Owner expressly waives and relinquishes all rights and benefits under California Civil Code Section 1542, which states as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

Section 8. California Law. This Deposit Agreement shall be governed and construed in accordance with the laws of the State of California. The Parties shall be entitled to seek any remedy available at law and in equity. All legal actions must be instituted in the Superior Court of the County of Ventura, State of California, in an appropriate municipal court in Ventura County, or in the United States District Court for the District of California in which Ventura County is located.

Section 9. Successors and Assigns. This Deposit Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

Section 10. Counterparts. This Deposit Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

Section 11. Other Agreements. The obligations of the Owner hereunder shall be that of a party hereto. Nothing herein shall be construed as affecting the City's or Owner's rights, or duties to perform their respective obligations, under applicable law, other agreements, use regulations or subdivision requirements relating to the development. This Deposit Agreement shall not confer any additional rights, or waive any rights given, by either party hereto under any development or other agreement to which they are a party.

Section 12. Titles and Captions. Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of this Deposit Agreement or of any of its terms. Reference to section numbers are to sections in this Deposit Agreement, unless expressly stated otherwise.

Section 13. Interpretation. As used in this Deposit Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word "including" shall be construed as if followed by the words "without limitation." This Deposit Agreement shall be interpreted as though prepared jointly by both Parties.

Section 14. No Waiver. A waiver by either Party of a breach of any of the covenants, conditions or agreements under this Deposit Agreement to be performed by the other Party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions of this Deposit Agreement.

Section 15. Modifications. Any alteration, change or modification of or to this Deposit Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of each Party.

Section 16. Severability. If any term, provision, condition or covenant of this Deposit Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Deposit Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

Section 17. Legal Advice. Each Party represents and warrants to the other the following: they have carefully read this Deposit Agreement, and in signing this Deposit Agreement, they do so with full knowledge of any right which they may have; they have received independent legal advice from their respective legal counsel as to the matters set forth in this Deposit Agreement, or have knowingly chosen not to consult legal counsel as to the matters set forth in this Deposit Agreement; and, they have freely signed this Deposit Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other Party, or their respective agents, employees, or attorneys, except as specifically set forth in this Deposit Agreement, and without duress or coercion, whether economic or otherwise.

Section 18. Cooperation. Each Party agrees to cooperate with the other in this transaction and, in that regard, to sign any and all documents which may be reasonably necessary, helpful, or appropriate to carry out the purposes and intent of this Deposit Agreement including, but not limited to, releases or additional agreements.

Section 19. Conflicts of Interest. No member, official or employee of City shall have any personal interest, direct or indirect, in this Deposit Agreement, nor shall any such member, official or employee participate in any decision relating to the Deposit Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is directly or indirectly interested.

IN WITNESS WHEREOF, the Parties have executed this Deposit Agreement as of the date set forth on the first page hereof.

“CITY”

CITY OF OXNARD, a municipal corporation

By: _____

Title: _____

“OWNER”

MPL PROPERTY HOLDINGS LLC,
a Delaware Limited Liability Company

By: GTIS-Mandalay LLC, a Delaware limited liability company, its managing member

By: River Blocker I LLC, its administrative member

By: GTIS US Residential Strategies Parallel Fund LP, its sole member

By: GTIS US Residential Strategies Fund GP LLC, its general partner

By: _____

Name: _____

Title: _____

EXHIBIT A

PROPERTY DESCRIPTION

The following described property is situated in the City of Oxnard, County of Ventura, State of California:

196-0-091-355	196-0-093-015	196-0-091-055	196-0-100-055	196-0-110-345	196-0-120-235
196-0-091-345	196-0-093-025	196-0-091-065	196-0-100-045	196-0-110-335	196-0-120-245
196-0-091-335	196-0-093-035	196-0-091-075	196-0-100-035	196-0-110-325	196-0-120-255
196-0-091-325	196-0-093-045	196-0-091-085	196-0-100-025	196-0-110-195	196-0-120-265
196-0-091-315	196-0-093-055	196-0-091-095	196-0-100-015	196-0-110-205	196-0-120-275
196-0-091-305	196-0-093-065	196-0-091-105	196-0-100-175	196-0-110-215	196-0-120-285
196-0-091-295	196-0-093-075	196-0-091-115	196-0-100-195	196-0-110-225	196-0-120-295
196-0-091-285	196-0-093-085	196-0-091-125	196-0-100-185	196-0-110-235	196-0-120-305
196-0-091-275	196-0-093-095	196-0-091-135	196-0-100-075	196-0-110-245	196-0-120-315
196-0-091-265	196-0-093-105	196-0-091-145	196-0-110-045	196-0-110-255	196-0-120-325
196-0-091-255	196-0-092-125	196-0-091-155	196-0-110-055	196-0-110-025	196-0-120-335
196-0-091-245	196-0-092-135	196-0-091-165	196-0-110-065	196-0-110-035	196-0-120-345
196-0-094-095	196-0-092-145	196-0-091-175	196-0-110-075	196-0-110-415	196-0-120-355
196-0-094-105	196-0-092-155	196-0-091-185	196-0-110-085	196-0-110-425	196-0-120-365
196-0-094-115	196-0-092-165	196-0-091-195	196-0-110-095	196-0-110-015	196-0-120-375
196-0-094-125	196-0-092-175	196-0-091-205	196-0-110-105	196-0-110-445	196-0-120-385
196-0-094-135	196-0-092-185	196-0-091-215	196-0-110-115	196-0-110-435	196-0-120-395
196-0-094-145	196-0-092-195	196-0-091-225	196-0-110-125	196-0-120-015	196-0-120-405
196-0-094-155	196-0-092-205	196-0-091-365	196-0-110-135	196-0-120-025	196-0-120-415
196-0-094-015	196-0-092-215	196-0-091-375	196-0-110-145	196-0-120-035	196-0-120-425
196-0-094-025	196-0-092-225	196-0-090-015	196-0-110-155	196-0-120-045	196-0-120-435
196-0-094-035	196-0-092-015	196-0-091-415	196-0-110-165	196-0-120-055	196-0-120-445
196-0-094-045	196-0-092-025	196-0-091-395	196-0-110-175	196-0-120-065	196-0-120-455
196-0-094-055	196-0-092-035	196-0-091-405	196-0-110-185	196-0-120-075	196-0-120-465
196-0-094-065	196-0-092-045	196-0-091-235	196-0-110-315	196-0-120-085	196-0-120-485
196-0-094-075	196-0-092-055	196-0-091-385	196-0-110-305	196-0-120-095	196-0-120-475
196-0-094-085	196-0-092-065	196-0-100-165	196-0-110-295	196-0-120-105	196-0-120-535
196-0-093-115	196-0-092-075	196-0-100-155	196-0-110-285	196-0-120-115	196-0-120-205
196-0-093-125	196-0-092-085	196-0-100-145	196-0-110-275	196-0-120-125	196-0-120-525
196-0-093-135	196-0-092-095	196-0-100-135	196-0-110-265	196-0-120-135	196-0-120-495
196-0-093-145	196-0-092-105	196-0-100-125	196-0-110-405	196-0-120-145	196-0-120-505
196-0-093-155	196-0-092-115	196-0-100-115	196-0-110-395	196-0-120-155	196-0-120-515
196-0-093-165	196-0-091-015	196-0-100-105	196-0-110-385	196-0-120-165	196-0-120-195
196-0-093-175	196-0-091-025	196-0-100-095	196-0-110-375	196-0-120-175	196-0-120-215
196-0-093-185	196-0-091-035	196-0-100-085	196-0-110-365	196-0-120-185	
196-0-093-195	196-0-091-045	196-0-100-065	196-0-110-355	196-0-120-225	

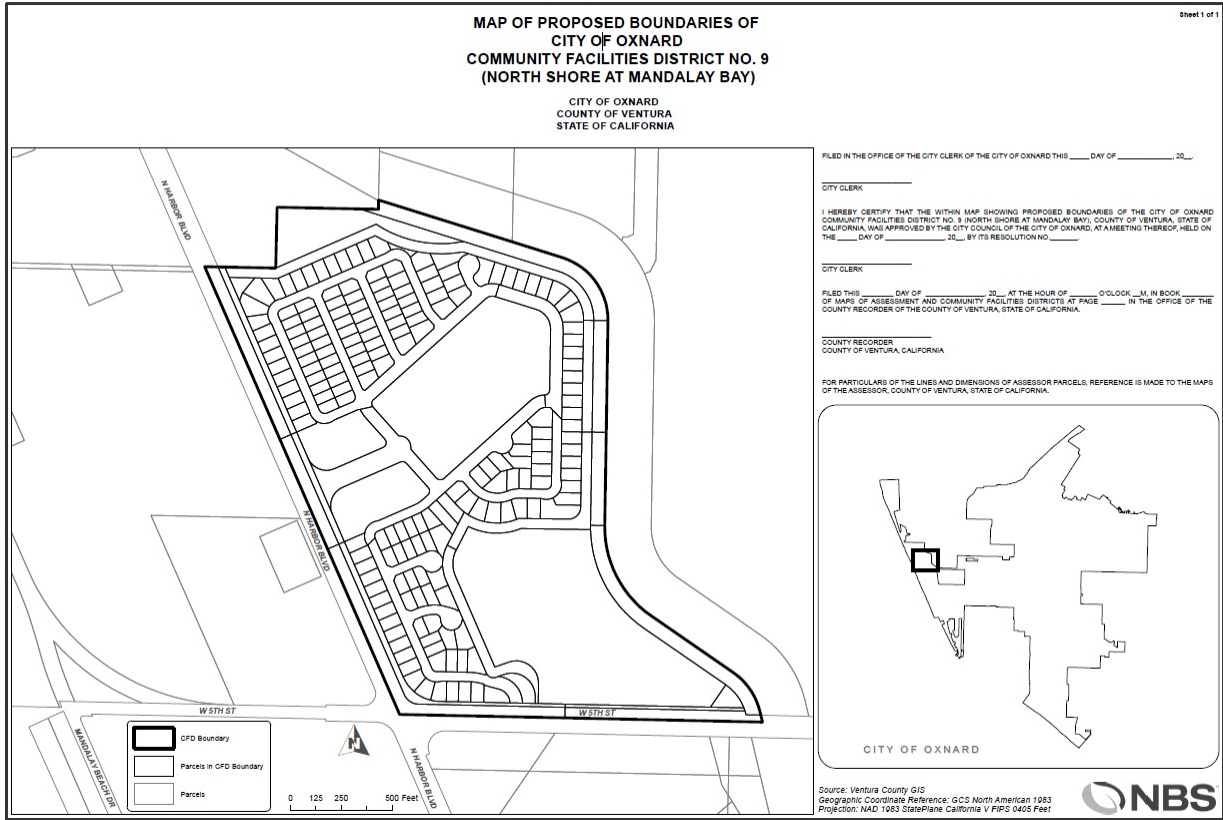


EXHIBIT B

**City of Oxnard
Community Facilities District No. 9
(Northshore at Mandalay Bay)**

**CERTIFICATE REGARDING
DISBURSEMENTS PURSUANT TO THE
DEPOSIT AND REIMBURSEMENT AGREEMENT**

The undersigned hereby states and certifies:

(1) that he/she, as the duly qualified Finance Director of the City of Oxnard, a municipal corporation duly organized and existing under the laws of the State of California (the “City”), is authorized pursuant to the Deposit and Reimbursement Agreement, dated as of June 1, 2021 (the “Agreement”), by and between the City and MPL Property Holdings LLC, relating to the formation of City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay) (the “CFD”), to execute and deliver this certificate;

(2) that pursuant to the Agreement, each obligation shown on Exhibit 1 has been properly incurred as an Initial Cost;

(3) that no item to be paid pursuant to this Certificate has been previously paid or reimbursed from the Deposits; and

(4) that capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Agreement.

Dated: _____

CITY OF OXNARD, a municipal
corporation

By: _____
Title: Finance Director

CITY OF OXNARD
PROPOSED COMMUNITY FACILITIES DISTRICT NO. 9
(NORTHSHORE AT MANDALAY BAY)

Land Use Assumptions ⁽¹⁾

Development Plans

	<u>Units</u>	<u>Estimated Lowest Base Sales Price</u>
Less than 2,100 SF	0	\$0
2,100 - 2,249 SF	28	860,000
2,250 - 2,399 SF	27	885,000
2,400 - 2,549 SF	27	895,000
2,550 - 2,699 SF	30	950,000
2,700 - 2,849 SF	56	940,000
2,850 - 2,999 SF	0	0
3,000 - 3,149 SF	0	0
3,150 - 3,299 SF	29	1,030,000
3,300 - 3,449 SF	0	0
3,450 - 3,549 SF	24	1,080,000
3,550 - 3,649 SF	24	1,090,000
3,650 - 3,799 SF	0	0
3,800 - 3,949 SF	0	0
3,950 - 4,099 SF	0	0
4,100 - 4,250 SF	24	1,150,000
Greater than 4,250 SF	<u>23</u>	1,170,000
Total	292	
Weighted Average		992,260

Acreage Summary

	<u>Zone A Acreage</u>	<u>Zone B Acreage</u>
Gross Acreage	75.83	14.43
Exempt Acreage	<u>(50.46)</u>	<u>(6.97)</u>
Net Taxable Acreage	25.37	7.46
less: Contingency Factor (5%)	<u>N/A</u>	<u>(0.37)</u>
Net Taxable Acres (Adjusted)	25.37	7.09

Undeveloped/Backup Special Tax Rates - Facilities

	<u>Zone A</u>	<u>Zone B</u>
Total Developed Property Revenue	\$686,639	\$301,959
Net Taxable Acres (Adjusted)	25.37	7.09
Undeveloped Rate per Acre	\$27,065	\$42,607
Anticipated Unit Count	183	109
Backup Special Tax Rate per Unit	\$3,752	\$2,770

Undeveloped Special Tax Rates - Services

	<u>Zone A & B</u>
Total Developed Property Revenue	\$405,042
Net Taxable Acres (Adjusted)	32.46
Rate per Acre	\$12,478

Undeveloped/Backup Special Tax Rates - Enviro.

	<u>Zone A & B</u>
Total Developed Property Revenue	\$507,981
Net Taxable Acres (Adjusted)	32.46
Undeveloped Rate per Acre	\$15,649
Anticipated Unit Count	292
Backup Special Tax Rate per Unit	\$1,760

Value to Lien

Assessed Value	\$36,148,895
Lien Amount	\$17,620,000
Value to Lien	2.05

(1) Land Use assumptions per Draft Bond Analysis 5/27/2021 provided by DPFG.

(2) Bond Assumptions per Draft Bond Analysis 5/27/2021 provided by DPFG.

(3) Services & Environmental Budget per Terraphase Memo RE Environmental Maintenance Costs dated October 21, 2020.

Bond Assumptions ⁽²⁾

<u>Bond Year</u>	2021
Par Amount of Bonds	\$17,620,000
Average Coupon	4.500%
Bond Term (30 Years) Amortization (29 Years)	30 years
Costs of Issuance/Incidental Costs (Estimate)	300,000
Reserve Fund (125% of Avg. Annual Debt Service)	1,426,737
Capitalized Interest (12 Month's Worth)	792,900
Underwriter Discount (Minimum of \$50,000 or 1.5%)	<u>264,300</u>
Net Construction Proceeds	\$14,836,063

Initial Annual Budget - Facilities

Initial Annual Debt Service	\$853,271
Initial Administration Costs	<u>50,000</u>
Subtotal Annual Costs	\$903,271
10% Coverage on Debt Service	<u>85,327</u>
Total Initial Annual Budget	\$988,598

Initial Annual Budget - Services ⁽³⁾

<u>CFD Eligible Services</u>	<u>Total Costs</u>
Landscape & Street Lights (Harbor & 5th)	\$93,926
Sewer Lift Station	42,000
Public Storm Drain Maintenance (Harbor & 5th)	16,890
City Administration & Overhead	25,510
Mandalay State Beach Maintenance/Patrol Funding	86,000
RPA Maintenance (24 Acres)	15,714
Milk Vetch Maintenance	<u>88,180</u>
Total Estimated Annual Costs	\$368,220
Contingency (10%)	36,822
Total	\$405,042

Initial Annual Budget - Environmental ⁽³⁾

Environmental Operations, Maintenance and Monitoring	\$482,981
Initial Administration Costs	<u>\$25,000</u>
Total	\$507,981

Other Assumptions

Existing Property Tax Rate	1.24407%
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CITY OF OXNARD
PROPOSED COMMUNITY FACILITIES DISTRICT NO. 9
(NORTHSHORE AT MANDALAY BAY)

<u>Tax Burden and Sample Tax Rates</u>		<i>Base Property</i>		<i>Proposed Fac.</i>	<i>Proposed Services</i>	<i>Proposed Env.</i>	<i>Total Property</i>	
<i>Category</i>	<i>Price Point</i>	<i>Tax Rate</i>	<i>Fixed Charges</i>	<i>Max Tax</i>	<i>Max Tax</i>	<i>Max Tax</i>	<i>Total Tax Burden</i>	<i>Tax Rate</i>
Less than 2,100 SF	\$0	\$0	\$63.00	\$2,418.84	\$1,387.00	\$1,760.00	\$5,628.84	N/A
2,100 - 2,249 SF	860,000	10,699	63.00	2,543.84	1,387.00	1,760.00	16,452.84	1.913%
2,250 - 2,399 SF	885,000	11,010	63.00	2,707.07	1,387.00	1,760.00	16,927.09	1.913%
2,400 - 2,549 SF	895,000	11,134	63.00	2,772.37	1,387.00	1,760.00	17,116.80	1.912%
2,550 - 2,699 SF	950,000	11,819	63.00	2,919.28	1,387.00	1,760.00	17,947.95	1.889%
2,700 - 2,849 SF	940,000	11,694	63.00	3,066.19	1,387.00	1,760.00	17,970.45	1.912%
2,850 - 2,999 SF	0	0	63.00	3,266.19	1,387.00	1,760.00	6,476.19	N/A
3,000 - 3,149 SF	0	0	63.00	3,466.19	1,387.00	1,760.00	6,676.19	N/A
3,150 - 3,299 SF	1,030,000	12,814	63.00	3,653.83	1,387.00	1,760.00	19,677.75	1.910%
3,300 - 3,449 SF	0	0	63.00	3,817.06	1,387.00	1,760.00	7,027.06	N/A
3,450 - 3,549 SF	1,080,000	13,436	63.00	3,980.29	1,387.00	1,760.00	20,626.25	1.910%
3,550 - 3,649 SF	1,090,000	13,560	63.00	4,045.59	1,387.00	1,760.00	20,815.95	1.910%
3,650 - 3,799 SF	0	0	63.00	4,135.59	1,387.00	1,760.00	7,345.59	N/A
3,800 - 3,949 SF	0	0	63.00	4,225.59	1,387.00	1,760.00	7,435.59	N/A
3,950 - 4,099 SF	0	0	63.00	4,315.59	1,387.00	1,760.00	7,525.59	N/A
4,100 - 4,250 SF	1,150,000	14,307	63.00	4,437.35	1,387.00	1,760.00	21,954.16	1.909%
Greater than 4,250 SF	1,170,000	14,556	63.00	4,567.93	1,387.00	1,760.00	22,333.55	1.909%

<u>Expected Revenue</u>	<i>Estimated</i>	<i>Property Tax</i>	<i>Fixed Charge</i>	<i>Facilities Special</i>	<i>Services Special</i>	<i>Env. Special</i>	<i>Total Tax Revenue</i>
<i>Category</i>	<i>Units</i>	<i>Revenue</i>	<i>Revenue</i>	<i>Tax Revenue</i>	<i>Tax Revenue</i>	<i>Tax Revenue</i>	
Less than 2,100 SF	0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2,100 - 2,249 SF	28	299,572.06	1,764.00	71,227.52	38,836.00	49,280.00	460,679.58
2,250 - 2,399 SF	27	297,270.53	1,701.00	73,090.89	37,449.00	47,520.00	457,031.42
2,400 - 2,549 SF	27	300,629.52	1,701.00	74,853.99	37,449.00	47,520.00	462,153.51
2,550 - 2,699 SF	30	354,559.95	1,890.00	87,578.40	41,610.00	52,800.00	538,438.35
2,700 - 2,849 SF	56	654,878.45	3,528.00	171,706.64	77,672.00	98,560.00	1,006,345.09
2,850 - 2,999 SF	0	0.00	0.00	0.00	0.00	0.00	0.00
3,000 - 3,149 SF	0	0.00	0.00	0.00	0.00	0.00	0.00
3,150 - 3,299 SF	29	371,603.71	1,827.00	105,961.07	40,223.00	51,040.00	570,654.78
3,300 - 3,449 SF	0	0.00	0.00	0.00	0.00	0.00	0.00
3,450 - 3,549 SF	24	322,462.94	1,512.00	95,526.96	33,288.00	42,240.00	495,029.90
3,550 - 3,649 SF	24	325,448.71	1,512.00	97,094.16	33,288.00	42,240.00	499,582.87
3,650 - 3,799 SF	0	0.00	0.00	0.00	0.00	0.00	0.00
3,800 - 3,949 SF	0	0.00	0.00	0.00	0.00	0.00	0.00
3,950 - 4,099 SF	0	0.00	0.00	0.00	0.00	0.00	0.00
4,100 - 4,250 SF	24	343,363.32	1,512.00	106,496.40	33,288.00	42,240.00	526,899.72
Greater than 4,250 SF	23	334,779.24	1,449.00	105,062.39	31,901.00	40,480.00	513,671.63
<i>Totals</i>	<i>292</i>	<i>\$3,604,568.42</i>	<i>\$18,396.00</i>	<i>\$988,598.42</i>	<i>\$405,004.00</i>	<i>\$513,920.00</i>	<i>\$5,530,486.84</i>

Maintenance Assessment Districts

& Waterway Assessment Districts

- MAD No. 4 (Mandalay Beach/Colony/Hotel)
- WAD No. 1 (Mandalay Bay)
- WAD No. 2 (Mandalay Bay)

Community Facilities Districts

- CFD No. 1 & 2 (WESTPORT AT MANDALAY BAY)
- CFD No. 3 & 4 (SEABRIDGE AT MANDALAY BAY)
- CFD No. 5 (RIVERPARK)
- CFD No. 6 (NORTH SHORE AT MANDALAY BAY)
- CFD No. 7 (WAGON WHEEL)

Landscape Maintenance Districts

- LMD No. 10 (Country Club Estates)
- LMD No. 11 (St. Tropez)
- LMD No. 12 (Standard Pacific)
- LMD No. 13 (Le Village)
- LMD No. 14 (California Cove)
- LMD No. 16 (California Lighthouse)
- LMD No. 23 (Greystone)
- LMD No. 24 (Vineyards)
- LMD No. 25 (Pointe)
- LMD No. 27 (Rose Island)
- LMD No. 28 (Harborside)
- LMD No. 3 (River Ridge)
- LMD No. 30 (Haas Automation)
- LMD No. 31 (Rancho De La Rosa)
- LMD No. 32 (Oak Park)
- LMD No. 33 (El Paseo)
- LMD No. 34 (Sunrise Pointe & Sunset Cove)
- LMD No. 36 (Villa Santa Cruz & Villa Carmel)
- LMD No. 37 (Pacific Breeze)
- LMD No. 38 (Aldea Del Mar)
- LMD No. 39 (Promesa & Sueno)
- LMD No. 40 (Cantada)
- LMD No. 41 (Pacific Cove)
- LMD No. 42 (Cantabria & Coronado)
- LMD No. 43 (Greenbelt)
- LMD No. 46 (Daily Ranch)
- LMD No. 47 (Sycamore Place)
- LMD No. 49 (Cameron Ranch)
- LMD No. 50 (Pleasant Valley Senior Housing)
- LMD No. 51 (Pfeiler)
- LMD No. 52 (Wingfield)
- LMD No. 53 (Huff Court)
- LMD No. 54 (Meadow Crest Villas)
- LMD No. 55 (Wingfield West)
- LMD No. 58 (Westwind)
- LMD No. 60 (Artisan)

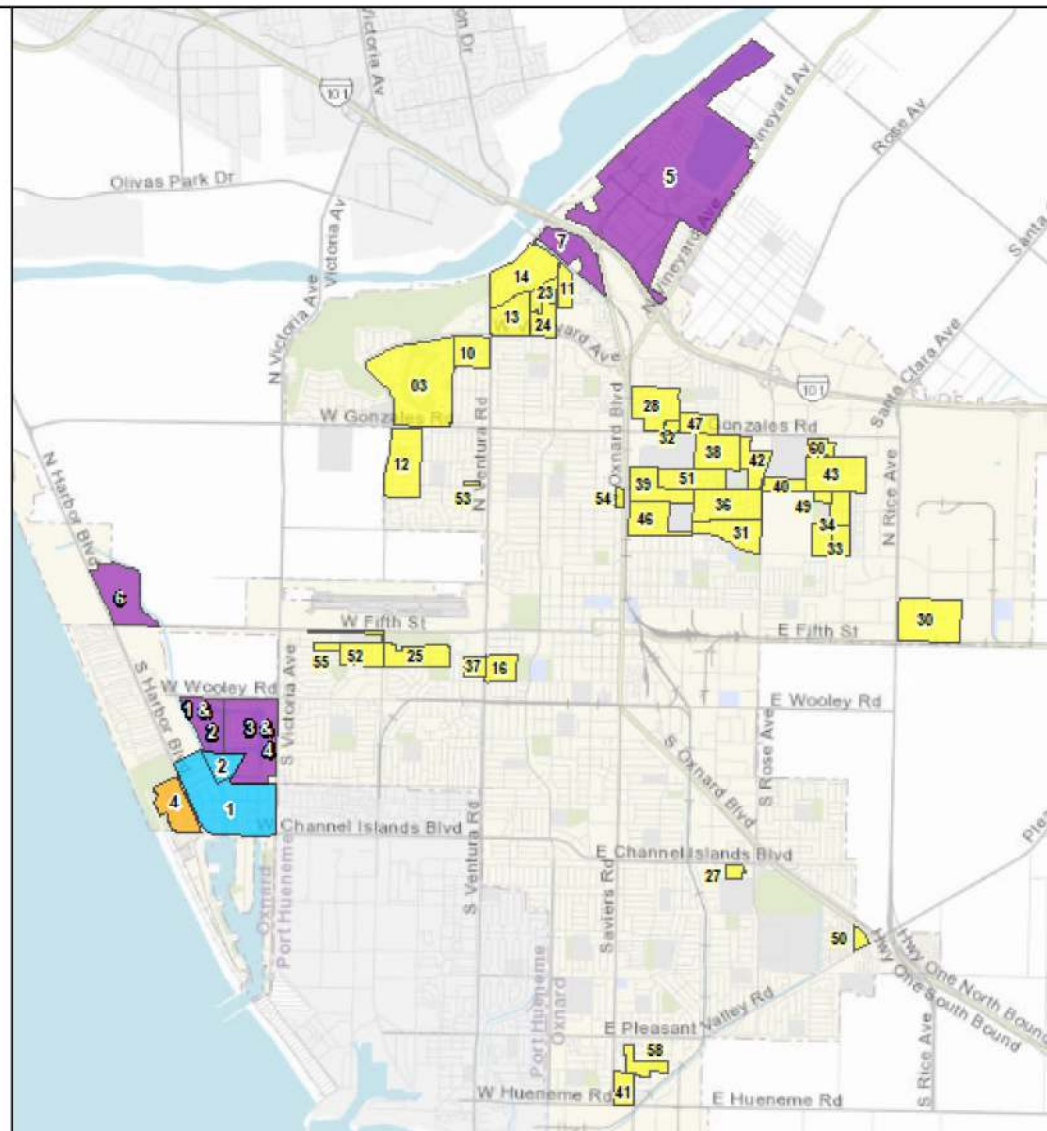


EXHIBIT A

ESTIMATED DESCRIPTION AND BUDGET OF FACILITIES

Preliminary List of Authorized Facilities 5/27/2021

City of Oxnard Impact Fees		Rate	Per	Units	Total
Sewer Connection Fee	[1]	\$ 5,256	DU	292	\$ 1,534,752
Water System Connection Fee (3/4" Meter)	[1]	3,133	DU	292	914,836
Storm Drain Fee	[1]	10,645	ACRE	52.76	561,630
Traffic Circulation Fee	[1]	8,030	DU	292	2,344,760
Quimby Fees	[1]	6,037	DU	292	1,762,862
Growth Requirement Capital Fee	[1]	1.16	SF	1,033,592	1,198,967
Parks and Recreation Fee	[1]	250	DU	292	73,000
Public Art Program	[1]	0.20	SF	1,033,592	206,718
Total City Impact Fees					\$ 8,597,526
City of Oxnard Improvements		Rate	Per	Units	Total
Sewer Lift Station	[2]	1,250,000	Total	1	1,250,000
On-Site Water Improvements	[2]	1,151,086	Total	1	1,151,086
Harbor Blvd and 5th Street (Streets/SD)	[2]	3,763,339	Total	1	3,763,339
Prevailing Wage	[2]	15%	of Costs	6,164,425	924,664
Construction Management/Engineering	[2]	5%	of Costs	6,164,425	308,221
Total City Improvements					\$ 7,397,310
Total Eligible City Impact Fees and Improvements					\$ 15,994,836

[1] Reflects the City of Oxnard Development Impact Fees in effect for entitled property through July 19, 2021 proposed to be financed by the proposed City of Oxnard CFD. City to verify eligibility.

[2] Reflects the ESTIMATED City of Oxnard improvement costs provided by client.

EXHIBIT B

ESTIMATED DESCRIPTION AND BUDGET OF GENERAL SERVICES

Estimated Services CFD Special Tax

Services Special Tax B		
Description		Estimated Costs
Harbor and Fifth Street ROW Landscape and Street Lights	[1]	\$ 93,926
Sewer Lift Station	[1]	42,000
Public Storm Drain Maintenance (Harbor and Fifth)	[1]	16,890
City Admin and Overhead	[1]	25,510
Mandalay State Beach Maintenance/Patrol Funding	[1]	86,000
RPA Maintenance (24 Acres)	[1]	15,714
Milk Vetch Maintenance	[1]	88,180
Total Estimated Annual Costs		\$ 368,220
Contingency (10%)		36,822
Total Annual Special Tax B Requirement		\$ 405,042
Special Tax B per Home		\$ 1,387

Environmental CFD Special Tax		
Description		Estimated Costs
Environmental Operations, Maintenance and Monitoring	[2]	473,511
		\$ 1,622

[1] Estimate per client.

[2] Reflects the estimated costs associated with the long-term remedial and administrative obligations for the North Shore at Mandalay Bay development based on Terraphase Engineering letter dated 10/12/2020.

Proposed Formation of the City of Oxnard Community Facilities District No. 9 and Approval of Deposit and Reimbursement Agreement and Special Tax Disbursement Agreement

Finance & Governance Committee
July 27, 2021

City Council
September 7, 2021

Steve Howlett
Assistant Public Works Director



RECOMMENDATION

That the Finance & Governance Committee recommend the City Council adopt the following resolutions:

1. A Resolution approving a Deposit and Reimbursement Agreement and Special Tax Distribution Agreement relating to the proposed City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay); and
2. A Resolution of Intent to establish the City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay); and
3. A Resolution of Intent to incur bonded indebtedness in the amount not to exceed \$22,000,000 within the proposed City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay).

RECOMMENDATION

That the City Council adopt the following resolutions:

1. A Resolution approving a Deposit and Reimbursement Agreement and Special Tax Distribution Agreement relating to the proposed City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay); and
2. A Resolution of Intent to establish the City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay); and
3. A Resolution of Intent to incur bonded indebtedness in the amount not to exceed \$22,000,000 within the proposed City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay).

BACKGROUND

Community Facilities Districts (CFDs)

- Are established pursuant to the provisions of the California Government Code Section 53311 *et seq.* (commonly known as the “Mello-Roos”).
- Raise money through special taxes that must be approved by 2/3 of the voters within a CFD. The City Council is the legislative body of the any CFD the City forms. Most often, CFDs are formed by the landowner prior to subdivision.
- Can be formed to finance a wide list of improvements, which include roads, water facilities, sewers, and schools. They are also used to finance ongoing maintenance services of the facilities or for services such as landscaping, streets, lighting, and drainage facilities. The taxes are secured by a continuing lien and are levied against property within the CFD on an annual basis.

Northshore CFD

- The City established 2006 CFD (Northshore at Mandalay Bay) in 2006 for an earlier proposed development located at the northeastern corner of Fifth Street and Harbor Boulevard.
- There were two special tax components (A and B) to 2006 CFD
 - Special Tax A (currently at \$5,581,558.89) is the special tax which could be levied each year to fund the annual facilities special tax component. It can be levied until Fiscal Year 2045/46
 - Special Tax B (currently at \$1,897,411.41) can be levied in perpetuity in order to satisfy the services special tax requirement. The City has not yet issued bonds for 2006 CFD, but the City is authorized to incur bonded indebtedness in a maximum aggregate principal amount not to exceed \$30,000,000.

Northshore CFD

- The City has never levied Special Tax A as no bonds were sold and has not levied Special Tax B on parcels in 2006 CFD since Fiscal Year 2014/15. Currently, no services are being performed in 2006 CFD, but it has a balance of a little over \$500,000 of collected special taxes.
- The owner and developer, MPL Property Holdings LLC, has a current development plan for 292 single family residences within the 90 acre development and is requesting either a replacement or modification of 2006 CFD to include: (a) a facilities special tax for the life of any bond issues; (b) a services special tax in perpetuity; and, (c) an environmental special tax for remediation, operation and maintenance activities as required by the Department of Toxic Substances Control (“DTSC”).

Northshore CFD

- Staff recommends a new CFD (CFD #9) rather than trying to amend 2006 CFD
 - Allows the City to prioritize facilities and fees to be financed, while also making sure the effective tax rate for residences is under 2%
 - New CFD will have a not to exceed bond authorization of \$22,000,000
 - Once the new CFD #9 is formed, 2006 CFD will be dissolved.

DISCUSSION

CFD #9 is proposed to be established for the purpose of funding the following:

(a) Public infrastructure facilities and other governmental facilities, including fees related thereto, with an estimated useful life of five years or longer, including but not limited to all or a portion of sanitary sewer, water, street, storm drain and park facilities, public art or other real or tangible property, and related costs including design, inspection, professional fees, and acquisition costs through the levy of a Special Tax; and

(b) Services including, but not limited to, landscaping, street lighting, maintenance of sewer, storm drain, irrigation systems, beaches and parks, beach patrol, and weed abatement (the “General Services”) through the annual levy of a Special Tax in perpetuity; and

DISCUSSION

- (c) Remediation of any hazardous substance released or threatened to be released into the environment on the Property as more particularly described in the Response Plan approved by DTSC on December 17, 2018, the Operation and Maintenance Plan approved by DTSC on March 7, 2019, and any additional remedial activities or protective measures through the levy of a Special Tax on an annual basis as long as determined by DTSC.
- All parties have reviewed the parameters of the special tax formula or the Rate and Method of Apportionment (RMA). The Special Taxes will be levied each year according to the RMA and placed on the County property tax rolls.
 - The first Resolution approves the form of a deposit and reimbursement agreement with the Landowner. The Landowner has made a deposit of \$60,000 to the City toward the costs of forming the CFD.

DISCUSSION

Special Tax – Facilities

- This tax is used to pay debt service on bonds or for facilities on a pay-as-you-go basis, or a combination thereof. The City anticipates that the CFD will issue one or more series of Special Tax Bonds with a 30-year maturity and escalating debt service of 2% per year to acquire the Facilities built by the Landowner and to pay or reimburse the Landowner for the payment of certain impact fees.
- The RMA includes an assigned tax and a back-up tax for developed property, in case the number of residential units built is less than estimated. Once developed property is taxed, undeveloped and contingent property will be taxed if needed.

DISCUSSION

Special Tax – Services

- This will be levied annually in perpetuity to finance the General Services. Once developed property is taxed at the maximum rate, any undeveloped and contingent property will be taxed if needed. This tax escalates at the greater of 2% or a CPI escalation factor not to exceed 5% commencing July 1, 2023.
- The Special Tax for Services takes the place of a traditional maintenance assessment district.

DISCUSSION

Special Tax – Environmental

- Will be collected by the CFD and turned over to the newly formed nonprofit, the Northshore Environmental Conservancy (“NEC”), to pay for the annual Remediation Services approved by DTSC.
- The RMA includes an assigned tax and a back-up tax for developed property in case the number of residential units built is less than estimated. Once developed property is taxed at the maximum rate, undeveloped and contingent property will be taxed if needed. This tax escalates at the greater of 2% or a CPI escalation factor not to exceed 5% commencing July 1, 2023.
- Upon the issuance of a certificate of completion by DTSC, this tax will no longer be levied.

DISCUSSION

Process - Council approval process takes approximately 60 to 75 days.

Step 1: Finance & Governance Committee recommend the City Council's approval of the three Recommendations (July 27, 2021)

Step 2: City Council (September 7, 2021) adopts the Resolution approving the Deposit and Reimbursement Agreement and the Special Tax Disbursement Agreement.

Step 3: City Council adopts the Resolution of Intention to form the CFD and a Resolution of Intention to Incur Debt (September 7, 2021). Once the City declares its' intentions to establish CFD #9 (Northshore at Mandalay Bay), a public hearing will be scheduled for October 5, 2021.

DISCUSSION

Step 4: City Council hold a public hearing on October 5, 2021. Provided there is no majority protest, CFD #9 will be established.

Steps 5 & 6: City Council, acting as the legislative body of the CFD, conducts a special mailed ballot election and adopts an ordinance levying the special tax.

- The Landowner has waived election timelines, so an election may be held on October 5, 2021 to authorize the levy of an annual special tax on such property.
- Should the proposition pass with a two-thirds vote from the qualified voters (the Landowner), the City may hold the first reading of an ordinance on October 5, 2021 and adopts the ordinance on October 19, 2021, along with a resolution transferring assets of the former CFD to CFD #9 and approving the dissolution of the former CFD.

DISCUSSION

Future Consideration

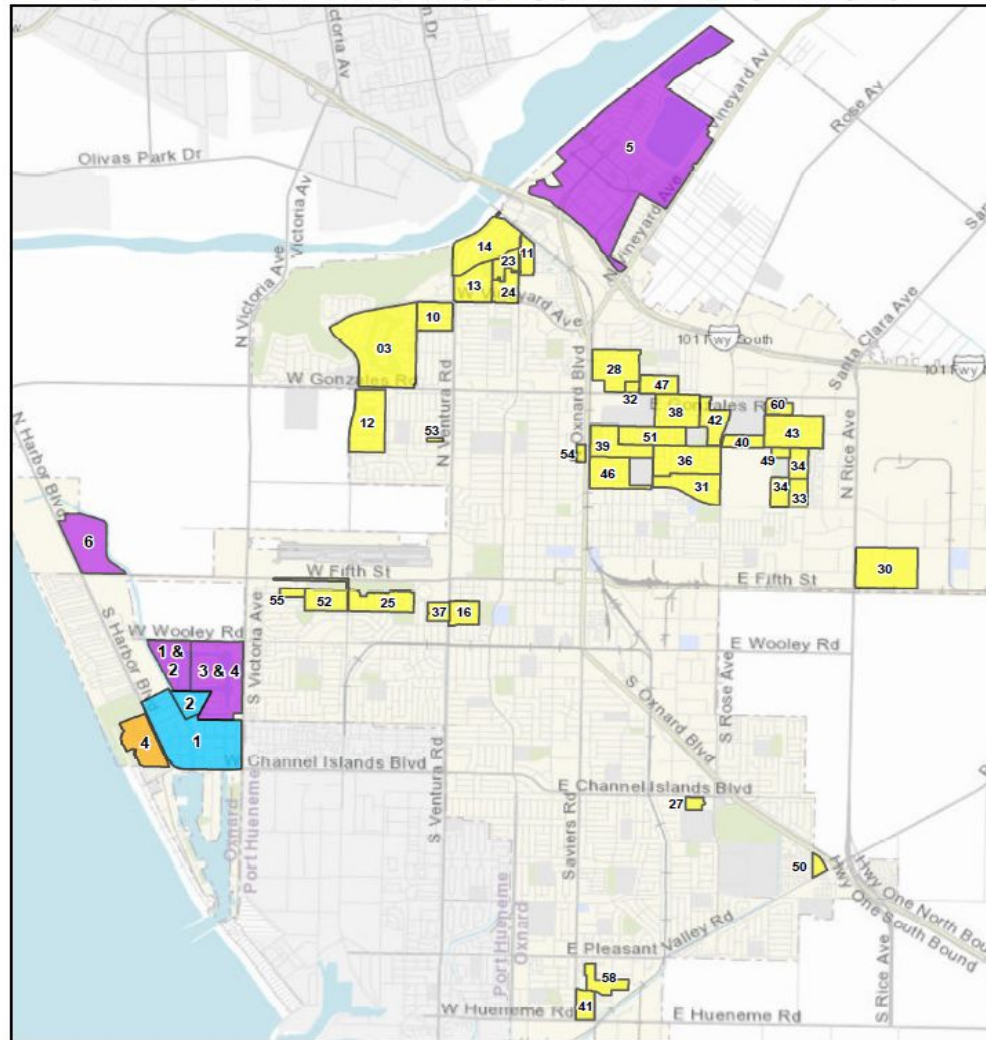
At a later date, the CFD in its sole discretion will determine the final amount of Bonds issued. The proposed maximum bond authorization is \$22,000,000. The “not to exceed” bond amount for the CFD is based on Facilities costs and available Special Tax - Facilities.

If the action is approved, the formation of the replacement CFD, special election and approval of other related documents will occur on October 5, 2021. Currently, it is not expected that Bonds will be authorized for issuance or sale until the development is well underway and the Facilities are at or near completion, at which time documents relating to the issuance and sale of the bonds will be brought to the Council for its approval.

FINANCIAL IMPACT

There is no direct impact in approving these resolutions and there is no financial impact to the General Fund.

CITY OF OXNARD ASSESSMENT DISTRICTS



 Maintenance Assessment District (District No.)  Community Facilities District (District No.)
 Waterway Assessment District (Zone No.)  Landscape Maintenance District (District No.)

QUESTIONS

ANSWERS



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. M.4

DATE: September 7, 2021

TO: City Council

FROM: Vyto Adomaitis, Community Development Director, (805) 385-7882, vyto.adomaitis@oxnard.org

SUBJECT: Peninsula Road Street Vacation and Acceptance of a Public Access Easement; Planning and Zoning (PZ) Permit No. 21-660-01 (Street Vacation)- A Resolution of Intention to vacate the southernmost 272 feet of Peninsula Road fronting 3605 Peninsula Road and acceptance of a public access easement to allow for the continuation of vehicular circulation. (0/10/10)

RECOMMENDATION

That the City Council:

1. Find the project Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3);
2. Adopt a Resolution declaring its intention to vacate its right, title and interest in the southernmost 272 feet of the right-of-way fronting 3605 Peninsula Road and accept a public access easement to allow for the continuation of vehicular circulation; and
3. Direct the City Clerk to schedule a public hearing in accordance with the vacation procedures contained in California Streets and Highway Code Section 8300 et seq to be held on Tuesday, October 5, 2021 at 6:00 p.m. at the at the City Council Chambers of the City of Oxnard located at 305 West Third Street in Oxnard, California.

(This item did not originate in Committee.)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/Dd6DOzxacEM>

BACKGROUND

The County granted an easement to the City of Oxnard for right-of-way purposes for Peninsula Road in June 1970, the location is generally identified in Attachment 1.

On May 18, 2021, the Oxnard City Council and the County Board of Supervisors adopted the Channel Islands Harbor Cooperation Agreement (the Cooperation Agreement). The Cooperation Agreement requires that the City process the Peninsula Road street vacation without application of the County within 120 days of adoption of the Cooperation Agreement. The Cooperation Agreement has been included as Attachment 2.

On June 21, 2021, a Community Workshop meeting was held which covered the intent of the street vacation and access easement, details of the abutting California Coastal Commission approved 210-room hotel project which would replace the non-operational and dilapidated 184-room Casa Sirena Hotel, and modifications to public parking and walkways.

On July 15, 2021, the Planning Commission reviewed the request to vacate southernmost 272 feet of the right-of-way located at Peninsula Road and the acceptance of a public access easement to allow for the continuation of vehicular circulation for General Plan and Local Coastal Program (LCP) conformance as required by California Government Code Section 65402(a). The Planning Commission staff report has been included as Attachment 3 (with Planning Commission attachments). The Planning Commission unanimously determined the proposed vacation and the acceptance of a public access easement would be consistent with the goals, policies and objectives of the City's adopted 2030 General Plan and

LCP and adopted Planning Commission Resolution 2021-14 which has been included as Attachment 4.

ANALYSIS AND DISCUSSION

The process for a right-of-way vacation is outlined in the Streets and Highways Code Section 8320. Pursuant to Streets and Highways Code Section 8320, a vacation request involves a two-step process. The first step, occurring on September 7, 2021, requires the City Council to review the street vacation request and adopt a resolution of intention to vacate the right-of-way. The second step involves a noticed public hearing and the adoption of a resolution to vacate the property by the City Council. In accordance with Streets and Highways Code Section 8320(b)(2), the date of the public hearing shall not be less than 15 days after the initiation of proceedings which means that the earliest the City Council can schedule a public hearing to consider the street vacation at a regular City Council meeting is October 5, 2021.

The street vacation map is included as Attachment 5. Vacating the southernmost 272 feet of Peninsula Road (cul-de-sac) will maintain and or improve public safety, convenience, and public welfare and allow for the Hotel Sirena redevelopment project. The cul-de-sac will be reconstructed in a slightly different configuration to both accommodate emergency service vehicles and the new hotel's entrance when the hotel site is redeveloped. Additional public access will be provided by the new development to include a public plaza between the hotel and restaurant, a new waterfront promenade along the edges of the property, and users of the Peninsula Yacht Marina would share the parking lot. This will create an unbroken pedestrian path with public access to the new hotel development and access to the marina. The improvements within this dedicated area will be undertaken at a future time by the developer of the hotel.

The proposed vacation should be reviewed in the interest of safety, convenience, and public welfare, and not for the sole benefit of the abutting property owner. Additionally, all right-of-way vacations are to be reviewed for conformance with the General Plan. As previously mentioned, the street vacation was reviewed by the Planning Commission who determined the appropriateness of the right-of-way vacation on July 15, 2021.

ENVIRONMENTAL REVIEW

Pursuant to California Environmental Quality Act (Public Resources Code Sections 21000 et seq., "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations Sections 15000 et seq., the "CEQA Guidelines"), it can be seen with certainty that there is no possibility that the proposed vacation of the 272 feet of the right-of-way located at Peninsula Road and the acceptance of a public access easement would have a significant effect on the environment (CEQA Guidelines Section 15061(b)(3), and staff recommends that the City Council accept a Notice of Exemption as part of the noticed public hearing and the adoption of a resolution to vacate the property by the City Council. Any subsequent improvement to the property will be separately examined in accordance with CEQA.

STRATEGIC PRIORITIES

This agenda item supports Economic Development strategy. The purpose of Economic Development strategy is to focus on the retention and expansion of Oxnard businesses by increasing the skills and employability of our local workforce, invite new business investments, and target site-based redevelopment opportunities.

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

This agenda item supports Public Safety strategy. The purpose of the Public Safety strategy is to restore and modernize the delivery of public safety services to provide for the safety of our neighborhoods and health of our community.

FINANCIAL IMPACT

If approved after the required public processes, the City's road maintenance costs would be slightly reduced as a result of not being required to maintain the vacated portion of Peninsula Road.

COMMITTEE OUTCOME

This item did not originate in Committee as this item was originated by the Oxnard City Council's adoption of the Cooperation Agreement on May 18, 2021, and as the Peninsula Road and Street Vacation General Plan Conformity Determination was reviewed by and a recommendation was forwarded by the Planning Commission on July 15, 2021.

Prepared by: Isidro Figueroa, Principal Planner

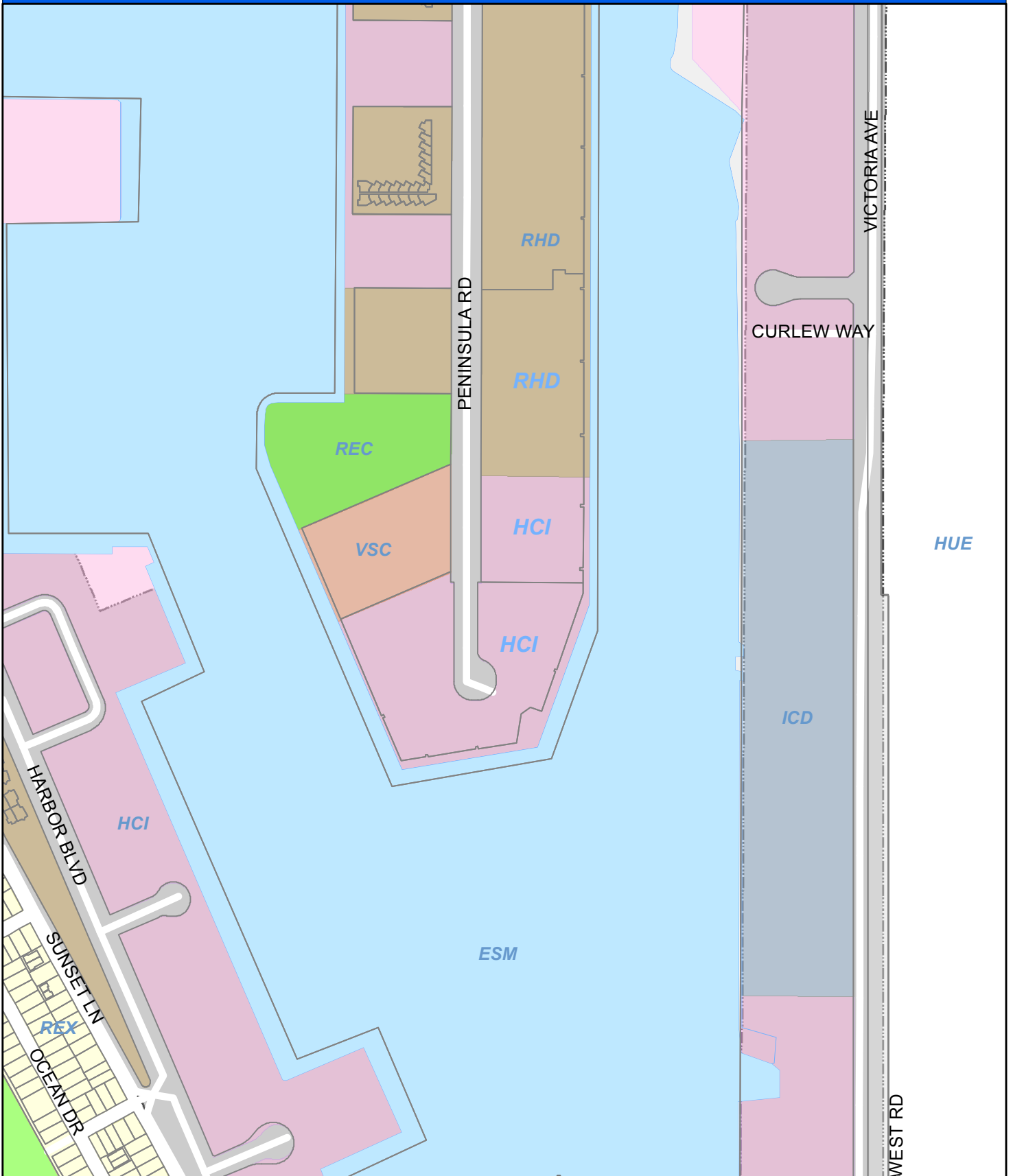
ATTACHMENTS

1. Attachment 1 - Maps
2. Attachment 2 - Channel Islands Harbor Cooperation Agreement
3. Attachment 3 - July 15, 2021 Planning Commission Staff Report
4. Attachment 4 - Planning Commission Resolution 2021-14
5. Attachment 5 - Street Vacation Map
6. Attachment 6 - City Council Resolution
7. Presentation

Vicinity Map

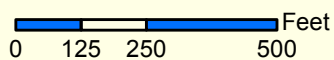


2030 General Plan Land Use Map



Oxnard Planning
June 29, 2021

PZ 21-625-02
Location: Peninsula Road Terminus

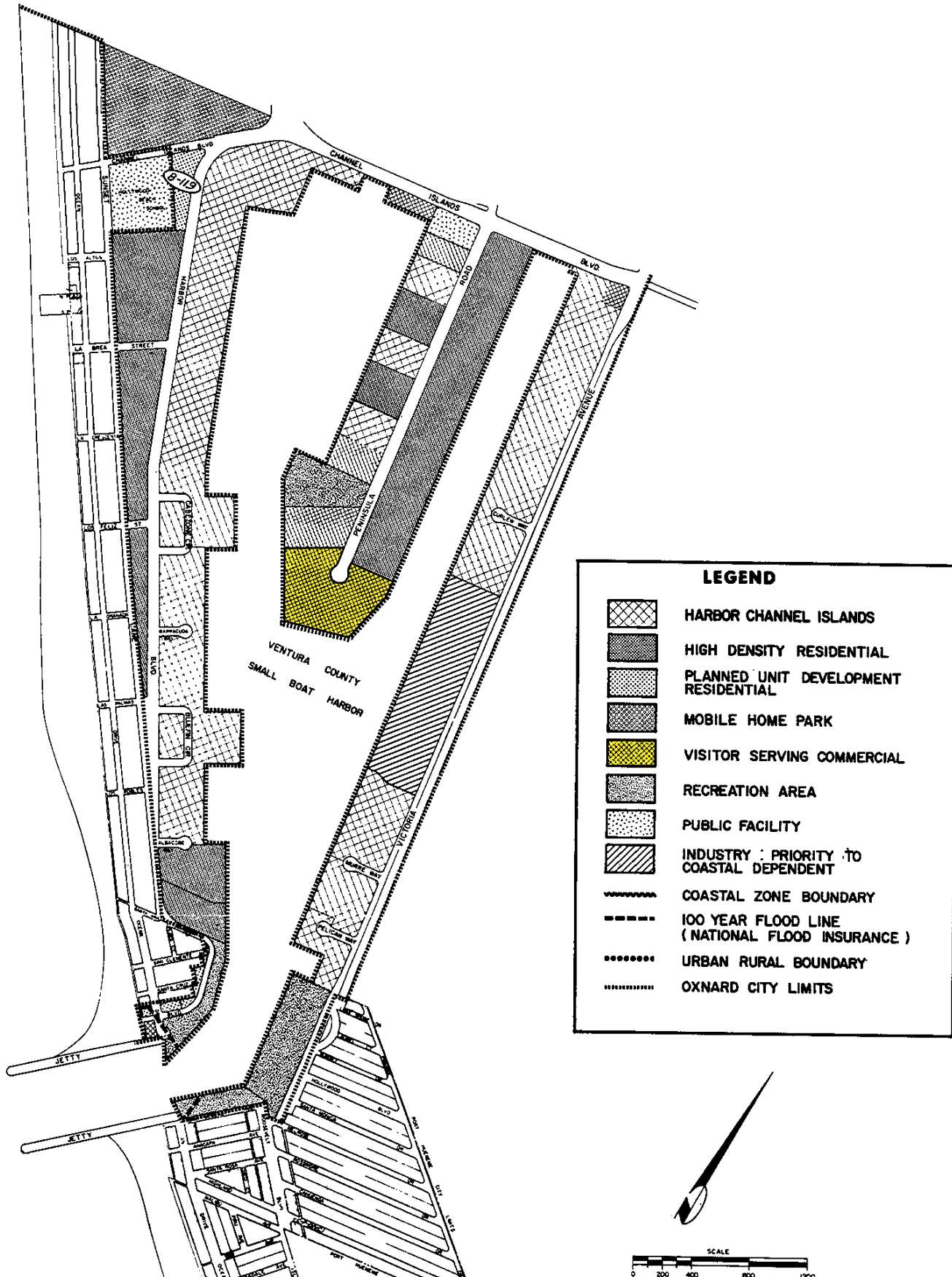


2030 General Plan Land Use Map

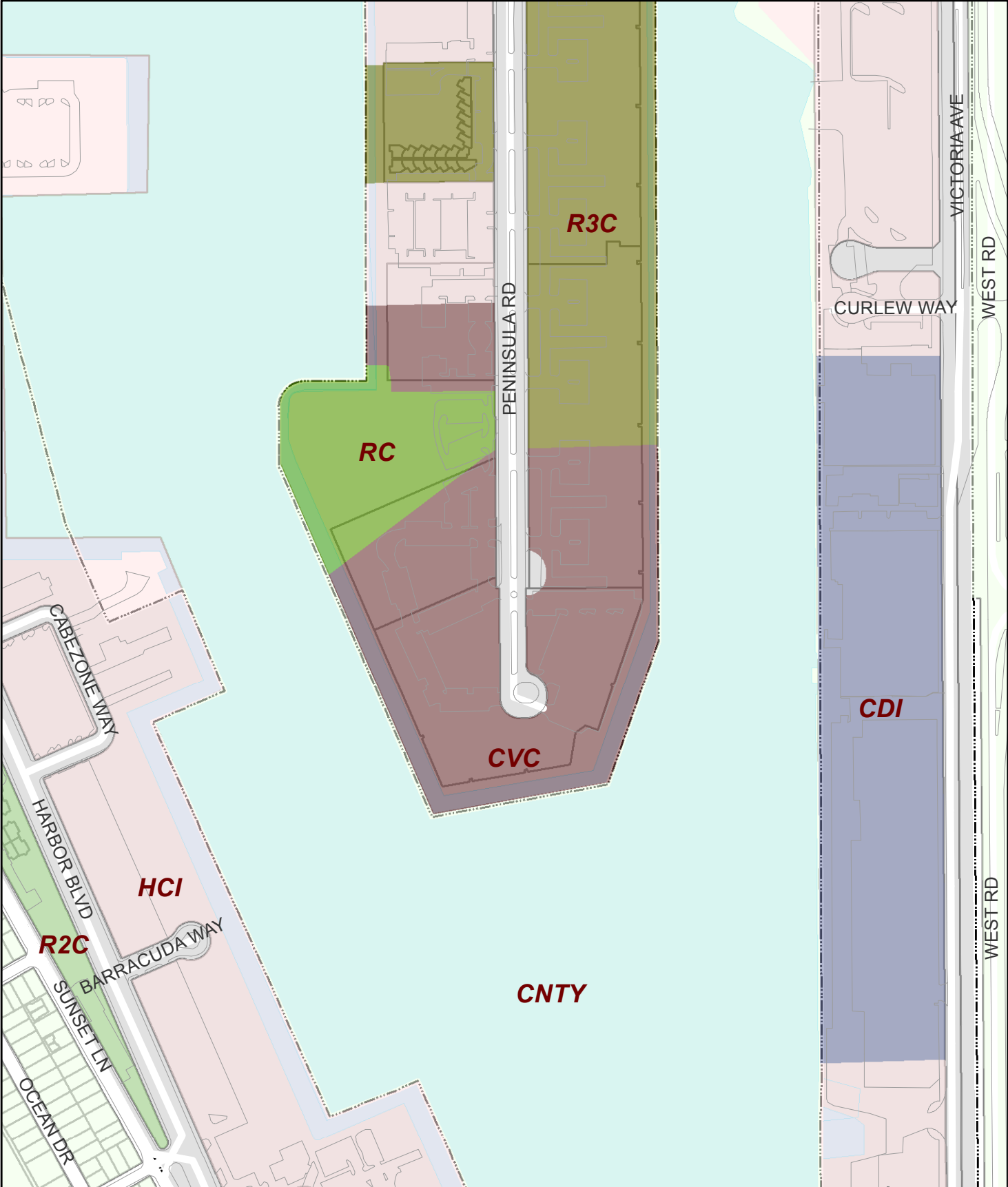


1:4,410

Local Coast Program Land Use Designation



Zoning/Specific Plan Map



Oxnard Planning
June 29, 2021

PZ 21-625-02
Location: Peninsula Road Terminus

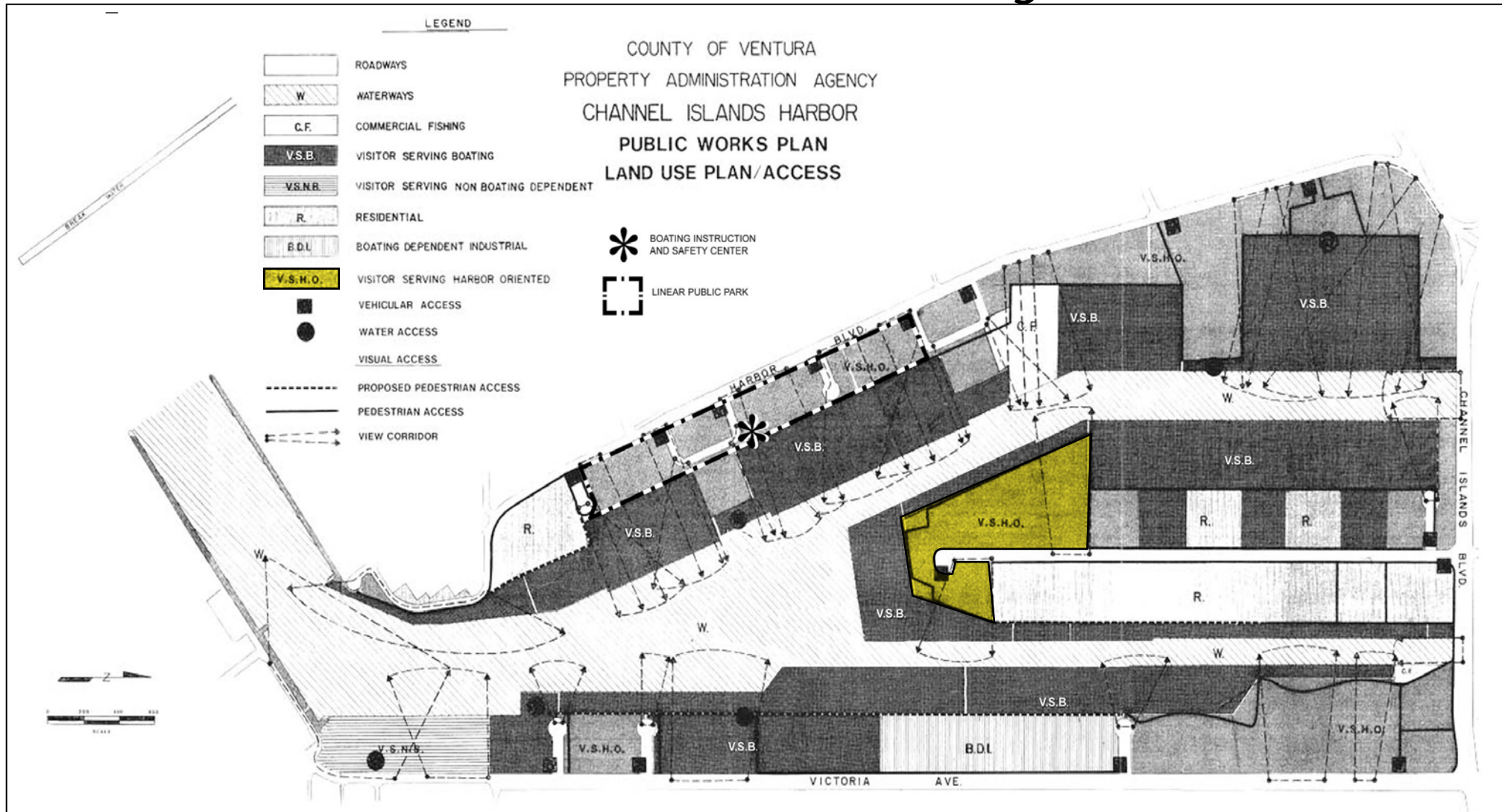
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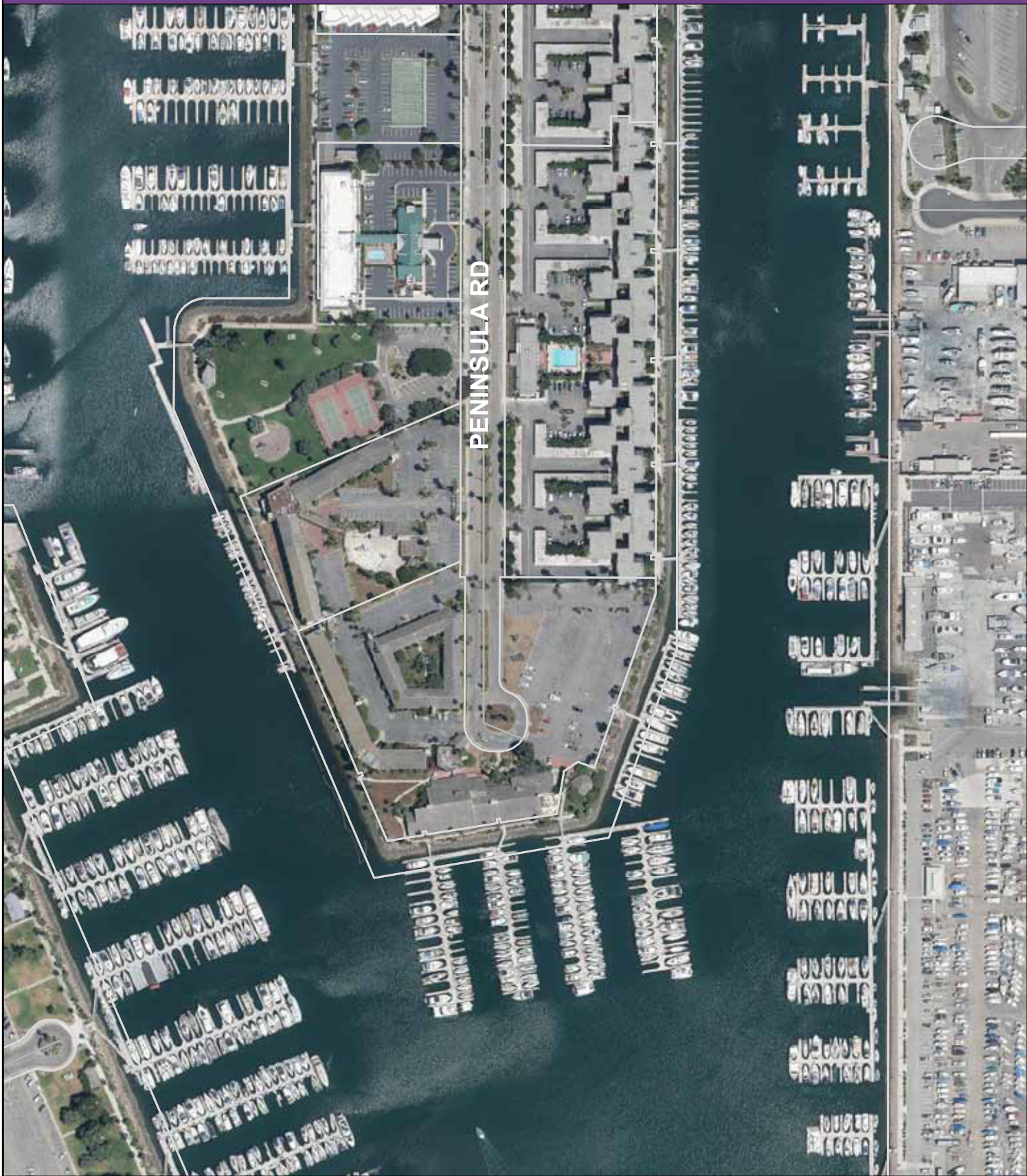
Zoning/Specific Plan Map



1:4,000

Public Works Plan Land Use Designation





CHANNEL ISLANDS HARBOR COOPERATION AGREEMENT

DATED AND EFFECTIVE May 18th, 2021

COUNTY OF VENTURA AND CITY OF OXNARD

This Channel Islands Harbor Cooperation Agreement ("Cooperation Agreement"), effective as of the last date signed below ("Effective Date"), is made and entered into by and between the County of Ventura ("County") and the City of Oxnard ("City"). County and City maybe referred to individually as "Party" or collectively as "Parties."

RECITALS

WHEREAS, the County and the City desire to enter into this Cooperation Agreement to address certain issues of specific common concern, some of which were addressed in the expired 1963 Annexation Agreement, as amended, between the County and the City;

WHEREAS, the County and City desire to establish an engagement process for development projects in the Channel Islands Harbor ("Harbor") that are proposed to be constructed by the County's lessees;

WHEREAS, the County and the City wish to agree to specific one-time funding for specific public projects within the Harbor that the Parties agree will benefit the residents of the City of Oxnard, as well as residents of Ventura County and other visitors to the Harbor;

WHEREAS, the County and City desire to facilitate reconfiguration of Peninsula Road to allow for the development of the Hyatt Hotel project on Peninsula Road ("Hotel Project");

WHEREAS, the County and City desire to reaffirm their relationship regarding the water quality issue in the Oxnard Waterways portion of the Harbor;

WHEREAS, the County and City desire to enter into a master tax sharing agreement regarding annexation of County land into City; and

WHEREAS, the County and the City wish to amend the existing lease agreement ("Lease Agreement") for Fire Station #6 ("Fire Station") so that this facility will remain available to provide fire protection services to the Harbor area and to nearby City and County residents;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and other good and valuable consideration, the Parties hereto agree as follows:

AGREEMENT

1. The County and the City agree to work together in good faith through the Harbor Vision process to identify short-term and long-term goals for the



Harbor, including infrastructure to facilitate the greater public access and utilization of this coastal resource, and approaches and processes for the redevelopment of specific parcels within the Harbor that are consistent with the goals of the California Coastal Act. If the City determines that the projects that are subsequently proposed by the County are in the best interests of the Harbor, the City of Oxnard and Ventura County as a whole, then the City will support the projects (including any necessary Public Works Plan amendments and/or Local Coastal Plan amendments) before the California Coastal Commission.

2.

- a. Solely as a condition of this Cooperation Agreement in order to benefit the residents of the City of Oxnard and not based upon any other existing obligation of the City, the City shall contribute 50 percent of the maintenance costs of the County-owned public areas of the Harbor, not to exceed \$200,000 annually, for a three-year period starting on July 1, 2021. The County shall continue to be responsible for the maintenance of these County-owned public areas of the Harbor, including parks, parking lots, trees, and restrooms. If the Hotel Project has not been issued a certificate of occupancy by June 30, 2024, then the City shall then pay the lesser of (i) 50 percent of the maintenance costs of the County-owned public areas of the harbor, not to exceed \$200,000 per year, for an additional two (2) years; or (ii) the pro rata share of the amount specified in Section 2(a)(i) calculated through the actual date that the certificate of occupancy is issued for the Hotel Project. Notwithstanding any language in this Section 2 to the contrary, under no circumstances shall the City's contribution towards maintenance costs of the County-owned public areas of the Harbor extend later than June 30, 2026.
- b. The County will invoice the City on December 1st and May 31st each year of the described time period for 50 percent of the maintenance costs of the County-owned public areas of the Harbor in a not-to-exceed amount of \$100,000 each, with City payment to the County due within sixty (60) days of receipt of the invoice. At the end of the period specified in Section 2(a), it is anticipated, but not required, that the County will have either established a developer-funded mechanism to cover the maintenance costs (i.e. a CFD or LMD) or determined another revenue source to cover the on-going maintenance costs of the County-owned property within the Harbor. Notwithstanding any language in this Section 2(b) to the contrary, at the end of the time period specified in Section 2(a), the City shall cease contributing funding of any kind for the maintenance of the County-owned public areas within the Harbor.

3. Solely as a condition of this Cooperation Agreement in order to benefit the residents of the City of Oxnard and not based upon any other existing obligation of the City, the City agrees to fund the replacement or repair of the following improvements within five (5) years as follows:

- a. The public parking lot at Kiddie Beach, with a not-to-exceed amount of \$150,000;
- b. One-half of the cost to replace the parking lots adjacent to lease areas D-2, E, H-1, and H-2, along Harbor Blvd with a not-to-exceed amount of \$1,000,000. The County agrees to fund 50 percent of the cost of this project and all amounts exceeding \$2,000,000 in total project costs;
- c. Lamps in existing light poles along Harbor Boulevard, with a not-to-exceed amount of \$120,000;
- d. One-half of the cost to replace the public restroom at Peninsula Park (which will not include a shower or meeting space) with the standard Exeloo Jupiter Twin, with the a not-to-exceed amount of \$162,500. The County agrees to fund 50 percent of the cost of this project and all amounts exceeding \$325,000 in total project costs.; and
- e. Replacement of a public restroom with the standard Exeloo Jupiter Twin at Kiddie Beach, with a not-to-exceed amount of \$325,000.

The Parties agree that the described repaired or replaced infrastructure will be the ongoing financial responsibility of the County. Except as specifically stated in Section 2, the City will not have financial obligations or obligation of any kind relating to improvements on County-owned property within the Harbor, which shall remain the ongoing obligation of the County.

- 4. Provided the Hotel Project is completed by June 30, 2024, at the conclusion of the construction for the Hotel Project, the City will repave, to the City's standards, Peninsula Road from W. Channel Islands south to the area that will be improved by the Hyatt House. The estimated cost of this repaving is \$506,000.
- 5. Within 120 days of the Effective Date of this Cooperation Agreement, City will process the vacation of the City's interest in the portion of Peninsula Road that will be reconfigured at the expense of the County or its designee for the Hotel Project. This vacation will be processed without application by the County and without prejudice to the County's position that no vacation is

required. The vacation will become effective at such time that the City and the County exchange quitclaim deeds that:

- a. From the City, deed to the County the City's interests in the portion of Peninsula Road to be reconfigured for the Hotel Project; and
 - b. From the County, deed to the City an easement in the portion of Peninsula Road to be reconfigured for the Hotel Project that is necessary for public safety access across the cul de sac at the end of Peninsula Road.
- 6.
- a. It is the City's position that, because the landside of the Channel Islands Harbor is located within the corporate boundaries of the City and based upon past pattern and practice, all development that is not a County project used solely for a public purpose must first obtain all building permits from the City. It is the County's position that the County is the proper agency to issue all building permits within the landside portion of the Channel Island Harbor.
 - b. Reserving the City and County's respective rights and legal positions regarding this matter, except as specifically outlined below regarding the Hotel Project, the City will continue to process and timely issue building permits for projects in the Harbor.
 - c. For the Hotel Project only, the County will issue the building permits for the Hotel project; provided, however, that at or before the County issues any building permits for the Hotel Project, the County shall assess the City developer impact fees determined by the City, the County shall collect all of the City's developer impact fees as determined by the City, and the County shall timely transmits such fees to the City. The County shall not issue any building permits for the Hotel Project until all of the requirements specified in this Section 6(c) have occurred.
7. The County will continue to assist the City in evaluating solutions to the Harbor's water quality issue, including assistance in funding solution(s) and exploring the One Harbor CFD concept for the purpose of improving and maintaining water quality in the entire Harbor.
8. Within ninety (90) days from the effective date of this Cooperation Agreement, County and City will enter into a 25-year Master Tax Sharing Agreement on terms consistent with the 1983 tax sharing agreement, except that the new agreement shall include language indicating that the agreement

may not be unilaterally terminated by either Party during the first 15 years of this 25-year term.

9. Within 180 days from the Effective Date of this Cooperation Agreement, the County and City shall amend the Fire Station Lease Agreement to (a) extend the term from August 31, 2033 to August 31, 2050, (b) increase the leased area up to 85 feet westerly (at the City's option) to accommodate an expansion of the Fire Station, and (c) if the Fire Station is expanded westerly, the term of the Lease Agreement shall be automatically extended for 50 years from the date of the occupancy of the expanded Fire Station, instead of the extension of the term to August 31, 2050 under this Section 9.
10. For a period of five years from the Effective Date of this Cooperation Agreement, the City will process the vacation of, and at such time that the vacation(s) are finalized, will thereafter deed to the County the City's interests in, the following streets, if requested in writing by the County, in order to provide for more efficient land use planning and additional leasable land area for the County:
 - a. Cabezone Way
 - b. Barracuda Way
 - c. Bluefin Circle
 - d. Albacore Way
 - e. Curlew Way
 - f. Murre Way
 - g. Pelican Way
11. This Cooperation Agreement shall remain in effect for 25 years from the Effective Date.

CITY OF OXNARD


John C. Zaragoza
Mayor

COUNTY OF VENTURA


Linda Parks
Chair of the Board of Supervisors

APPROVED AS TO FORM:


Stephen M. Fischer, City Attorney

APPROVED AS TO FORM:


Tiffany North, County Counsel

APPROVED AS TO CONTENT:


Alexander Nguyen
City Manager

APPROVED AS TO CONTENT:


Michael Powers
Chief Executive Officer



Attachment 3
July 15, 2021 Planning Commission Staff Report

To view the full staff report, please click here:

 [Attachment 3_ July 15, 2021 Planning Commission Staff Re...](#)

RESOLUTION NO. 2021-14

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD DETERMINING THAT THE VACATION OF THE SOUTHERNMOST 272 FEET OF PENINSULA ROAD FRONTING 3605 PENINSULA ROAD AND ACCEPTANCE OF A PUBLIC ACCESS EASEMENT IS IN CONFORMANCE WITH THE CITY'S 2030 GENERAL PLAN AND LOCAL COASTAL PROGRAM AND RECOMMENDING THAT THE CITY COUNCIL ORDER THE VACATION PURSUANT TO SECTION 65402(A) OF THE GOVERNMENT CODE. FILED BY THE CITY OF OXNARD, COMMUNITY DEVELOPMENT DEPARTMENT, 214 SOUTH C STREET, OXNARD, CALIFORNIA, 93030.

WHEREAS, The City of Oxnard (“**Applicant**”) submitted a request for the vacation of the southernmost 272 feet of Peninsula Road fronting 3605 Peninsula Road and acceptance of a public access easement (the “**Property**”); and

WHEREAS, on May 18, 2021, the Oxnard City Council and the County Board of Supervisors adopted the Channel Islands Harbor Cooperation Agreement (the Cooperation Agreement). As part of the Cooperation Agreement, the City and County would agree to work together to address water quality as well as to facilitate redevelopment of specific parcels for projects that are consistent with the goals of the California Coastal Act and provide for greater public access and utilization of this coastal resource. The Cooperation Agreement requires that the City, within 120 days of adoption of the Cooperation Agreement process the Peninsula Road street vacation without application of the County within 120 days of adoption of the County (September 15, 2021).

WHEREAS, The 2030 General Plan in a comprehensive, long term plan that guides land use and physical development of land within the City of Oxnard and provides policy direction regarding land uses that are intended to serve the community; and

WHEREAS, The City’s Local Coastal Plan in a comprehensive, long term plan that guides land use and physical development of land within the City of Oxnard and provides policy direction regarding land uses that are intended to serve the community; and

WHEREAS, Whenever a public agency proposes to acquire, dispose, vacate or abandon any real property, California Government Code Section 65402 requires a report on conformity with the General Plan; and

WHEREAS, The subject property is a dedicated right-of-way and does not have a land use designation; and

WHEREAS, The proposed vacation of the southernmost 272 feet of Peninsula Road and the acceptance of a public access easement, as documented in the staff report, would conform to the City’s 2030 General Plan land use designation because it is an existing right-of-way that will be used as an entrance to a future hotel and restaurant and the public access easement will allow for public vehicular circulation which can accommodate large vehicles (i.e. fire engines); and

WHEREAS, The vacation of the southernmost 272 feet of Peninsula Road and acceptance of a public access easement, as documented in the staff report, would be consistent with Local Coastal Program policies regarding the use of the sites and would not adversely impact Local Coastal Program policies related to the provision of adequate circulation because it is an existing right-of-way that will be used as an entrance to a future hotel and restaurant and the public access easement will allow for public vehicular circulation which can accommodate large vehicles (i.e. fire engines); and

WHEREAS, The vacation of the southernmost 272 feet of Peninsula Road, the public access easement, and the ultimate use of the Casa Sirena parcel for a hotel and restaurant are consistent with the land use designation on the subject site. Future use of the parcel will be required to comply with all City codes and regulations; and

WHEREAS, on June 21, 2021, a public Community Workshop meeting was held for the community and the general public to receive community input on the proposed street vacation and the public access easement; and

WHEREAS, on July 15, 2021, the Planning Commission considered the proposed vacation of the southernmost 272 feet of Peninsula Road and the public access easement in light of the Oxnard 2030 General Plan, Local Coastal Program and the requirements of Government Code section 65402.

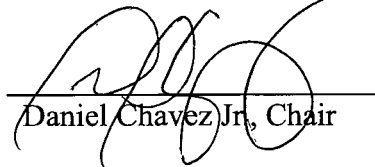
NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF OXNARD:

SECTION 1. The Planning Commission, in accordance with Section 21065 of the California Environmental Quality Act (CEQA), finds that its determination of whether the City's proposed vacation of these easements is consistent with the Oxnard 2030 General Plan and Local Coastal Program is not a "Project" for purposes of CEQA and State CEQA Guidelines since the determination does not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15061(b)(3) and Section 15378(b)(5).

SECTION 2. Based on the findings set forth herein, and on the entire record before the Planning Commission and all written and oral evidence presented, including the Planning Commission Staff Report and all attachments thereto, the Planning Commission hereby determines that the proposed City's vacation of the subject easements is in conformity with the Oxnard 2030 General Plan.

SECTION 3. The Secretary shall certify the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED by the Planning Commission of the City of Oxnard on this 15th day of July, 2021.



Daniel Chavez Jr., Chair

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Planning Commission of the City of Oxnard at a meeting held on the 15th day of July, 2021, and carried by the following vote:

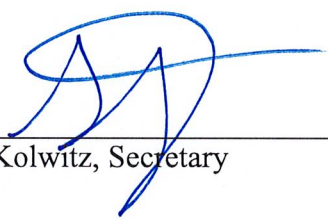
AYES: Commissioner(s): Chavez Jr.; Arruejo; Connelly; Meyer; Nash; Sanchez

NOES: Commissioner(s):

ABSENT: Commissioner(s): Lopez

ABSTAIN: Commissioner(s):

RECUSED: Commissioner(s):



Scott Kolwitz, Secretary

EXHIBIT "A"
LEGAL DESCRIPTION

THAT PORTION OF PARCEL 7 (PENINSULA ROAD), IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, AS SAID PARCEL 7 IS DESCRIBED IN THE DEED RECORDED JULY 16, 1970 AS INSTRUMENT NO. 34474 IN BOOK 3691, PAGE 56 OF OFFICIAL RECORDS OF SAID COUNTY, LYING SOUTHERLY OF A LINE PARALLEL WITH AND DISTANT 56.00 FEET SOUTHERLY, AS MEASURED AT RIGHT ANGLES, OF THE 4TH COURSE OF SAID PARCEL 7 AND ITS WESTERLY PROLONGATION, BEING DESCRIBED AS "NORTH 88° 43' 03" WEST 9.00 FEET".

CONTAINING AN AREA OF 22,279 SQUARE FEET, MORE OR LESS.

EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.



THIS DESCRIPTION WAS PREPARED
BY ME OR UNDER MY DIRECTION:

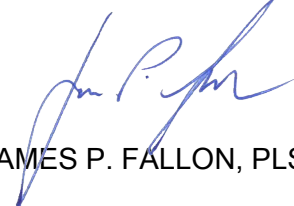

6/30/2021
JAMES P. FALLON, PLS 7807

EXHIBIT "B"

MAP TO ACCOMPANY LEGAL DESCRIPTION
IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA

LEGEND

() RECORD DATA PER INST. NO. 34474,
BOOK 3691, PAGE 56, O.R.

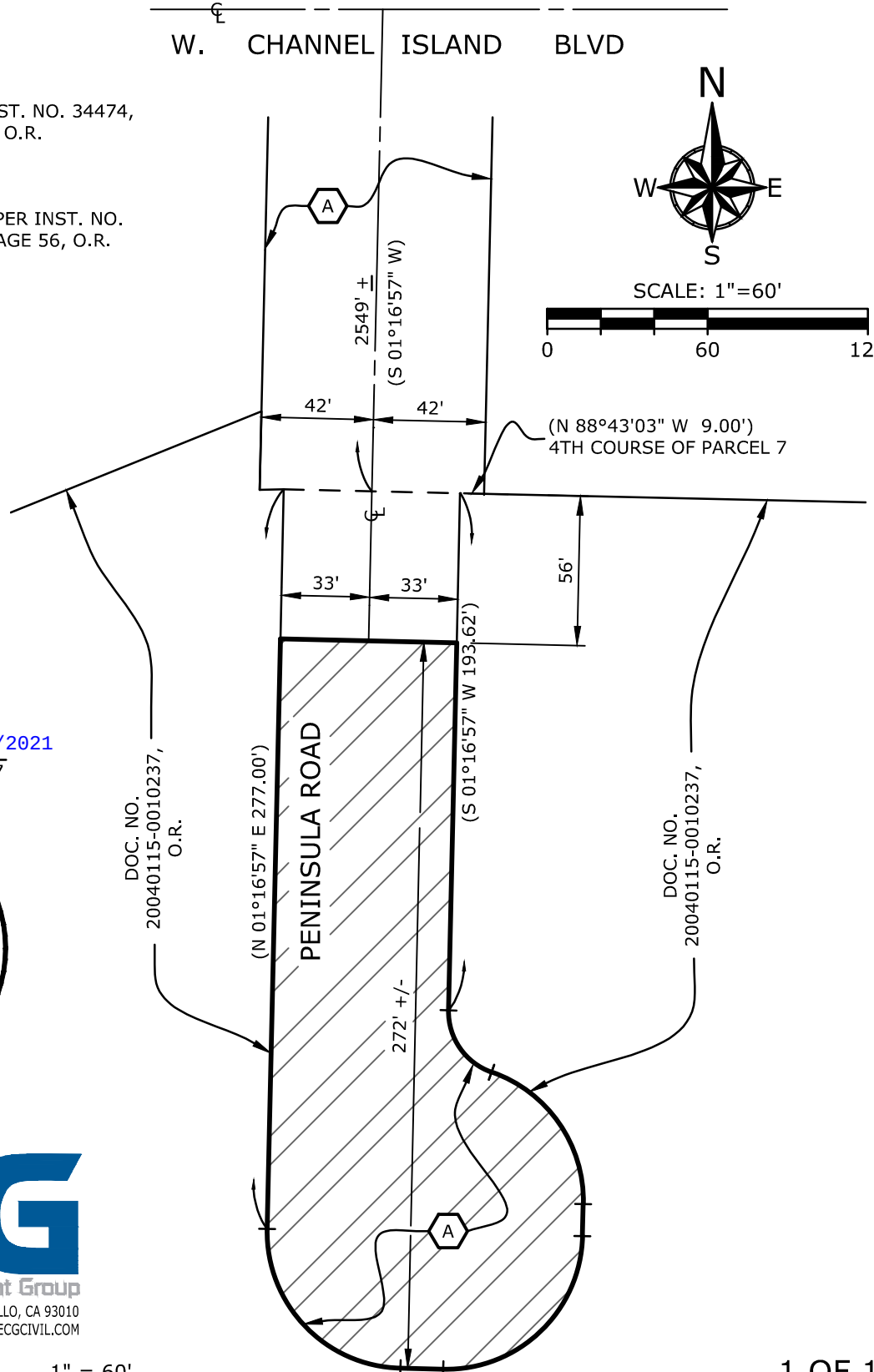
O.R. OFFICIAL RECORDS

(A) EASEMENT PARCEL 7 PER INST. NO.
34474, BOOK 3691, PAGE 56, O.R.

W. CHANNEL ISLAND BLVD



SCALE: 1"=60'



PREPARED UNDER THE
SUPERVISION OF:

James P. Fallon 6/30/2021
JAMES P. FALLON, P.L.S 7807



333 N. LANTANA ST, SUITE 287, CAMARILLO, CA 93010
PHONE: 805.322.4443 WEBSITE: WWW.ECGCIVIL.COM

1" = 60'

1 OF 1

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 2021_____

A RESOLUTION OF INTENT OF THE CITY COUNCIL OF THE CITY OF OXNARD DECLARING AN INTENTION TO VACATE THE SOUTHERNMOST 272 FEET OF PENINSULA ROAD FRONTING 3605 PENINSULA ROAD, ACCEPTANCE OF A PUBLIC ACCESS EASEMENT AND DIRECTING THE CITY CLERK TO SET A TIME AND PLACE FOR A PUBLIC HEARING PURSUANT TO CHAPTER 3, PART 3, DIVISION 9 OF THE STREETS AND HIGHWAYS CODE FOR THE CITY COUNCIL TO CONSIDER THE PROPOSED STREET VACATION. FILED BY THE CITY OF OXNARD, COMMUNITY DEVELOPMENT DEPARTMENT, 214 SOUTH C STREET, OXNARD, CALIFORNIA, 93030

WHEREAS, The City of Oxnard (“Applicant”) submitted a request for the vacation of the southernmost 272 feet of Peninsula Road and acceptance of a public access easement fronting 3605 Peninsula Road (the “Property”); and

WHEREAS, on May 18, 2021, the Oxnard City Council and the County Board of Supervisors adopted the Channel Islands Harbor Cooperation Agreement (the Cooperation Agreement). The Cooperation Agreement requires that the City, within 120 days of adoption of the Cooperation Agreement, process the Peninsula Road street vacation without application of the County.

WHEREAS, The 2030 General Plan in a comprehensive, long term plan that guides land use and physical development of land within the City of Oxnard and provides policy direction regarding land uses that are intended to serve the community; and

WHEREAS, The City’s Local Coastal Plan in a comprehensive, long term plan that guides land use and physical development of land within the City of Oxnard’s coastal zone and provides policy direction regarding land uses that are intended to serve the community; and

WHEREAS, Whenever a public agency proposes to acquire, dispose, vacate or abandon any real property, California Government Code Section 65402 requires a report on conformity with the General Plan; and

WHEREAS, The subject property is a dedicated right-of-way and does not have a land use designation; and

WHEREAS, The proposed vacation of the southernmost 272 feet of Peninsula Road and the acceptance of a public access easement, as documented in the Planning Commission’s staff report dated July 15, 2021, would conform to the City’s 2030 General Plan land use designation because it is an existing right-of-way that will be used as an entrance to a future hotel and restaurant and the public access easement will allow for public vehicular circulation which can accommodate large vehicles (i.e. fire engines); and

WHEREAS, The vacation of the southernmost 272 feet of Peninsula Road and acceptance of a public access easement, as documented in the Planning Commission's staff report dated July 15, 2021, would be consistent with Local Coastal Program policies regarding the use of the sites and would not adversely impact Local Coastal Program policies related to the provision of adequate circulation because it is an existing right-of-way that will be used as an entrance to a future hotel and restaurant and the public access easement will allow for public vehicular circulation which can accommodate large vehicles (i.e. fire engines); and

WHEREAS, The vacation of the southernmost 272 feet of Peninsula Road, the public access easement, and the ultimate use of the Casa Sirena parcel for a hotel and restaurant are consistent with the land use designation on the subject site. Future use of the parcel will be required to comply with all City codes and regulations; and

WHEREAS, on June 21, 2021, a public Community Workshop meeting was held for the community and the general public to receive community input on the proposed street vacation and the public access easement; and

WHEREAS, the Planning Commission of the Oxnard reviewed the vacation request at its regular meeting of July 15, 2021 in accordance with the general vacation procedures contained in the Streets and Highways Code Section 8320, et seq. and determined that the vacation is consistent with the goals and policies of the City's adopted General Plan and Local Coastal Plan and recommended that the City Council consider and approve the street vacation request.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OXNARD:

SECTION 1. The City Council, pursuant to California Environmental Quality Act (Public Resources Code Sections 21000 et seq., "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations Sections 15000 et seq., the "CEQA Guidelines"), finds that it can be seen with certainty that there is no possibility that the proposed vacation of the 272 feet of the right-of-way located at Peninsula Road and the acceptance of a public access easement would have a significant effect on the environment (CEQA Guidelines Section 15061(b)(3)).

SECTION 2. That it is the intention of the City Council of the City of Oxnard to vacate the southernmost 272 feet of Peninsula Road and accept a public access easement fronting 3605 Peninsula Road, and that the City Council hereby directs the City Clerk to schedule a public hearing in accordance with the vacation procedures contained in California Streets and Highway Code Section 8300 et seq to be held on Tuesday, October 5, 2021, at 6:00 p.m. at the at the City Council Chambers of the City of Oxnard located at 305 West Third Street in Oxnard, California. At this hearing, all interested parties may introduce evidence and testimony pertaining to the proposed street vacation.

SECTION 3. The map attached hereto as Exhibit “A” shows the approximate area to be vacated and shall be on file in the office of the City Clerk located at 300 West Third Street, Fourth Floor, Oxnard, California 93030.

SECTION 4. The City Clerk shall schedule and notice a public hearing in compliance with Streets and Highway Code sections 8320, 8322 and 8323, at which time all persons interested in or objecting to the proposed vacation may be heard and present evidence.

SECTION 5. The City Clerk’s office is directed to publish and post notice of this proposed vacation in accordance with sections 8322 and 8323 of the California Streets and Highways Code.

SECTION 6. The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Oxnard on this 7th day of September, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

John Zaragoza, Mayor

ATTEST: _____
Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

EXHIBIT

A Street Vacation Maps

Peninsula Road Street Vacation and Public Access Easement Initiation for property Fronting 3605 Peninsula Road Planning and Zoning (PZ) Permit No. 21-660-01

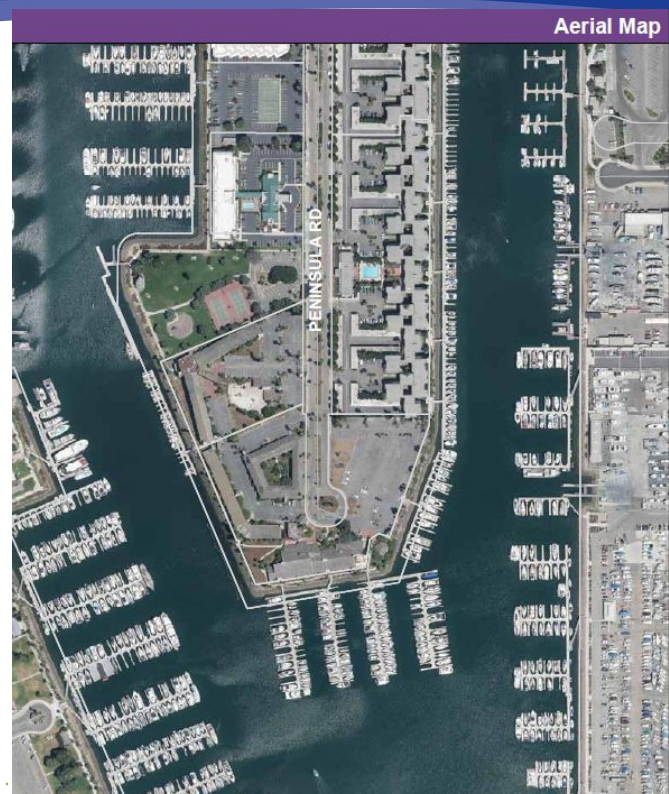
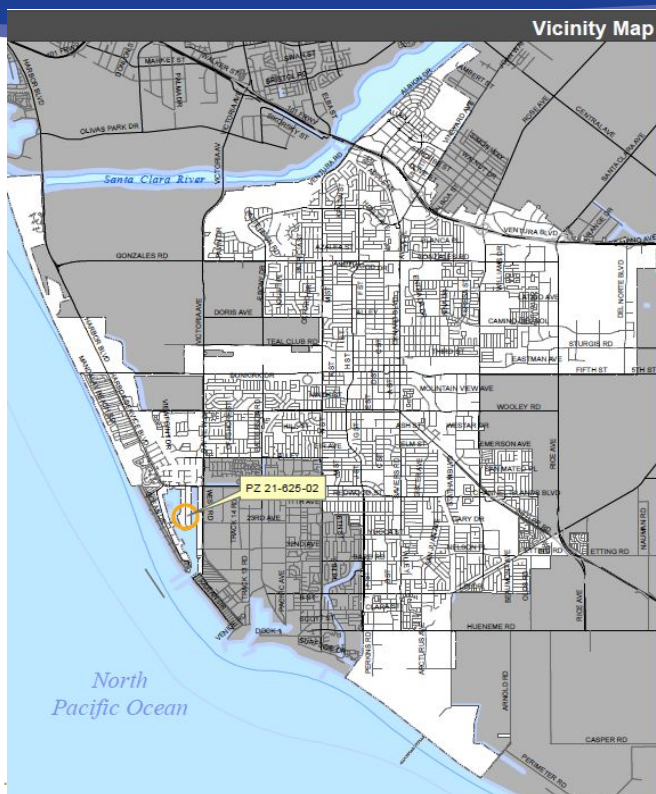
Isidro Figueroa, Principal Planner
Scott Kolwitz, Planning Manager
Jeff Pengilley, P.E., Assistant Director
Vyto Adomaitis, Community Development Director
Community Development Department

City Council
September 7, 2021



Project Location

2



Project Description

Proposed vacation of the southernmost 272 feet of Peninsula Road and accepting a public access easement to allow for the continuation of vehicular circulation.

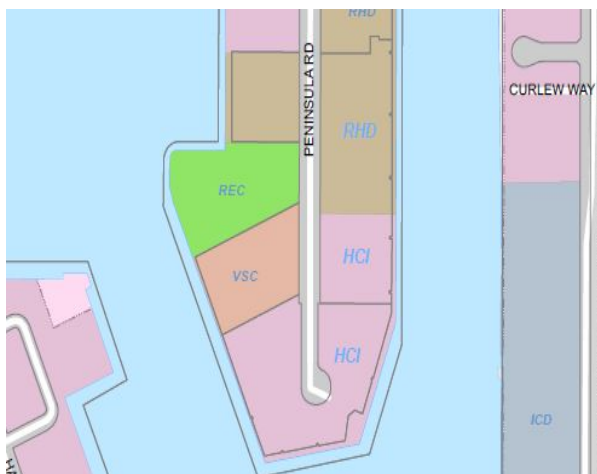


3

GENERAL PLAN & LOCAL COASTAL PROGRAM MAPS

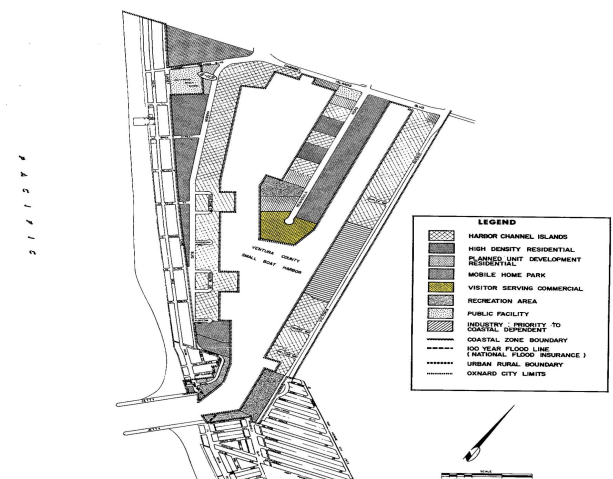
4

General Plan Land Use Designation



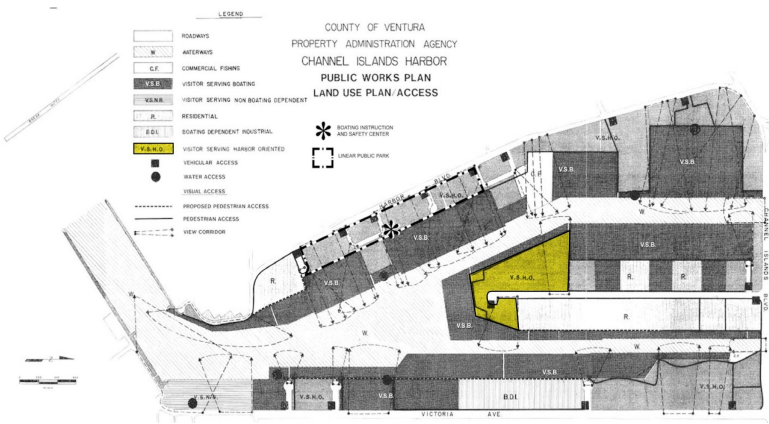
Harbor Channel Islands (HCI)

Local Coastal Program Designation



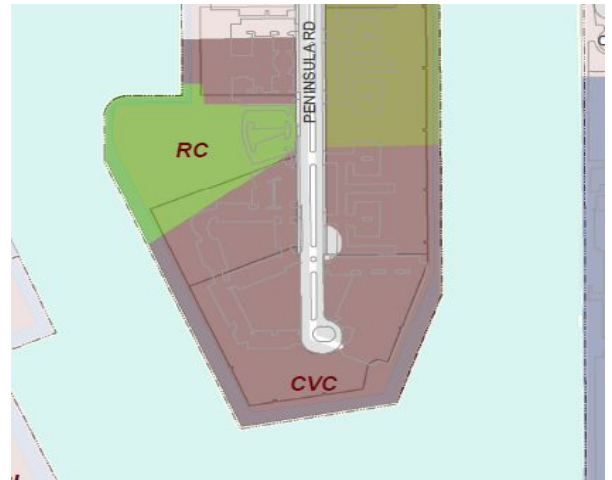
Visitor Serving Commercial

Public Works Plan Designation



Visitor Serving Harbor Oriented (VSHO)

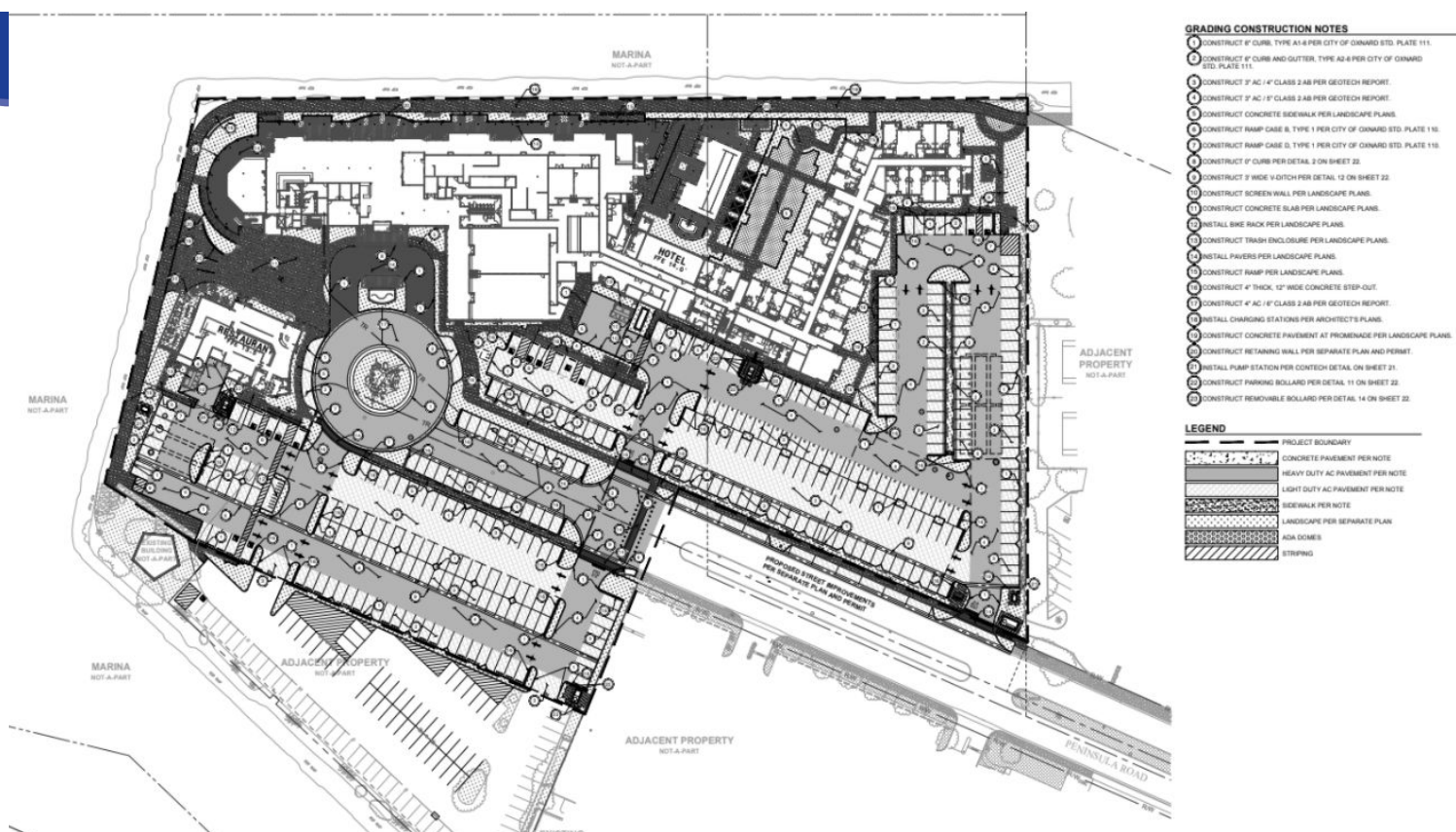
Zoning Designation



Coastal Visitor-Serving Commercial (CVC)

Approved Hotel Project

- On May 10, 2018, the Coastal Commission approved a Notice of Impending Development (NOID) to:
 - Demolish existing hotel/restaurant
 - Construct:
 - 210-room hotel
 - restaurant
 - public plaza and promenade
 - boater restroom
 - expansion of existing marina facilities
 - 379 parking spaces



Channel Islands Cooperation Agreement

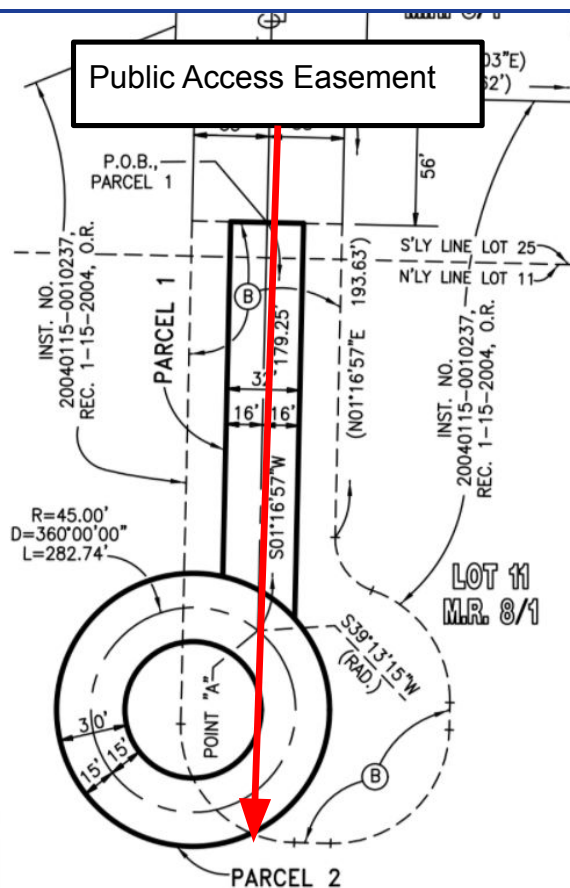
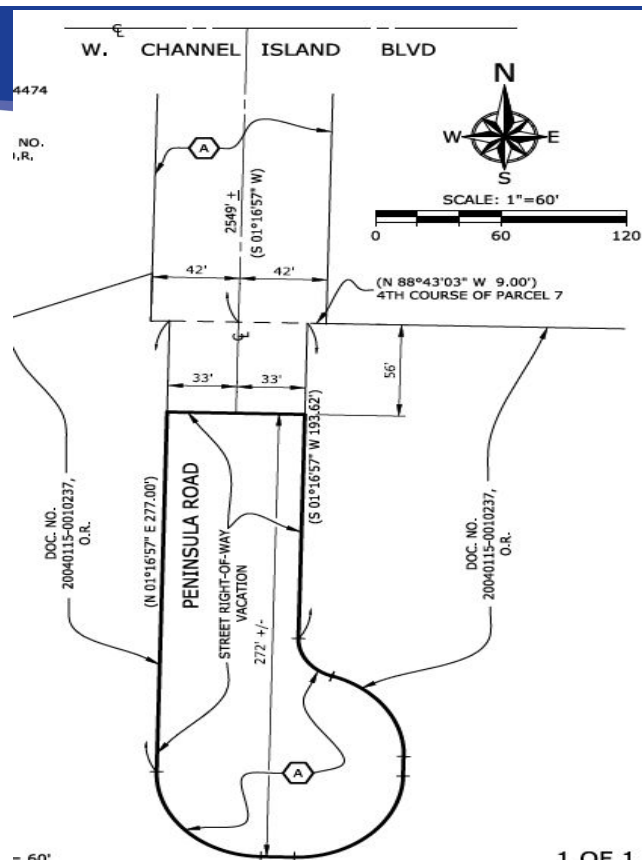
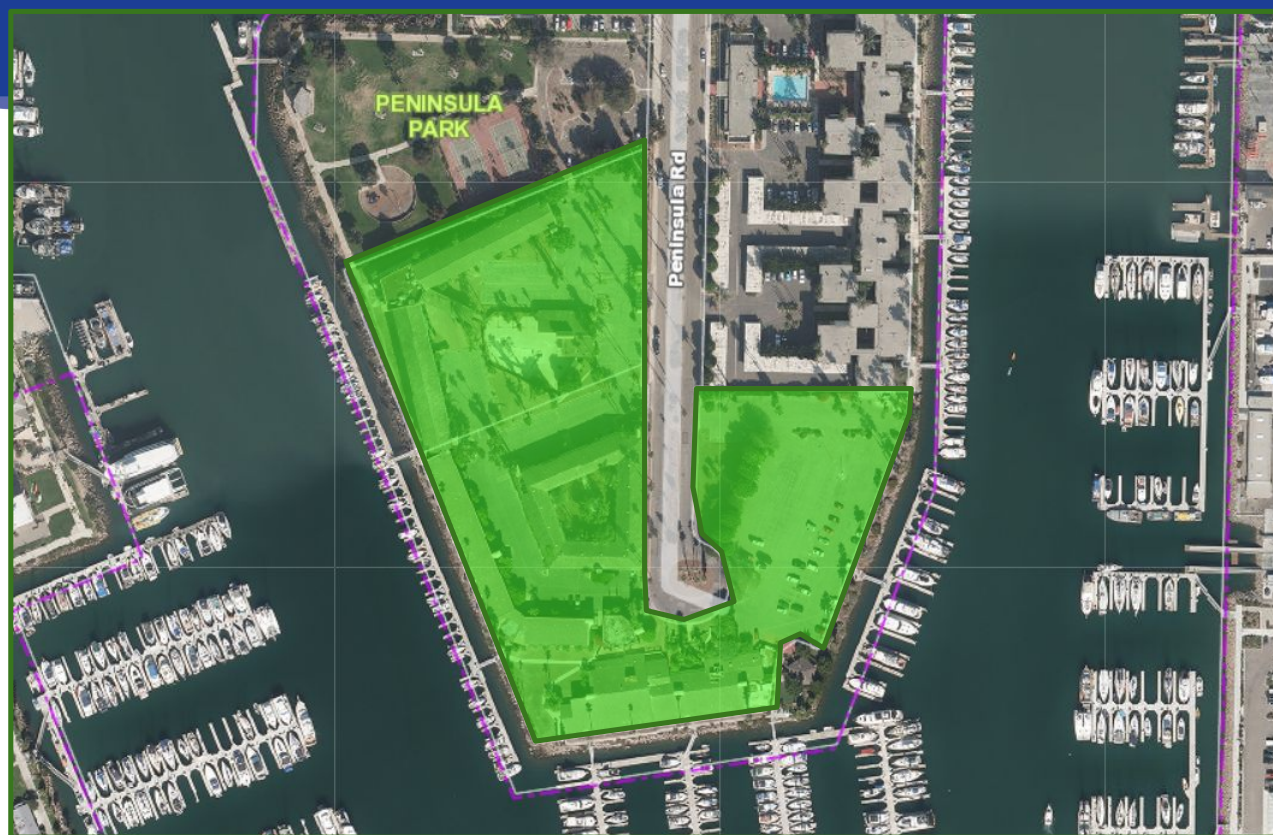
- On May 18, 2021 the City adopted a joint Cooperation Agreement with the County of Ventura (County):
 - Address a number of objectives including facilitating redevelopment of specific parcels
- Casa Sirena hotel parcel
 - Within 120 days the City will process a street vacation with the purpose to vacate the City's interest at the terminus of Peninsula Road
 - Street Vacation must be processed by September 15, 2021
 - County at their expense will reconfigure Peninsula Road to facilitate previously approved hotel

Government Code Section 65402, requires that real property acquisition or disposition, street vacation or abandonment, public building or structure construction be consistent with the General Plan and Local Coastal Land Use Plan as to location, purpose and extent.

The Planning Commission review and verification is documented through a resolution finding the Vacation of the Easements and acceptance of a public access easement is in conformity with the 2030 General Plan.

Planning Commission

- On July 15, 2021, The Planning Commission held a public hearing consistent with Government Code Section **65402** and found the street vacation and acceptance of a public access easement consistent with:
 - 2030 General Plan;
 - Local Coastal Program; and
 - Public Works Plan
- Unanimously (6-0) adopted Resolution 2021-14:
 - Finding the street vacation and acceptance of the public access easement in conformance with the 2030 General Plan; and
 - Recommending that the City Council order the street vacation and acceptance of the public access easement



Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), it can be seen with certainty that there is no possibility that the proposed vacation and the acceptance of a public access easement would have a significant effect on the environment.

Staff Recommendation

Staff recommends that the City Council:

- a) Find the project Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3).
- b) Adopt Resolution 21-XXX declaring its intention to vacate its right, title and interest in the southernmost 272 feet of the right-of-way fronting 3605 Peninsula Road and accept a public access easement to allow for the continuation of vehicular circulation.
- c) Direct the City Clerk to schedule a public hearing in accordance with the vacation procedures contained in California Streets and Highway Code Section 8300 et seq to be held on Tuesday, October 5, 2021 at 6:00 p.m. at the at the City Council Chambers of the City of Oxnard located at 305 West Third Street in Oxnard, California.



End of Presentation



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. M.5

DATE: September 7, 2021

TO: City Council

FROM: Vyto Adomaitis, Community Development Director, (805) 385-7882, vyto.adomaitis@oxnard.org

SUBJECT: Encroachment Protection Agreement Amendment; Sixth Amendment to the Encroachment Protection Agreement Between the Department of the Navy, the Nature Conservancy, the Trust for Public Land, the Ventura Land Trust and the City of Oxnard. (0/5/5)

RECOMMENDATION

That the City Council approve and authorize the Mayor to execute a Sixth Amendment to the Encroachment Protection Agreement between the United States Department of the Navy, The Nature Conservancy, the Trust for Public Land, the Ventura Land Trust and the City of Oxnard (A-7734), for the purpose of acquiring long-term interests in lands, for a period of five (5) years beginning on September 30, 2021 and ending on September 29, 2026.

(This item did not originate in Committee.)

Please click the following link to view the required Measure M pre-recorded presentation video:

<https://youtu.be/1sU7iBSXXp8>

BACKGROUND

In 2011, the Navy entered into an Encroachment Protection Agreement (Agreement) with The Nature Conservancy (TNC) and the Trust for Public Land (TPL) for the purpose of acquiring long-term interests in lands within the vicinity of, or ecologically related to, Naval Base Ventura County (NBVC). On November 25, 2014, the City Council approved joining the Agreement (Attachment 1). This partnership seeks to obtain easements or other interests in land that preserve critical buffer areas to limit incompatible development and protect valuable habitat through the Department of Defense's Readiness and Environmental Protection Integration (REPI) Program.

The original Agreement between the Navy, TPL, and TNC was signed in 2011. Amendment One obligated additional federal funding to the Agreement (Attachment 2). On November 12, 2014, the City Council approved Amendment Two which added the City of Oxnard to the Agreement to establish the City as an eligible entity for encroachment protection projects (Attachment 3). In March 2015, Amendment Three was approved to obligate additional federal funds toward the Agreement, but was approved prior to finalization of the City's entry to the Agreement (Attachment 4). In June 2016, Amendment Four extended the term of the Agreement for an additional five (5) years beyond its expiration on September 30, 2016, and Agreement Four allowed the Navy to unilaterally amend the Agreement only for the purpose of adding funding (Attachment 5). On April 17, 2018, Amendment Five was approved to incorporate the Ventura Land Trust (VLT) as a partner to the Agreement (Attachment 6).

Agreement Five, the current Agreement, is set to expire on September 29, 2021.

ANALYSIS AND DISCUSSION

Amendment Six intends to extend the term of the Agreement for an additional five (5) years. If Amendment Six is approved, the extended term of the Agreement will commence on September 30, 2021, and it will expire on September 29, 2026. As of this date, TNC, TPL, VLT, and the Navy have agreed to the Amendment. The City is the only remaining

participant that has not agreed to Amendment Six.

The Agreement has been instrumental in TNC acquiring two properties. On September 25, 2019, TNC acquired a 20-acre site located south of McWane Boulevard and west of Edison Drive (APN 231-0-040-395) which was purchased from the Metropolitan Water District (MWD). Additionally, TNC acquired 13.06 acres of land located in Ormond Beach south of Hueneme Road, east of Perkins Road and west of Edison Drive (APN 231-0-092-235) from the City and the MWD. The property was included in the Oxnard Community Development Commission Successor Agency's Long Range Property Management Plan to guide the disposition of assets (real property) with the dissolution of the former Oxnard Community Development Commission. On June 30, 2021, the City's Oversight Board approved the sale of the property to TNC (Attachment 7). TNC acquired both of the above-referenced parcels with the assistance of the Agreement, and these properties are intended to be included in the Ormond Beach Restoration and Access Plan (OBRAP). Additionally, any future property acquisition made by the City and TNC within the Ormond Beach area with the assistance of the Agreement would be under consideration to be included in the Ormond Beach Restoration and Access Plan.

The Agreement defines the procedures for the purchase of easements by the Navy from the City as an encroachment protection partner.

The Agreement does not commit the Navy or City to any specific action, but allows for the pursuit of partnership opportunities that will enhance the environment neighboring the AWPf.

ENVIRONMENTAL REVIEW

The proposed action is not a Project as defined by 14 California Code of Regulations 214 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

This agenda item supports Public Safety strategy. The purpose of the Public Safety strategy is to restore and modernize the delivery of public safety services to provide for the safety of our neighborhoods and health of our community.

FINANCIAL IMPACT

There is no immediate financial impact for this item. If the City and the Navy partner on a project, the Navy will provide funding for purchase of an easement, which has not yet been defined or assigned a value. The purchase of qualifying easements by the Navy, if any, would be brought back to City Council for consideration.

COMMITTEE OUTCOME

This item did not originate in Committee as this item was originated by a previously approved Agreement by the Oxnard City Council.

Prepared by: Isidro Figueroa, Principal Planner

ATTACHMENTS

1. Attachment 1 - Original Encroachment Protection Agreement No. A-7734
2. Attachment 2 - First Amendment to Encroachment Protection Agreement No. A-7734
3. Attachment 3 - Second Amendment to Encroachment Protection Agreement No. A-7734
4. Attachment 4 - Third Amendment to Encroachment Protection Agreement No. A-7734
5. Attachment 5 - Fourth Amendment to Encroachment Protection Agreement No. A-7734
6. Attachment 6 - Fifth Amendment to Encroachment Protection Agreement No. A-7734
7. Attachment 7 - Resolution No. 72 Oversight Board of the Oxnard Community Development Commission
Successor agency
8. Attachment 8 - Sixth Amendment to Encroachment Protection Agreement No. A-7734 (1)
9. Presentation - Sixth Amendment to Encroachment Protection Agreement No. A-7734

**ENCROACHMENT PROTECTION
AGREEMENT**

BETWEEN

**THE UNITED STATES OF AMERICA
DEPARTMENT OF NAVY**

AND

THE NATURE CONSERVANCY

AND

THE TRUST FOR PUBLIC LAND

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- Section 801 Enforcement
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ARTICLE I - SCOPE, PURPOSE AND AUTHORITY

Section 101 General

a. This is a multiple-year Encroachment Protection Agreement ("**Agreement**") between The United States of America, acting by and through The Department of the Navy ("**Navy**"), The Nature Conservancy ("**TNC**"), and The Trust for Public Land ("**TPL**"), hereinafter collectively referred to as the Parties, concerning the identification and purchase of long-term interests in multiple parcels of land in furtherance of the objectives of this Agreement. The Parties have entered into this Agreement to establish the terms and conditions applicable to the contribution of Federal and non-Federal funds for acquisition of long-term interests in parcels of land in the vicinity of, or ecologically related to, Naval Base Ventura County and its Area of Interest ("**NBVC**") in California, in accordance with the provisions of Title 10 of the United States Code, §2684a.

b. This Agreement, including Attachment "A" (map) and "B" (Draft Restrictive Use Easement), includes the basic terms and conditions related to Navy's contribution of funds for the above-stated purpose. Attachments "A" and "B" are attached hereto and made an integral part of this Agreement.

c. Title 10 of the United States Code, §2684a (hereinafter, "**10 U.S.C. §2684a**") provides authority for the Navy to enter into agreements with eligible entities to share acquisition costs of real property in the vicinity of military installations for the purpose of preserving property that supports compatible land use in a manner that relieves or eliminates restrictions that inhibit military testing, operations or training, and/or limits development in the vicinity of military installations. As provided in 10 U.S.C. §2684a, the Navy intends to acquire Restrictive Use Easement(s) ("**Easement**") (or other mutually acceptable appropriate realty interests) in substantially the same form as contained in Attachment "B" to ensure that the property concerned is not developed and is used in a manner appropriate for the purposes of that section.

d. TNC and TPL are private entities that have, as their stated principal organizational purposes or goals, the conservation, restoration, or preservation of land and natural resources, or a similar purpose or goal, and meet the requirements of a section 501(c) charitable organization. Under section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for purposes set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual. TNC and TPL are hereinafter collectively referred to as "**Conservation Entities**," and each individually as a "**Conservation Entity**."

e. The Parties desire to acquire certain real property interests in multiple parcels of land (each a "**Property Interest**" or collectively "**Property Interests**") within the vicinity of NBVC for purposes that are consistent with their land and natural resources conservation objectives, preservation goals and the prevention of incompatible land development. Each acquisition would be accomplished with a transaction involving one or more Conservation Entity(ies) and the Navy and parcels of land acceptable and appropriate to the Navy and the Conservation Entity(ies) engaged in the particular transaction (in each case, the "**Transacting Conservation Entity**").

The Navy is willing to contribute Federal funds to assist in this acquisition initiative in accordance with 10 U.S.C. §2684a and applicable laws, regulations and guidance. It is anticipated that third parties, that are acceptable to the Parties, may provide to the Conservation Entities funds for the acquisitions described in this Agreement and acquire real property interests in the Properties identified in Attachment "A".

Section 102 Scope

The scope of this Agreement is to establish terms and conditions applicable to the contribution of funds to assist in the acquisition of Property Interests in various parcels of land as shown on Attachment "A" (each a "Property" or collectively the "Properties") in the vicinity of NBVC. Federal funds will be contributed in accordance with 10 U.S.C. §2684a and other applicable Federal laws, regulations and guidance. The contribution of Federal funds for acquisitions made pursuant to this Agreement is subject to the express written approval of the Secretary of Navy. The contribution of TNC and TPL funds for Property Interest acquisitions is in each case subject to the express written approval of TNC or TPL, in accordance with each organization's policies and procedures.

END - ARTICLE I

ARTICLE II - OBLIGATIONS OF THE PARTIES

Section 201 General

a. The Parties intend to collaborate to limit land development that is incompatible with the current and future mission of NBVC and its use, and to preserve ecological and open space values by acquiring Property Interests. This Agreement in no manner restricts the Parties from participating in similar activities with other public or private agencies, organizations, or individuals.

b. The Parties agree that it is mutually beneficial to develop procedures and criteria for acquisition of Easements or Property Interests, in conjunction with a viable program for acquisition of certain property rights which will serve the interests of the Parties by encouraging patterns of community growth in areas, and in a manner, that will not encroach upon the operations and mission of military uses of NBVC and will preserve ecological, and open space values.

c. Neither Conservation Entity will transfer to Navy, nor will Navy accept, responsibilities for land stewardship for any Property Interests acquired pursuant to this Agreement. However, as discussed in Section 203(i), the Parties may elect to discuss the sharing of costs and expenses for stewardship and/or monitoring of easements.

d. In accordance with the terms of the Easement or Property Interests of the Navy, either Conservation Entity shall have the right to transfer any Property Interest it acquires pursuant to this Agreement to the State or a political subdivision of the State, or a private entity that has as its stated principal organizational purpose or goal the conservation, restoration, or preservation of land and natural resources, or a similar purpose or goal. The transfer of any remaining Property Interests shall be subject to the Easement (or other mutually acceptable appropriate realty interests) in the property granted to the United States of America.

e. Neither Conservation Entity is in any manner an agent of the Federal Government. The Conservation Entities are each independent entities which may freely negotiate real estate actions and do so at their own risk. In transactions with the Navy, neither Conservation Entity shall incur any liability or responsibility for payment of any relocation or other benefits under the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (Public Law 91-646).

f. Any Party may elect to not consummate an acquisition contemplated under this Agreement if it determines at its sole discretion that there is a problem with the condition of title, hazardous materials or some other risk factor that renders an acquisition inconsistent with the Party's interests, mission or the law.

Section 202 Obligations of the Parties

a. The Conservation Entities will each work with the Navy and third parties to assist the Navy with its acquisition of Easements or Property Interests in accordance with the terms of this Agreement. In the event additional non-federal funds are available for the acquisition, and these funds require approval by the non-federal funder prior to any transfer of an interest in an acquired Property, the Transacting Conservation Entity will provide written approval from such non-federal funder of such transfer to Navy in form and substance satisfactory to Navy.

b. The Parties shall provide sufficient funds to pay their share of allowable costs incurred in performance of this Agreement according to the terms and conditions for payment under Article IV and pursuant to Section 202(a) above.

c. Except for provisions of this Agreement that provide for approvals or determinations by any Party in its sole discretion, whenever the terms of this Agreement provide for coordination and/or approval by any of the Parties, the Parties will not unreasonably withhold such coordination and/or approval. Any request for action by any of the Parties shall be considered and acted upon in a timely fashion.

d. Payment obligations of the Navy are subject to the availability of Federal funds for any given purchase. No provision herein shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. §1341, or other applicable Federal law.

e. The obligations of the Conservation Entities are subject to each of the following conditions, and there shall be no obligation on the part of a Conservation Entity for a specific transaction until each of these conditions is met:

1. The Transacting Conservation Entity shall have authorized and approved, in its sole discretion, this Agreement and each of the proposed transactions the Transacting Conservation Entity may participate in under this Agreement;

2. The Transacting Conservation Entity and the Navy shall have identified and agreed in writing upon the acquisition of a specific Property Interest and the specific terms upon which the Navy will purchase the Easement or Property Interest;

3. All funds required for acquisition of a particular Property Interest shall be available;

4. The Transacting Conservation Entity shall have reviewed and approved, in the Transacting Conservation Entity's sole discretion, the environmental, hazardous materials, title and other conditions of each Property Interest to be acquired or conveyed under this Agreement, and;

5. The landowner under the relevant Purchase Agreement (as defined below) between the Transacting Conservation Entity and such landowner shall have performed his/her obligations and the Transacting Conservation Entity shall have acquired the relevant Property Interest from such landowner.

Section 203 Acquisition Process

a. The Navy shall examine Properties with each of the Conservation Entities and assign a selection priority to transactions that provide the greatest protection against encroachment for NBVC and protection of ecologically important areas. The primary focus will be lands within the Area of Interest of NBVC, as noted in Attachment "A".

b. Steps of Acquisition.

1. The Parties understand and agree that: (i) the Conservation Entities will each work as an independent entity in the acquisition of Property Interests and not as an agent or contractor of the Navy, and (ii) no Party has any financial or pecuniary liability to any other Party prior to receipt of necessary approvals and funding for the purchase and conveyance of the Property Interests described in this Agreement.

2. The Conservation Entities will separately endeavor to reach agreement on the terms and conditions of each purchase agreement or for the acquisition of certain Property Interests (in each case, a "Purchase Agreement"). Should one of the Conservation Entities decide to acquire a Property Interest, the Transacting Conservation Entity will separately conduct any and all negotiations with the landowner to develop and finalize the terms and conditions of the acquisition. If a Conservation Entity enters into a Purchase Agreement, or an arrangement by any other name to purchase a Property Interest, it shall provide copies of the fully executed Purchase Agreement (including terms of the purchase price) and any amendments to the Navy.

3. The relevant Transacting Conservation Entity shall ensure that each Purchase Agreement allows a period of at least 90 days for due diligence review that will allow for the completion of the transaction reviews by the Navy, preparation of deeds, easement(s) and/or any other conveyance documents, and the receipt of the Navy's written approval of the particular purchase by appropriate authority ("**Due Diligence Period**"). Upon the Transacting Conservation Entity's receipt of approval from its Board of Directors or other appropriate internal officer or body with the authority to approve the transaction, as applicable, the Navy and the Transacting Conservation Entity will proceed with the acquisition of the Easement or Property Interest. The Navy shall be the Grantee of an Easement or Property Interest when Navy funds are expended for such interest.

4. During the Due Diligence Period, the Transacting Conservation Entity and the Navy shall endeavor to reach agreement on the specific terms of the easement(s) and/or any other conveyance documents or related instruments the Navy and the Transacting Conservation Entity may need to acquire the applicable Property Interest and grant an Easement to the Navy. If the Navy and the Transacting Conservation Entity elect to proceed with an acquisition, then prior to the end of the Due Diligence Period, the Navy and the Transacting Conservation Entity shall execute a mutually acceptable conveyance agreement between the Navy and the Transacting Conservation Entity and proceed with the acquisition of the Property Interest and conveyance of an Easement or other Property Interest to the Navy.

5. The Parties acknowledge that a Conservation Entity may pursue (i) funding from a variety of sources, including foundations, landowners, individuals and corporations, or, (ii) State, local or Federal funding, as available. Subject to the prior written approval of the Navy, the precise terms of any particular Easement or other Property Interest may be modified to satisfy the requirements of any such third party funding sources.

c. Acquisition of a Property Interest pursuant to this Agreement may only be accomplished with the voluntary consent of the landowner to the transaction.

d. Title to Property Interests acquired must be in an acceptable form and quality to the Navy and the Transacting Conservation Entity. Title to an Easement or Property Interest acquired by the Navy shall comply with the current version of the "United States Department of Justice Title Standards" to be acceptable to the Navy.

e. As described below, with each transaction the Navy and the Transacting Conservation Entity shall provide each other such real estate due diligence documentation as is developed by or for the Navy or the Transacting Conservation Entity with respect to the Transacting Conservation Entity's acquisition of the Property Interest from landowner and the transfer of an Easement to the Navy, including: real property surveys (if applicable), environmental site assessment(s) (if applicable and as defined below), the fee simple appraisal (as defined below) title reports and copies of underlying exceptions.

f. The amount of the Navy's contribution toward an acquisition shall be as permitted under the provisions of 10 U.S.C. §2684a, as it may be amended from time to time, and the lesser of the following:

(1) Seventy-five percent (75%) of the fair market value of a Property Interest less than fee simple acquired by the Transacting Conservation Entity as determined in an Appraisal; or

(2) the amount equal to the fair market value of an Easement to be transferred to the Navy; or

(3) the actual purchase price described in a Purchase Agreement between the Transacting Conservation Entity and a landowner for the acquisition of a Property Interest from the landowner.

The Navy or the Transacting Conservation Entity may elect to not proceed with any particular acquisition if it concludes, at its sole and absolute discretion, that the contribution it would have to make would be inconsistent with its goals and objectives.

g. The Transacting Conservation Entity shall pay for the costs and expenses for document preparation, transfer and recording fees and other closing costs associated with a landowner's conveyance of a Property Interest to the Transacting Conservation Entity. The Navy shall pay for the costs and closing costs for document preparation, transfer and recording fees and other expenses associated with the Transacting Conservation Entity's conveyance of an Easement or Property Interest to the Navy. Costs or expenses borne by the Navy and the Transacting Conservation Entity not otherwise provided for in this Agreement will be borne by the Party incurring same and will not form the basis for claim, compensation, or reimbursement between the Navy and the Transacting Conservation Entity. The Navy shall neither pay nor reimburse any third party for city, town, or county property taxes and/or assessments.

h. The Parties agree that the Easement or Property Interest acquired by the Navy shall be appropriately conveyed so as to run with the land in perpetuity.

i. The Navy and a Transacting Conservation Entity may elect to discuss the potential to share costs and expenses for items such as title reports; environmental assessments, if required; stewardship costs, and/or monitoring of easement costs. Nothing in this agreement shall be construed to obligate the Navy, TNC, or TPL to share any of these costs as a result of this Agreement

j. The Parties agree to designate and contract for title and escrow services with one firm acceptable to both the Navy and the Conservation Entities.

k. Relocation assistance.

1. Pursuant to statutory authority, acquisition of any Property Interest under this Agreement must be with the voluntary consent of the landowner. The Navy is not required to provide relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1907 (42 U.S.C. Section 4601 et seq.) where (a) a landowner sells his

or her land voluntarily, or; (b) where such an acquisition is conducted by a non-governmental party without eminent domain powers using Federal funding assistance.

2. The Navy shall have no obligation to pay or reimburse any relocation assistance which may be required to be paid under state law.

1. Each of the Parties agrees to obtain approval from the other Parties before issuing press releases, advertisements or other statements to the public in connection with this Agreement.

Section 204 Real Estate Appraisals

a. The Transacting Conservation Entity may provide the Navy an appraisal for the relevant Property Interests during each Due Diligence Period (each an "Appraisal"). The Appraisal may include, as appropriate, the fair market value of the fee simple estate of the Property, unencumbered by the proposed restrictions, and the fair market value of the Property Interest and/or Easement to be acquired by the Navy and the Transacting Conservation Entity.

b. The Navy will contribute 50% of the cost of any such Appraisal agreed to by participating Parties in advance.

c. Navy has no obligation under this Agreement to perform any appraisals or to use the Transacting Conservation Entity's appraisal(s) but reserves the right to do so.

Section 205 Land Surveys

a. The Navy and the Transacting Conservation Entity shall have the right, but not the obligation, to obtain a real property survey of any or all of the Property Interests at its sole expense. The survey shall be completed within the applicable due diligence deadlines agreed upon by the Navy and the Transacting Conservation Entity. The survey will be completed in accordance with State of California land survey recordation requirements based on a scope of work satisfactory to both the Navy and the Transacting Conservation Entity. The survey shall be sufficient to enable the Title Insurer to delete all standard exceptions to coverage under the Title Policy with respect to surveys.

b. The survey shall determine the exact acreage and location of parcels and identify and locate all existing encroachments and rights-of-way affecting the parcels. The survey will show all parcels of land to be purchased, including the area(s) to be encumbered by the Easement or Property Interests. The survey shall have a corresponding legal description containing all metes and bounds reflected on the survey plat.

c. The Navy requires any such survey to be certified by the California Public Land Surveyor who conducts the survey.

Section 206 Preliminary Title Reports and Title Insurance

a. Navy will pay for and obtain preliminary title reports for the Property Interests. Navy shall share with the Transacting Conservation Entity all title information at the time it is received or obtained.

b. The Navy and the Transacting Conservation Entity shall each be responsible for acquiring its own Title Insurance at its own expense. If either the Navy's or the Transacting Conservation Entity's reviewing attorneys' title examination reveals any exception to the Property Interests being acquired that is objectionable and that Party is not willing to waive such defect in title, the Transacting Conservation Entity will notify the landowner of such title defects. Upon notification, the landowner will have forty-five (45) calendar days to cure, or to cause to be cured, the title defects. If the landowner cannot cure or cause to be cured any title defect(s) within forty-five (45) calendar days (or a longer period to which the Navy and the Transacting Conservation Entity agree), then either the Navy or the Transacting Conservation Entity may abandon the acquisition pursuant to this Agreement.

c. Upon Navy's payment of the acquisition cost, in accordance with this Agreement, an Easement or Property Interest shall be conveyed to the Navy and duly recorded.

Section 207 Phase One Reports and Property Assessments

a. The Transacting Conservation Entity may obtain a Phase I Environmental Site Assessment ("Phase I") for the Property Interest to be acquired during each Due Diligence Period. The Transacting Conservation Entity shall share the Phase I with the Navy and the Phase I shall be subject to the acceptance of both the Navy and the Transacting Conservation Entity, which acceptance may be withheld or provided at each Party's sole and absolute discretion. The Navy and the Transacting Conservation Entity shall prepare and approve a scope of work and a budget in advance of entering into a contract with the environmental professional who will complete the Phase I. The Navy will contribute 50% of the cost of any such Phase I agreed to in advance by the participating Parties.

b. If a preliminary title report describes any condition that may affect the intended acquisition of the Property interest, including but not necessarily limited to mineral rights assessments, the Navy and the Transacting Conservation Entity may agree to obtain assessments necessary to evaluate the acquisition of the relevant Property Interest during the Due Diligence Period. The Transacting Conservation Entity shall obtain and share any such assessment with the Navy and the assessment shall be subject to the acceptance of the Navy and the Transacting Conservation Entity, which acceptance may be withheld or provided at each Party's sole and absolute discretion. The Navy and the Transacting Conservation Entity shall prepare and approve a scope of work and a budget in advance of entering into a contract with the third party who will complete the assessment. The Navy will contribute 50% of the cost of any such assessment agreed to in advance by the participating Parties.

Section 208**Sharing of Due Diligence Materials**

Prior to the end of the Due Diligence Period pursuant to this Agreement (or upon acquisition of the relevant documents if the documents are acquired after the end of the Due Diligence Period), the Navy and the Transacting Conservation Entity shall share with each other any, preliminary title reports, Phase I's, mineral interest assessments or surveys each may have with respect to whether to proceed with the applicable transaction.

END - ARTICLE II**ARTICLE III – FUNDING****Section 301****Funding Limitation**

a. The Navy will obligate funds in the amount of approximately \$3,150,000 (three million one hundred fifty thousand dollars) toward the cost of the Navy acquiring Easements or Property Interests within the Area of Interest upon signature of this Agreement. The Navy's funds shall be deposited in one or more escrow accounts to be managed by Navy's designated Escrow Agent. Funds shall be distributed to the Transacting Conservation Entity as required for each closing of the acquisition of an Easement or Property Interest in a property subject to this Agreement. Additional funding, if any, under this Agreement shall be accomplished by a written modification of this Agreement.

b. The Navy shall notify both Conservation Entities when additional funds are deposited in escrow and available for expenditure under this Agreement. Such funding by the Navy is subject to the availability of appropriated funds. The Navy is under no obligation to deposit additional funds in escrow.

Section 302**Limitation on the Availability of Navy Funds for Obligation**

Other than the use of funds for acquiring Property Interests and allowable costs incurred by the Parties in performance of this Agreement, the Parties intend that the Navy shall have no other financial obligations under the terms of this Agreement. No relocation costs or other incidental expenses shall be due the landowner from Navy for any such payments to a third-party unless expressly agreed to by subsequent written agreement of the Parties.

Section 303**Prohibitions on Interest Payments by Federal Agency**

The Navy shall not pay either Conservation Entity any interest incurred or foregone by the Conservation Entity as a result of its participation in land acquisition transactions.

END - ARTICLE III

ARTICLE IV - PAYMENT

Section 401 Payment by Navy

a. Navy will make available to the Transacting Conservation Entity the Navy's share of allowable costs and acquisition funds from escrow pursuant to this Agreement in a timely manner upon the Navy's Real Estate Contracting Officer ("RECO") authorization.

b. The funds provided by Navy are to be used solely by the Conservation Entities for the items of allowable costs incurred in the performance of this Agreement.

c. The Parties acknowledge that the properties subject to this Agreement, if acceptable to the Navy and the Transacting Conservation Entity, and successfully negotiated for acquisition by the Transacting Conservation Entity, cannot be acquired until the acquisition funds are received from the Navy and the Navy has authorized the expenditure of such funds.

d. The Transacting Conservation Entity through the Navy's designated local real estate representative, shall promptly deliver to the RECO, Naval Facilities Engineering Command Southwest, San Diego, California ("NAVFAC SW"), an accounting of funding and disbursements to be made under this Agreement for each Property Interest acquisition. The accounting shall be in the form of a closing statement or statements for each Property Interest acquisition for which Navy funds are to be expended. Appropriate payment documents, such as vouchers or closing statements, for allowable costs shall be submitted to Navy at least twenty one (21) calendar days prior to the closing scheduled for each Property Interest.

e. The Parties shall make records and accounts pertaining to this Agreement available for inspection by Federal auditors and other authorized Federal government officials as may be required by the RECO.

Section 402 Direct Federal Payment of Other Parties' Obligations

In no event, shall Navy make direct payment to any Conservation Entity's agent, contractor, employee, contractor employee, or vendor for any costs incurred by the Conservation Entity under this Agreement, except for such payments as may be made to or through the escrow company designated by the Navy.

END - ARTICLE IV

ARTICLE V - GENERAL PROVISIONS

Section 501 Term of Agreement

a. This Agreement will remain in effect until five years from the date of execution of this Agreement unless sooner terminated as provided herein, or unless renewed, amended or extended by mutual agreement of the Parties prior to the expiration of the term of this Agreement.

b. This Agreement may be terminated: (1) at any time by mutual agreement of the Parties, or; (2) by any Party with thirty (30) calendar days advance written notice to the other Parties.

Section 502 Modification

This Agreement may be modified only by a written instrument signed by the all Parties hereto.

Section 503 Sole Benefit

This Agreement is intended for the sole benefit of the Navy and the Conservation Entities and is not intended to create any other beneficiaries.

Section 504 Successors and Assigns

a. This Agreement may not be assigned by a Party without the express written consent of the other Parties. All covenants made under this Agreement shall bind and inure to the benefit of any successors and assigns of the Parties whether or not expressly assumed or acknowledged by such successors or assigns.

b. This Agreement may be modified from time to time to include additional parties. Such modification(s) shall conform with the requirements of 10 U.S.C. §2684a and shall require the express written consent of the original Parties. All covenants made under this Agreement by the Conservation Entities shall be binding on, and acknowledged by, any future party to this Agreement.

Section 505 Entire Agreement

This Agreement forms the entire agreement between the Parties as to scope and subject matter. All prior discussions and understandings concerning the scope and subject matter are superseded and incorporated by this Agreement.

Section 506 Severability

If any provision of this Agreement is judicially held invalid by a Court of competent jurisdiction, the remainder of this Agreement shall continue in force and effect to the extent not inconsistent with such holding.

Section 507 Waiver of Breach

If a Party waives enforcement of any provision of this Agreement upon any event of breach by another Party, the waiver shall not automatically extend to any additional or future occurrences of breach. The Parties' respective right to the future performance of any such provision(s) and their obligations in respect to such future performance shall continue in full force and effect.

Section 508 Administration

Except as otherwise provided for under this Agreement, the RECO of NAVFAC SW shall have complete charge of the administration of this Agreement on behalf of the Navy, including granting any consents, modifications, and/or approvals hereunder, and shall exercise full supervision and general direction thereof insofar as the interests of the Navy are affected.

Section 509 Notices

Any notice, transmittal, approval, or other official communication made under this Agreement shall be in writing and shall be delivered by hand, facsimile transmission, or by mail to the relevant Party at the address or facsimile transmission telephone number set forth below or at such other address as may be later designated and such notice shall be effective upon date of receipt:

For the Navy

Commanding Officer
Naval Facilities Engineering Command Southwest
1220 Pacific Highway
San Diego, CA 92132-5190
Attn: Director, Real Estate Services

For TNC

The Nature Conservancy
California Regional Office
201 Mission St., 4th Floor
San Francisco, CA 94105
Attn: Legal Department

For TPL

The Trust for Public Land
101 Montgomery Street, Suite 1100
San Francisco, CA 94104
Attn: Legal Department

Section 510 Execution

This Agreement may be executed in several counterparts, each of which shall be deemed an original.

Section 511 Conflict of Interest

The Parties shall ensure that their employees are prohibited from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others.

Section 512 Access to and Retention of Records

a. Each Conservation Entity shall afford any authorized representative of the Navy, the Department of Defense, or the United States Comptroller General access to and the right to examine, audit, or reproduce all closing statements and escrow instructions relating to the acquisition of a Property Interest by the Conservation Entity. For each acquisition for which the Conservation Entity was the Transacting Conservation Entity, it shall retain all such records of each acquisition intact, in a legible, certified true form, if not original documents, until three (3) years after the date of each acquisition to which such records pertain.

b. The Parties shall make available records relating to appeals under Article VIII (Enforcement of Claims, Disputes Resolution, and Appeals) of this Agreement or to litigation or the settlement of claims arising under or relating to this Agreement until such appeals, litigation, or claims are finally resolved.

Section 513 Change of Circumstances

Each Party shall promptly notify the other Parties of any change of circumstances, pending litigation, or any other event or condition that may adversely affect the Party's ability to carry out any of its obligations under this Agreement.

Section 514 Liability and Indemnity

Nothing in this Agreement shall be construed as an indemnification by one Party of another Party for liabilities of a Party or third persons for property loss or damage or death or personal injury arising out of and during the performance of this Agreement, or arising from any other action that may arise as a result of this Agreement. Any claims or any liabilities or claims for property loss or damage or for death or personal injury by a Party or its agents, employees, contractors or assigns or by third persons, arising out of and during the performance of this Agreement shall be determined according to applicable Federal law. (Also see Section 601 of this Agreement.)

Section 515 Reports

In addition to any financial or other reports required by the terms of this Agreement, the Navy may require either Conservation Entity, and either Conservation Entity may require the Navy, to prepare reports or provide information relating to this Agreement. TNC, TPL or the Navy, as the case may be, agree to provide the reports within a reasonable time of request and in such reasonable detail as may be required by the requesting Party. A "reasonable time" for purposes of this Section 515 shall be a period not to exceed forty-five (45) days, unless a longer period of time is granted by the requesting Party in writing.

Section 516 Negotiations

Negotiations with the owners of all parcels will be conducted by the Transacting Conservation Entity, or its authorized representative, in a manner that will assure the most favorable price and terms are obtained for the participating Parties.

END - ARTICLE V

ARTICLE VI - REPRESENTATIONS AND CERTIFICATIONS

The Parties are required to insert the provisions of Article VI in all contracts issued under this Agreement which are funded with federal funds.

Section 601 Applicable Law

This Agreement is incidental to the implementation of a Federal program. Accordingly, this Agreement shall be governed by and construed according to applicable Federal law.

Section 602 Nondiscrimination

The Parties agree that no person shall be denied benefits of, or otherwise be subjected to discrimination in connection with the Parties' performance under this Agreement, on the ground of race, religion, color, national origin, sex or handicap. Accordingly and to the extent applicable, the Parties agree to comply with the following:

a. Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), and DoD regulations (32 CFR Part 300) issued hereunder;

b. Executive Order 11246 and Department of Labor regulations issued hereunder (41 CFR Part 60);

c. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and DoD Regulations issued hereunder (32 CFR Part 56); and,

d. The Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.) and regulations issued pursuant to the Age Discrimination Act . (See 45 CFR Part 90).

Section 603 Lobbying

a. The Parties agree that they will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any 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.

b. The Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 28) to implement the provisions of section 319 of Public Law 101-121 (31 U.S.C. § 1352) is incorporated by reference.

Section 604 Drug-Free Work Place

a. The Parties agree that they will comply with the provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. § 701 et seq.) and maintain a drug-free workplace.

b. The Final Rule, Government-Wide Requirements for Drug-Free Workplace (Grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 28, Subpart f) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the Parties covenant and agree to comply with all the provisions thereof, including any amendments to the Final Rule that may hereafter be issued.

Section 605 Equal Employment Opportunity

The Parties agree to comply with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Department of Labor regulations (41 CFR Chapter 60).

END - ARTICLE VI

ARTICLE VII - LEGAL AUTHORITY

Section 701 Legal Authority

No Party is under any existing or foreseeable legal disability that would prevent or hinder it from fulfilling the terms and conditions of this Agreement. The Parties shall promptly notify each other of any legal impediment that arises during the term of this Agreement that may prevent or hinder its fulfillment of its obligations under this Agreement.

END - ARTICLE VII

ARTICLE VIII - ENFORCEMENT, CLAIMS, DISPUTES RESOLUTION AND APPEALS

Section 801 Enforcement

The Parties may take such actions to enforce the terms of this Agreement as may be authorized by Federal law.

Section 802 Claims, Disputes Resolution and Appeals

a. Any claim against the Navy made by TNC or TPL arising out of this Agreement shall be presented in writing to the RECO. The claim shall include: the amount of monetary relief claimed or the nature of other relief requested; the basis for relief; and, the documents or other evidence pertinent to the claim.

b. Any claim by any Party shall be made within sixty (60) calendar days after the basis of the claim is known or should have been known, whichever is earlier. It is each Party's duty to include in its claim all information needed to demonstrate its timeliness.

c. Upon receipt of a claim, the RECO shall provide a written decision denying or sustaining the claim, in whole or part, which decision shall include the reason for the action, within sixty (60) calendar days of the date of the receipt of a claim. The determination shall be final unless appealed by TNC or TPL pursuant to the provisions of this section.

d. Alternative Dispute Resolution (ADR).

1. Policy. It is Navy policy to try to resolve all issues concerning this Agreement at the RECO's level. RECOs are encouraged to use ADR procedures to the maximum extent practicable.

2. Procedures. If TNC or TPL decides to appeal a RECO's decision, the RECO shall encourage TNC or TPL to enter into ADR procedures. The ADR procedures to be used shall be agreed to at the time the Parties determine to employ them.

e. Appeals.

1. Appeal Authority. The Navy shall designate an Appeal Authority at the time of receipt of appeal.

2. Right of Appeal. TNC or TPL has the right to appeal a RECO's decision to the Appeal Authority.

3. Appeal Procedures.

(a) Notice of appeal. TNC or TPL may appeal a decision of the RECO within ninety (90) calendar days of receiving that decision, by filing a written notice of appeal to the Appeal Authority and to the RECO.

(b) Appeal file. Within thirty (30) calendar days of receiving the notice of appeal, the RECO shall forward to the Appeal Authority and TNC or TPL the appeal file, which shall include copies of all documents relevant to the appeal.

(c) Decision. Any fact-finding or hearing shall be conducted using procedures that the Appeal Authority deems appropriate.

(d) Nothing in this section is intended to limit TNC's, TPL's, or the Navy's right to any remedy under Federal law or in equity in an appropriate Federal forum.

Executed this 30 day of September, 2011

FOR THE NAVY

BY: _____


Karen P. Ringel, Real Estate Contracting Officer
Naval Facilities Engineering Command Southwest

Executed this 7 day of September, 2011

FOR THE NATURE CONSERVANCY

BY: 

Lily Verdone, Project Director

Executed this 12th day of September, 2011

FOR THE TRUST FOR PUBLIC LAND

BY: Sam Hodder
Sam Hodder, California State Director

END - ARTICLE VIII

**ENCROACHMENT PROTECTION
AGREEMENT**

BETWEEN

**THE UNITED STATES OF AMERICA
DEPARTMENT OF NAVY**

AND

THE NATURE CONSERVANCY

AND

THE TRUST FOR PUBLIC LAND

Amendment 1 – July 2012

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ARTICLE I - SCOPE, PURPOSE AND AUTHORITY

Section 101 General

a. This is a multiple-year Encroachment Protection Agreement ("**Agreement**") between The United States of America, acting by and through The Department of the Navy ("**Navy**"), The Nature Conservancy ("**TNC**"), and The Trust for Public Land ("**TPL**"), hereinafter collectively referred to as the Parties, concerning the identification and purchase of long-term interests in multiple parcels of land in furtherance of the objectives of this Agreement. The Parties have entered into this Agreement to establish the terms and conditions applicable to the contribution of Federal and non-Federal funds for acquisition of long-term interests in parcels of land in the vicinity of, or ecologically related to, Naval Base Ventura County and its Area of Interest ("**NBVC**") in California, in accordance with the provisions of Title 10 of the United States Code, §2684a.

b. This Agreement, including Attachment "A" (map) and "B" (Draft Restrictive Use Easement), includes the basic terms and conditions related to Navy's contribution of funds for the above-stated purpose. Attachments "A" and "B" are attached hereto and made an integral part of this Agreement.

c. Title 10 of the United States Code, §2684a (hereinafter, "**10 U.S.C. §2684a**") provides authority for the Navy to enter into agreements with eligible entities to share acquisition costs of real property in the vicinity of military installations for the purpose of preserving property that supports compatible land use in a manner that relieves or eliminates restrictions that inhibit military testing, operations or training, and/or limits development in the vicinity of military installations. As provided in 10 U.S.C. §2684a, the Navy intends to acquire Restrictive Use Easement(s) ("**Easement**") (or other mutually acceptable appropriate realty interests) in substantially the same form as contained in Attachment "B" to ensure that the property concerned is not developed and is used in a manner appropriate for the purposes of that section.

d. TNC and TPL are private entities that have, as their stated principal organizational purposes or goals, the conservation, restoration, or preservation of land and natural resources, or a similar purpose or goal, and meet the requirements of a section 501(c) charitable organization. Under section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for purposes set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual. TNC and TPL are hereinafter collectively referred to as "**Conservation Entities**," and each individually as a "**Conservation Entity**."

e. The Parties desire to acquire certain real property interests in multiple parcels of land (each a "**Property Interest**" or collectively "**Property Interests**") within the vicinity of NBVC for purposes that are consistent with their land and natural resources conservation objectives, preservation goals and the prevention of incompatible land development. Each acquisition would be accomplished with a transaction involving one or more Conservation Entity(ies) and the Navy and parcels of land acceptable and appropriate to the Navy and the Conservation Entity(ies) engaged in the particular transaction (in each case, the "**Transacting Conservation Entity**").

The Navy is willing to contribute Federal funds to assist in this acquisition initiative in accordance with 10 U.S.C. §2684a and applicable laws, regulations and guidance. It is anticipated that third parties, that are acceptable to the Parties, may provide to the Conservation Entities funds for the acquisitions described in this Agreement and acquire real property interests in the Properties identified in Attachment "A".

Section 102 Scope

The scope of this Agreement is to establish terms and conditions applicable to the contribution of funds to assist in the acquisition of Property Interests in various parcels of land as shown on Attachment "A" (each a "**Property**" or collectively the "**Properties**") in the vicinity of NBVC. Federal funds will be contributed in accordance with 10 U.S.C. §2684a and other applicable Federal laws, regulations and guidance. The contribution of Federal funds for acquisitions made pursuant to this Agreement is subject to the express written approval of the Secretary of Navy. The contribution of TNC and TPL funds for Property Interest acquisitions is in each case subject to the express written approval of TNC or TPL, in accordance with each organization's policies and procedures.

END - ARTICLE I

ARTICLE II - OBLIGATIONS OF THE PARTIES

Section 201 General

a. The Parties intend to collaborate to limit land development that is incompatible with the current and future mission of NBVC and its use, and to preserve ecological and open space values by acquiring Property Interests. This Agreement in no manner restricts the Parties from participating in similar activities with other public or private agencies, organizations, or individuals.

b. The Parties agree that it is mutually beneficial to develop procedures and criteria for acquisition of Easements or Property Interests, in conjunction with a viable program for acquisition of certain property rights which will serve the interests of the Parties by encouraging patterns of community growth in areas, and in a manner, that will not encroach upon the operations and mission of military uses of NBVC and will preserve ecological, and open space values.

c. Neither Conservation Entity will transfer to Navy, nor will Navy accept, responsibilities for land stewardship for any Property Interests acquired pursuant to this Agreement. However, as discussed in Section 203(i), the Parties may elect to discuss the sharing of costs and expenses for stewardship and/or monitoring of easements.

d. In accordance with the terms of the Easement or Property Interests of the Navy, either Conservation Entity shall have the right to transfer any Property Interest it acquires pursuant to this Agreement to the State or a political subdivision of the State, or a private entity that has as its stated principal organizational purpose or goal the conservation, restoration, or preservation of land and natural resources, or a similar purpose or goal. The transfer of any remaining Property Interests shall be subject to the Easement (or other mutually acceptable appropriate realty interests) in the property granted to the United States of America.

e. Neither Conservation Entity is in any manner an agent of the Federal Government. The Conservation Entities are each independent entities which may freely negotiate real estate actions and do so at their own risk. In transactions with the Navy, neither Conservation Entity shall incur any liability or responsibility for payment of any relocation or other benefits under the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (Public Law 91-646).

f. Any Party may elect to not consummate an acquisition contemplated under this Agreement if it determines at its sole discretion that there is a problem with the condition of title, hazardous materials or some other risk factor that renders an acquisition inconsistent with the Party's interests, mission or the law.

Section 202 Obligations of the Parties

a. The Conservation Entities will each work with the Navy and third parties to assist the Navy with its acquisition of Easements or Property Interests in accordance with the terms of this Agreement. In the event additional non-federal funds are available for the acquisition, and these funds require approval by the non-federal funder prior to any transfer of an interest in an acquired Property, the Transacting Conservation Entity will provide written approval from such non-federal funder of such transfer to Navy in form and substance satisfactory to Navy.

b. The Parties shall provide sufficient funds to pay their share of allowable costs incurred in performance of this Agreement according to the terms and conditions for payment under Article IV and pursuant to Section 202(a) above.

c. Except for provisions of this Agreement that provide for approvals or determinations by any Party in its sole discretion, whenever the terms of this Agreement provide for coordination and/or approval by any of the Parties, the Parties will not unreasonably withhold such coordination and/or approval. Any request for action by any of the Parties shall be considered and acted upon in a timely fashion.

d. Payment obligations of the Navy are subject to the availability of Federal funds for any given purchase. No provision herein shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. §1341, or other applicable Federal law.

e. The obligations of the Conservation Entities are subject to each of the following conditions, and there shall be no obligation on the part of a Conservation Entity for a specific transaction until each of these conditions is met:

1. The Transacting Conservation Entity shall have authorized and approved, in its sole discretion, this Agreement and each of the proposed transactions the Transacting Conservation Entity may participate in under this Agreement;

2. The Transacting Conservation Entity and the Navy shall have identified and agreed in writing upon the acquisition of a specific Property Interest and the specific terms upon which the Navy will purchase the Easement or Property Interest;

3. All funds required for acquisition of a particular Property Interest shall be available;

4. The Transacting Conservation Entity shall have reviewed and approved, in the Transacting Conservation Entity's sole discretion, the environmental, hazardous materials, title and other conditions of each Property Interest to be acquired or conveyed under this Agreement, and;

5. The landowner under the relevant Purchase Agreement (as defined below) between the Transacting Conservation Entity and such landowner shall have performed his/her obligations and the Transacting Conservation Entity shall have acquired the relevant Property Interest from such landowner.

Section 203 Acquisition Process

a. The Navy shall examine Properties with each of the Conservation Entities and assign a selection priority to transactions that provide the greatest protection against encroachment for NBVC and protection of ecologically important areas. The primary focus will be lands within the Area of Interest of NBVC, as noted in Attachment "A".

b. Steps of Acquisition.

1. The Parties understand and agree that: (i) the Conservation Entities will each work as an independent entity in the acquisition of Property Interests and not as an agent or contractor of the Navy, and (ii) no Party has any financial or pecuniary liability to any other Party prior to receipt of necessary approvals and funding for the purchase and conveyance of the Property Interests described in this Agreement.

2. The Conservation Entities will separately endeavor to reach agreement on the terms and conditions of each purchase agreement or for the acquisition of certain Property Interests (in each case, a "Purchase Agreement"). Should one of the Conservation Entities decide to acquire a Property Interest, the Transacting Conservation Entity will separately conduct any and all negotiations with the landowner to develop and finalize the terms and conditions of the acquisition. If a Conservation Entity enters into a Purchase Agreement, or an arrangement by any other name to purchase a Property Interest, it shall provide copies of the fully executed Purchase Agreement (including terms of the purchase price) and any amendments to the Navy.

3. The relevant Transacting Conservation Entity shall ensure that each Purchase Agreement allows a period of at least 90 days for due diligence review that will allow for the completion of the transaction reviews by the Navy, preparation of deeds, easement(s) and/or any other conveyance documents, and the receipt of the Navy's written approval of the particular purchase by appropriate authority ("**Due Diligence Period**"). Upon the Transacting Conservation Entity's receipt of approval from its Board of Directors or other appropriate internal officer or body with the authority to approve the transaction, as applicable, the Navy and the Transacting Conservation Entity will proceed with the acquisition of the Easement or Property Interest. The Navy shall be the Grantee of an Easement or Property Interest when Navy funds are expended for such interest.

4. During the Due Diligence Period, the Transacting Conservation Entity and the Navy shall endeavor to reach agreement on the specific terms of the easement(s) and/or any other conveyance documents or related instruments the Navy and the Transacting Conservation Entity may need to acquire the applicable Property Interest and grant an Easement to the Navy. If the Navy and the Transacting Conservation Entity elect to proceed with an acquisition, then prior to the end of the Due Diligence Period, the Navy and the Transacting Conservation Entity shall execute a mutually acceptable conveyance agreement between the Navy and the Transacting Conservation Entity and proceed with the acquisition of the Property Interest and conveyance of an Easement or other Property Interest to the Navy.

5. The Parties acknowledge that a Conservation Entity may pursue (i) funding from a variety of sources, including foundations, landowners, individuals and corporations, or, (ii) State, local or Federal funding, as available. Subject to the prior written approval of the Navy, the precise terms of any particular Easement or other Property Interest may be modified to satisfy the requirements of any such third party funding sources.

c. Acquisition of a Property Interest pursuant to this Agreement may only be accomplished with the voluntary consent of the landowner to the transaction.

d. Title to Property Interests acquired must be in an acceptable form and quality to the Navy and the Transacting Conservation Entity. Title to an Easement or Property Interest acquired by the Navy shall comply with the current version of the "United States Department of Justice Title Standards" to be acceptable to the Navy.

e. As described below, with each transaction the Navy and the Transacting Conservation Entity shall provide each other such real estate due diligence documentation as is developed by or for the Navy or the Transacting Conservation Entity with respect to the Transacting Conservation Entity's acquisition of the Property Interest from landowner and the transfer of an Easement to the Navy, including: real property surveys (if applicable), environmental site assessment(s) (if applicable and as defined below), the fee simple appraisal (as defined below) title reports and copies of underlying exceptions.

f. The amount of the Navy's contribution toward an acquisition shall be as permitted under the provisions of 10 U.S.C. §2684a, as it may be amended from time to time, and the lesser of the following:

(1) Seventy-five percent (75%) of the fair market value of a Property Interest less than fee simple acquired by the Transacting Conservation Entity as determined in an Appraisal; or

(2) the amount equal to the fair market value of an Easement to be transferred to the Navy; or

(3) the actual purchase price described in a Purchase Agreement between the Transacting Conservation Entity and a landowner for the acquisition of a Property Interest from the landowner.

The Navy or the Transacting Conservation Entity may elect to not proceed with any particular acquisition if it concludes, at its sole and absolute discretion, that the contribution it would have to make would be inconsistent with its goals and objectives.

g. The Transacting Conservation Entity shall pay for the costs and expenses for document preparation, transfer and recording fees and other closing costs associated with a landowner's conveyance of a Property Interest to the Transacting Conservation Entity. The Navy shall pay for the costs and closing costs for document preparation, transfer and recording fees and other expenses associated with the Transacting Conservation Entity's conveyance of an Easement or Property Interest to the Navy. Costs or expenses borne by the Navy and the Transacting Conservation Entity not otherwise provided for in this Agreement will be borne by the Party incurring same and will not form the basis for claim, compensation, or reimbursement between the Navy and the Transacting Conservation Entity. The Navy shall neither pay nor reimburse any third party for city, town, or county property taxes and/or assessments.

h. The Parties agree that the Easement or Property Interest acquired by the Navy shall be appropriately conveyed so as to run with the land in perpetuity.

i. The Navy and a Transacting Conservation Entity may elect to discuss the potential to share costs and expenses for items such as title reports; environmental assessments, if required; stewardship costs, and/or monitoring of easement costs. Nothing in this agreement shall be construed to obligate the Navy, TNC, or TPL to share any of these costs as a result of this Agreement

j. The Parties agree to designate and contract for title and escrow services with one firm acceptable to both the Navy and the Conservation Entities.

k. Relocation assistance.

1. Pursuant to statutory authority, acquisition of any Property Interest under this Agreement must be with the voluntary consent of the landowner. The Navy is not required to provide relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. Section 4601 et seq.) where (a) a landowner sells his

or her land voluntarily, or; (b) where such an acquisition is conducted by a non-governmental party without eminent domain powers using Federal funding assistance.

2. The Navy shall have no obligation to pay or reimburse any relocation assistance which may be required to be paid under state law.

1. Each of the Parties agrees to obtain approval from the other Parties before issuing press releases, advertisements or other statements to the public in connection with this Agreement.

Section 204 Real Estate Appraisals

a. The Transacting Conservation Entity may provide the Navy an appraisal for the relevant Property Interests during each Due Diligence Period (each an "Appraisal"). The Appraisal may include, as appropriate, the fair market value of the fee simple estate of the Property, unencumbered by the proposed restrictions, and the fair market value of the Property Interest and/or Easement to be acquired by the Navy and the Transacting Conservation Entity.

b. The Navy will contribute 50% of the cost of any such Appraisal agreed to by participating Parties in advance.

c. Navy has no obligation under this Agreement to perform any appraisals or to use the Transacting Conservation Entity's appraisal(s) but reserves the right to do so.

Section 205 Land Surveys

a. The Navy and the Transacting Conservation Entity shall have the right, but not the obligation, to obtain a real property survey of any or all of the Property Interests at its sole expense. The survey shall be completed within the applicable due diligence deadlines agreed upon by the Navy and the Transacting Conservation Entity. The survey will be completed in accordance with State of California land survey recordation requirements based on a scope of work satisfactory to both the Navy and the Transacting Conservation Entity. The survey shall be sufficient to enable the Title Insurer to delete all standard exceptions to coverage under the Title Policy with respect to surveys.

b. The survey shall determine the exact acreage and location of parcels and identify and locate all existing encroachments and rights-of-way affecting the parcels. The survey will show all parcels of land to be purchased, including the area(s) to be encumbered by the Easement or Property Interests. The survey shall have a corresponding legal description containing all metes and bounds reflected on the survey plat.

c. The Navy requires any such survey to be certified by the California Public Land Surveyor who conducts the survey.

Section 206 Preliminary Title Reports and Title Insurance

a. Navy will pay for and obtain preliminary title reports for the Property Interests. Navy shall share with the Transacting Conservation Entity all title information at the time it is received or obtained.

b. The Navy and the Transacting Conservation Entity shall each be responsible for acquiring its own Title Insurance at its own expense. If either the Navy's or the Transacting Conservation Entity's reviewing attorneys' title examination reveals any exception to the Property Interests being acquired that is objectionable and that Party is not willing to waive such defect in title, the Transacting Conservation Entity will notify the landowner of such title defects. Upon notification, the landowner will have forty-five (45) calendar days to cure, or to cause to be cured, the title defects. If the landowner cannot cure or cause to be cured any title defect(s) within forty-five (45) calendar days (or a longer period to which the Navy and the Transacting Conservation Entity agree), then either the Navy or the Transacting Conservation Entity may abandon the acquisition pursuant to this Agreement.

c. Upon Navy's payment of the acquisition cost, in accordance with this Agreement, an Easement or Property Interest shall be conveyed to the Navy and duly recorded.

Section 207 Phase One Reports and Property Assessments

a. The Transacting Conservation Entity may obtain a Phase I Environmental Site Assessment ("**Phase I**") for the Property Interest to be acquired during each Due Diligence Period. The Transacting Conservation Entity shall share the Phase I with the Navy and the Phase I shall be subject to the acceptance of both the Navy and the Transacting Conservation Entity, which acceptance may be withheld or provided at each Party's sole and absolute discretion. The Navy and the Transacting Conservation Entity shall prepare and approve a scope of work and a budget in advance of entering into a contract with the environmental professional who will complete the Phase I. The Navy will contribute 50% of the cost of any such Phase I agreed to in advance by the participating Parties.

b. If a preliminary title report describes any condition that may affect the intended acquisition of the Property interest, including but not necessarily limited to mineral rights assessments, the Navy and the Transacting Conservation Entity may agree to obtain assessments necessary to evaluate the acquisition of the relevant Property Interest during the Due Diligence Period. The Transacting Conservation Entity shall obtain and share any such assessment with the Navy and the assessment shall be subject to the acceptance of the Navy and the Transacting Conservation Entity, which acceptance may be withheld or provided at each Party's sole and absolute discretion. The Navy and the Transacting Conservation Entity shall prepare and approve a scope of work and a budget in advance of entering into a contract with the third party who will complete the assessment. The Navy will contribute 50% of the cost of any such assessment agreed to in advance by the participating Parties.

Section 208**Sharing of Due Diligence Materials**

Prior to the end of the Due Diligence Period pursuant to this Agreement (or upon acquisition of the relevant documents if the documents are acquired after the end of the Due Diligence Period), the Navy and the Transacting Conservation Entity shall share with each other any, preliminary title reports, Phase I's, mineral interest assessments or surveys each may have with respect to whether to proceed with the applicable transaction.

END - ARTICLE II**ARTICLE III – FUNDING****Section 301****Funding Limitation**

a. The Navy will obligate funds in the amount of approximately \$ \$4,650,000 (four million six hundred fifty thousand dollars) toward the cost of the Navy acquiring Easements or Property Interests within the Area of Interest upon signature of this Agreement. The Navy's funds shall be deposited in one or more escrow accounts to be managed by Navy's designated Escrow Agent. Funds shall be distributed to the Transacting Conservation Entity as required for each closing of the acquisition of an Easement or Property Interest in a property subject to this Agreement. Additional funding, if any, under this Agreement shall be accomplished by a written modification of this Agreement.

b. The Navy shall notify both Conservation Entities when additional funds are deposited in escrow and available for expenditure under this Agreement. Such funding by the Navy is subject to the availability of appropriated funds. The Navy is under no obligation to deposit additional funds in escrow.

Section 302**Limitation on the Availability of Navy Funds for Obligation**

Other than the use of funds for acquiring Property Interests and allowable costs incurred by the Parties in performance of this Agreement, the Parties intend that the Navy shall have no other financial obligations under the terms of this Agreement. No relocation costs or other incidental expenses shall be due the landowner from Navy for any such payments to a third-party unless expressly agreed to by subsequent written agreement of the Parties.

Section 303**Prohibitions on Interest Payments by Federal Agency**

The Navy shall not pay either Conservation Entity any interest incurred or foregone by the Conservation Entity as a result of its participation in land acquisition transactions.

END - ARTICLE III

ARTICLE IV - PAYMENT

Section 401 Payment by Navy

- a. Navy will make available to the Transacting Conservation Entity the Navy's share of allowable costs and acquisition funds from escrow pursuant to this Agreement in a timely manner upon the Navy's Real Estate Contracting Officer ("RECO") authorization.
- b. The funds provided by Navy are to be used solely by the Conservation Entities for the items of allowable costs incurred in the performance of this Agreement.
- c. The Parties acknowledge that the properties subject to this Agreement, if acceptable to the Navy and the Transacting Conservation Entity, and successfully negotiated for acquisition by the Transacting Conservation Entity, cannot be acquired until the acquisition funds are received from the Navy and the Navy has authorized the expenditure of such funds.
- d. The Transacting Conservation Entity through the Navy's designated local real estate representative, shall promptly deliver to the RECO, Naval Facilities Engineering Command Southwest, San Diego, California ("NAVFAC SW"), an accounting of funding and disbursements to be made under this Agreement for each Property Interest acquisition. The accounting shall be in the form of a closing statement or statements for each Property Interest acquisition for which Navy funds are to be expended. Appropriate payment documents, such as vouchers or closing statements, for allowable costs shall be submitted to Navy at least twenty one (21) calendar days prior to the closing scheduled for each Property Interest.
- e. The Parties shall make records and accounts pertaining to this Agreement available for inspection by Federal auditors and other authorized Federal government officials as may be required by the RECO.

Section 402 Direct Federal Payment of Other Parties' Obligations

In no event, shall Navy make direct payment to any Conservation Entity's agent, contractor, employee, contractor employee, or vendor for any costs incurred by the Conservation Entity under this Agreement, except for such payments as may be made to or through the escrow company designated by the Navy.

END - ARTICLE IV

ARTICLE V - GENERAL PROVISIONS

Section 501 Term of Agreement

a. This Agreement will remain in effect until five years from the date of execution of this Agreement unless sooner terminated as provided herein, or unless renewed, amended or extended by mutual agreement of the Parties prior to the expiration of the term of this Agreement.

b. This Agreement may be terminated: (1) at any time by mutual agreement of the Parties, or; (2) by any Party with thirty (30) calendar days advance written notice to the other Parties.

Section 502 Modification

This Agreement may be modified only by a written instrument signed by the all Parties hereto.

Section 503 Sole Benefit

This Agreement is intended for the sole benefit of the Navy and the Conservation Entities and is not intended to create any other beneficiaries.

Section 504 Successors and Assigns

a. This Agreement may not be assigned by a Party without the express written consent of the other Parties. All covenants made under this Agreement shall bind and inure to the benefit of any successors and assigns of the Parties whether or not expressly assumed or acknowledged by such successors or assigns.

b. This Agreement may be modified from time to time to include additional parties. Such modification(s) shall conform with the requirements of 10 U.S.C. §2684a and shall require the express written consent of the original Parties. All covenants made under this Agreement by the Conservation Entities shall be binding on, and acknowledged by, any future party to this Agreement.

Section 505 Entire Agreement

This Agreement forms the entire agreement between the Parties as to scope and subject matter. All prior discussions and understandings concerning the scope and subject matter are superseded and incorporated by this Agreement.

Section 506 Severability

If any provision of this Agreement is judicially held invalid by a Court of competent jurisdiction, the remainder of this Agreement shall continue in force and effect to the extent not inconsistent with such holding.

Section 507 Waiver of Breach

If a Party waives enforcement of any provision of this Agreement upon any event of breach by another Party, the waiver shall not automatically extend to any additional or future occurrences of breach. The Parties' respective right to the future performance of any such provision(s) and their obligations in respect to such future performance shall continue in full force and effect.

Section 508 Administration

Except as otherwise provided for under this Agreement, the RECO of NAVFAC SW shall have complete charge of the administration of this Agreement on behalf of the Navy, including granting any consents, modifications, and/or approvals hereunder, and shall exercise full supervision and general direction thereof insofar as the interests of the Navy are affected.

Section 509 Notices

Any notice, transmittal, approval, or other official communication made under this Agreement shall be in writing and shall be delivered by hand, facsimile transmission, or by mail to the relevant Party at the address or facsimile transmission telephone number set forth below or at such other address as may be later designated and such notice shall be effective upon date of receipt:

For the Navy

Commanding Officer
Naval Facilities Engineering Command Southwest
1220 Pacific Highway
San Diego, CA 92132-5190
Attn: Director, Real Estate Services

For TNC

The Nature Conservancy
California Regional Office
201 Mission St., 4th Floor
San Francisco, CA 94105
Attn: Legal Department

For TPL

The Trust for Public Land
101 Montgomery Street, Suite 1100
San Francisco, CA 94104
Attn: Legal Department

Section 510 Execution

This Agreement may be executed in several counterparts, each of which shall be deemed an original.

Section 511 Conflict of Interest

The Parties shall ensure that their employees are prohibited from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others.

Section 512 Access to and Retention of Records

a. Each Conservation Entity shall afford any authorized representative of the Navy, the Department of Defense, or the United States Comptroller General access to and the right to examine, audit, or reproduce all closing statements and escrow instructions relating to the acquisition of a Property Interest by the Conservation Entity. For each acquisition for which the Conservation Entity was the Transacting Conservation Entity, it shall retain all such records of each acquisition intact, in a legible, certified true form, if not original documents, until three (3) years after the date of each acquisition to which such records pertain.

b. The Parties shall make available records relating to appeals under Article VIII (Enforcement of Claims, Disputes Resolution, and Appeals) of this Agreement or to litigation or the settlement of claims arising under or relating to this Agreement until such appeals, litigation, or claims are finally resolved.

Section 513 Change of Circumstances

Each Party shall promptly notify the other Parties of any change of circumstances, pending litigation, or any other event or condition that may adversely affect the Party's ability to carry out any of its obligations under this Agreement.

Section 514 Liability and Indemnity

Nothing in this Agreement shall be construed as an indemnification by one Party of another Party for liabilities of a Party or third persons for property loss or damage or death or personal injury arising out of and during the performance of this Agreement, or arising from any other action that may arise as a result of this Agreement. Any claims or any liabilities or claims for property loss or damage or for death or personal injury by a Party or its agents, employees, contractors or assigns or by third persons, arising out of and during the performance of this Agreement shall be determined according to applicable Federal law. (Also see Section 601 of this Agreement.)

Section 515 Reports

In addition to any financial or other reports required by the terms of this Agreement, the Navy may require either Conservation Entity, and either Conservation Entity may require the Navy, to prepare reports or provide information relating to this Agreement. TNC, TPL or the Navy, as the case may be, agree to provide the reports within a reasonable time of request and in such reasonable detail as may be required by the requesting Party. A "reasonable time" for purposes of this Section 515 shall be a period not to exceed forty-five (45) days, unless a longer period of time is granted by the requesting Party in writing.

Section 516 Negotiations

Negotiations with the owners of all parcels will be conducted by the Transacting Conservation Entity, or its authorized representative, in a manner that will assure the most favorable price and terms are obtained for the participating Parties.

END - ARTICLE V

ARTICLE VI - REPRESENTATIONS AND CERTIFICATIONS

The Parties are required to insert the provisions of Article VI in all contracts issued under this Agreement which are funded with federal funds.

Section 601 Applicable Law

This Agreement is incidental to the implementation of a Federal program. Accordingly, this Agreement shall be governed by and construed according to applicable Federal law.

Section 602 Nondiscrimination

The Parties agree that no person shall be denied benefits of, or otherwise be subjected to discrimination in connection with the Parties' performance under this Agreement, on the ground of race, religion, color, national origin, sex or handicap. Accordingly and to the extent applicable, the Parties agree to comply with the following:

a. Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), and DoD regulations (32 CFR Part 300) issued hereunder;

b. Executive Order 11246 and Department of Labor regulations issued hereunder (41 CFR Part 60);

c. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and DoD Regulations issued hereunder (32 CFR Part 56); and,

d. The Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.) and regulations issued pursuant to the Age Discrimination Act . (See 45 CFR Part 90).

Section 603 Lobbying

a. The Parties agree that they will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any 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.

b. The Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 28) to implement the provisions of section 319 of Public Law 101-121 (31 U.S.C. § 1352) is incorporated by reference.

Section 604 Drug-Free Work Place

a. The Parties agree that they will comply with the provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. § 701 et seq.) and maintain a drug-free workplace.

b. The Final Rule, Government-Wide Requirements for Drug-Free Workplace (Grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 28, Subpart f) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the Parties covenant and agree to comply with all the provisions thereof, including any amendments to the Final Rule that may hereafter be issued.

Section 605 Equal Employment Opportunity

The Parties agree to comply with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Department of Labor regulations (41 CFR Chapter 60).

END - ARTICLE VI

ARTICLE VII - LEGAL AUTHORITY

Section 701 Legal Authority

No Party is under any existing or foreseeable legal disability that would prevent or hinder it from fulfilling the terms and conditions of this Agreement. The Parties shall promptly notify each other of any legal impediment that arises during the term of this Agreement that may prevent or hinder its fulfillment of its obligations under this Agreement.

END - ARTICLE VII

ARTICLE VIII - ENFORCEMENT, CLAIMS, DISPUTES RESOLUTION AND APPEALS

Section 801 Enforcement

The Parties may take such actions to enforce the terms of this Agreement as may be authorized by Federal law.

Section 802 Claims, Disputes Resolution and Appeals

a. Any claim against the Navy made by TNC or TPL arising out of this Agreement shall be presented in writing to the RECO. The claim shall include: the amount of monetary relief claimed or the nature of other relief requested; the basis for relief; and, the documents or other evidence pertinent to the claim.

b. Any claim by any Party shall be made within sixty (60) calendar days after the basis of the claim is known or should have been known, whichever is earlier. It is each Party's duty to include in its claim all information needed to demonstrate its timeliness.

c. Upon receipt of a claim, the RECO shall provide a written decision denying or sustaining the claim, in whole or part, which decision shall include the reason for the action, within sixty (60) calendar days of the date of the receipt of a claim. The determination shall be final unless appealed by TNC or TPL pursuant to the provisions of this section.

d. Alternative Dispute Resolution (ADR).

1. Policy. It is Navy policy to try to resolve all issues concerning this Agreement at the RECO's level. RECOs are encouraged to use ADR procedures to the maximum extent practicable.

2. Procedures. If TNC or TPL decides to appeal a RECO's decision, the RECO shall encourage TNC or TPL to enter into ADR procedures. The ADR procedures to be used shall be agreed to at the time the Parties determine to employ them.

e. Appeals.

1. Appeal Authority. The Navy shall designate an Appeal Authority at the time of receipt of appeal.

2. Right of Appeal. TNC or TPL has the right to appeal a RECO's decision to the Appeal Authority.

3. Appeal Procedures.

(a) Notice of appeal. TNC or TPL may appeal a decision of the RECO within ninety (90) calendar days of receiving that decision, by filing a written notice of appeal to the Appeal Authority and to the RECO.

(b) Appeal file. Within thirty (30) calendar days of receiving the notice of appeal, the RECO shall forward to the Appeal Authority and TNC or TPL the appeal file, which shall include copies of all documents relevant to the appeal.

(c) Decision. Any fact-finding or hearing shall be conducted using procedures that the Appeal Authority deems appropriate.

(d) Nothing in this section is intended to limit TNC's, TPL's, or the Navy's right to any remedy under Federal law or in equity in an appropriate Federal forum.

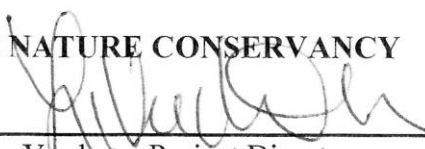
Executed this 25th day of July, 2012

FOR THE NAVY

BY: Karen P. Ringel
Karen P. Ringel, Real Estate Contracting Officer
Naval Facilities Engineering Command Southwest

Executed this 12th day of July, 2012

FOR THE NATURE CONSERVANCY

BY: 

Lily Verdone, Project Director

Executed this 9th day of July, 2012

FOR THE TRUST FOR PUBLIC LAND

BY: _____

Sam Hodder, California State Director

END - ARTICLE VIII

**MODIFICATION TWO (2) TO
ENCROACHMENT PROTECTION AGREEMENT**

BETWEEN

**THE UNITED STATES OF AMERICA
DEPARTMENT OF THE NAVY**

AND

AND THE NATURE CONSERVANCY

AND

THE TRUST FOR PUBLIC LAND

EXECUTED JULY 25, 2012

1. This Modification Two (2) modifies the agreement as follows:

In accordance with Article V, Section 504(b) titled "Successors and Assigns", the Parties agree to the addition of the City of Oxnard, California, a political subdivision of the State of California, as a partner to this agreement. The Parties further agree that all other parts of the agreement remain unchanged.

Executed this 9TH day of July, 2015

FOR THE DEPARTMENT OF THE NAVY

By:



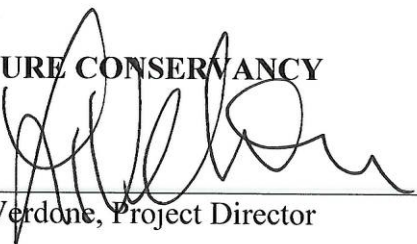
DAVID B. BIXLER
Real Estate Contracting Officer
Naval Facilities Engineering Command Southwest
San Diego, California

COUNCIL APPROVAL
DATE: _____ AGENDA# _____

Executed this 5th day of June, 2015

FOR THE NATURE CONSERVANCY

By:


Lily Verdone, Project Director

Executed this 23 day of June, 2015

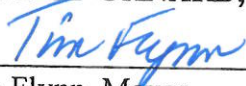
FOR THE TRUST FOR PUBLIC LANDS

By:

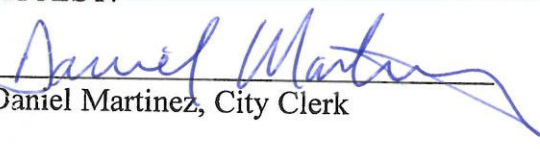

Gina Fromer, California State Director

Executed this 25 day of November, 2014

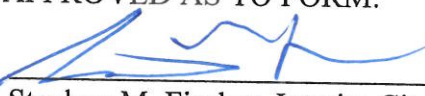
FOR THE CITY OF OXNARD, CALIFORNIA

By: 
Tim Flynn, Mayor

ATTEST:


Daniel Martinez, City Clerk

APPROVED AS TO FORM:


Stephen M. Fischer, Interim City Attorney

**ENCROACHMENT PROTECTION AGREEMENT
N6247311RP00229**

BETWEEN

THE UNITED STATES OF AMERICA

DEPARTMENT OF THE NAVY

AND

THE NATURE CONSERVANCY

AND

THE TRUST FOR PUBLIC LAND

AMENDMENT THREE (3)

AMENDMENT ONE: - JULY 2012

AMENDMENT TWO: - PENDING

AMENDMENT THREE: - MARCH 2015

**Encroachment Protection Agreement
N6247311RP00229
Amendment Three (3)**

Encroachment Protection Agreement N6247311RP002329 ("Agreement") between the United States of America, acting by and through the Department of the Navy ("Navy") and The Nature Conservancy ("TNC"), and The Trust For Public Land ("TPL"), hereinafter collectively referred to as the "Parties" was executed by the Parties on July 25, 2012.

This Modification Three (3) modifies the Agreement as follows:

1. Article III – "Funding", Section 301, Funding Limitation is amended by inserting the following therein:
 - c. This clause memorializes that the Navy obligated additional funds in the amount of approximately One Million Two Hundred Thirty Seven Thousand Two Hundred and Fifty Dollars (\$1,237,250.00) into escrow toward the cost of the Navy acquiring Easements or Property Interests within the vicinity of Naval Base Ventura County on July 30, 2014.
 - d. The Navy will obligate additional funds in the amount of approximately Two Million Dollars (\$2,000,000.00) toward the cost of the Navy acquiring Easements or Property Interests within the vicinity of Naval Base Ventura County upon signature of this Amendment Three (3).
2. All other terms and conditions remain in full force and effect.

Executed this 20TH day of APRIL, 2015

FOR THE DEPARTMENT OF THE NAVY

By: _____

DAVID B. BIXLER

Real Estate Contracting Officer

Naval Facilities Engineering Command Southwest

San Diego, California

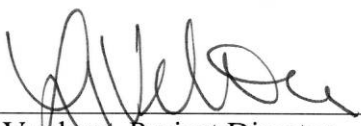
ACCOUNTING CLASSIFICATION TO BE CHARGED (DISBURSEMENT)										
A. ACRN	B. APPROPRIATION	C. SUB HEAD	D. OBJ. CLASS	E. BU- CONTROL	F. SA	G. AAA	H. TT	I. PAA	J. COST CODE	K. AMOUNT
AD	9714140100	KFES	0252	62470	A	068732	2D	AD000Q	AD011RP00235	\$1,237,250
AE	9715150100	KFES	0323	62470	A	068732	2D	AE000Q	AE011RP00235	\$2,000,000

**Encroachment Protection Agreement
N6247311RP00229
Amendment Three (3)**

Executed this 10th day of April, 2015

FOR THE NATURE CONSERVANCY

By:



Lily Verdone, Project Director

**Encroachment Protection Agreement
N6247311RP00229
Amendment Three (3)**

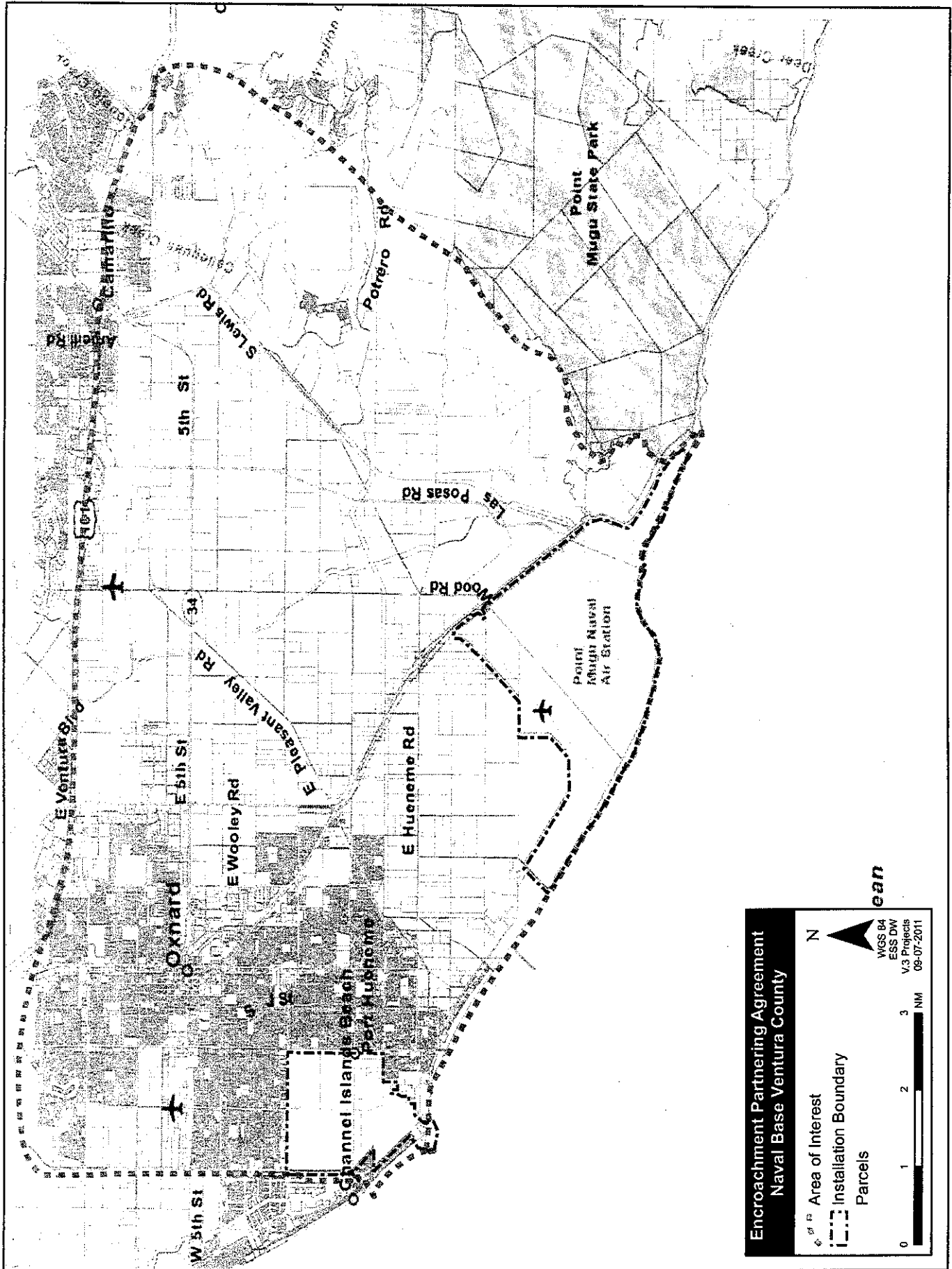
Executed this 11 day of MARCH, 2015

FOR THE TRUST FOR PUBLIC LANDS

By:



~~Sam Hodder~~, California State Director
GINA FROMER



Attachment A



**CITY COUNCIL
AGENDA REPORT**

TYPE OF ITEM: Info/Consent

AGENDA ITEM NO.: 6

DATE: July 19, 2016

TO: City Council

THROUGH: Greg Nyhoff, City Manager
Office of the City Manager

FROM: Daniel Rydberg, Public Works Director

SUBJECT: Amendment Four to the Encroachment Protection Agreement Between the Department of Navy, the Nature Conservancy, the Trust for Public Land, and the City of Oxnard (A-7734)

CONTACT: Jay Duncan, Public Works
jay.duncan@oxnard.org, 385-8387

RECOMMENDATION:

That City Council approve and authorize the Mayor to execute a Fourth Amendment to the Encroachment Protection Agreement between the United States Department of the Navy, The Nature Conservancy, the Trust for Public Land and the City of Oxnard (A-7734).

BACKGROUND

In 2011, the Navy entered into an Encroachment Protection Agreement (Agreement) with The Nature Conservancy (TNC) and Trust for Public Land (TPL) for the purpose of acquiring long-term interests in lands within the vicinity of, or ecologically related to, Naval Base Ventura County (NBVC). On November 25, 2014, City Council approved joining the Agreement. This partnership seeks to obtain easements or other interests in land that preserve critical buffer areas to limit incompatible development and protect valuable habitat through the Department of Defense's Readiness and Environmental Protection Integration (REPI) Program.

The Agreement defines the procedures for the purchase of easements by the Navy from the City as an encroachment protection partner. The Agreement does not commit the Navy or City to any specific action, but allows for the pursuit of partnership opportunities such as the GREAT Program and Gateway Park.

4Th Amendment to Agmt. with Navy, Nature Conservancy, Trust for Public Lands
July 19, 2016
Page 2

The original Encroachment Protection Agreement between the Navy, TPL, and TNC was signed in 2011. Amendment One obligated additional federal funding to the Agreement. Amendment Two added the City of Oxnard to the Agreement to establish the City as an eligible entity for encroachment protection projects. Amendment Three also obligated additional federal funds toward the Agreement, but was approved prior to finalization of the City's entry to the Agreement. The Fourth Amendment currently under consideration extends the term of the Agreement for an additional five (5) years beyond its current September 30, 2016 expiration to September 30, 2021.

FINANCIAL IMPACT

There is no immediate financial impact for this item. If the City and the Navy partner on a project, the Navy will provide funding for purchase of an easement which has not yet been defined or assigned a value.

ATTACHMENTS:

Attachment A - Fourth Amendment to Agreement No. A-7734

Attachment B - Third Amendment to Agreement No. A-7734

Attachment C - Second Amendment to Agreement No. A-7734

Attachment D - First Amendment to Agreement No. A-7734

Attachment E - Original Agreement No. A-7734

ENCROACHMENT PROTECTION
· AGREEMENT
N6247311RP00229

BETWEEN

THE UNITED STATES OF AMERICA
DEPARTMENT OF NAVY

AND

THE NATURE CONSERVANCY

AND

THE TRUST FOR PUBLIC LAND

AND

THE CITY OF OXNARD

AMENDMENT ONE – JULY 2012
AMENDMENT TWO – JULY 2015
AMENDMENT THREE- MARCH 2015
AMENDMENT FOUR – JUNE 2016

**Encroachment Protection Agreement
N6247311RP00229
Amendment Four (4)**

L.6.a

Encroachment Protection Agreement N6247311RP00229 ("Agreement") between the United States of America, acting by and through the Department of the Navy ("Navy") and The Nature Conservancy ("TNC") and The Trust for Public Land ("TPL") and the City of Oxnard, hereinafter collectively referred to as the "Parties" was executed by the Parties on September 30, 2011. The Agreement is hereby amended as follows:

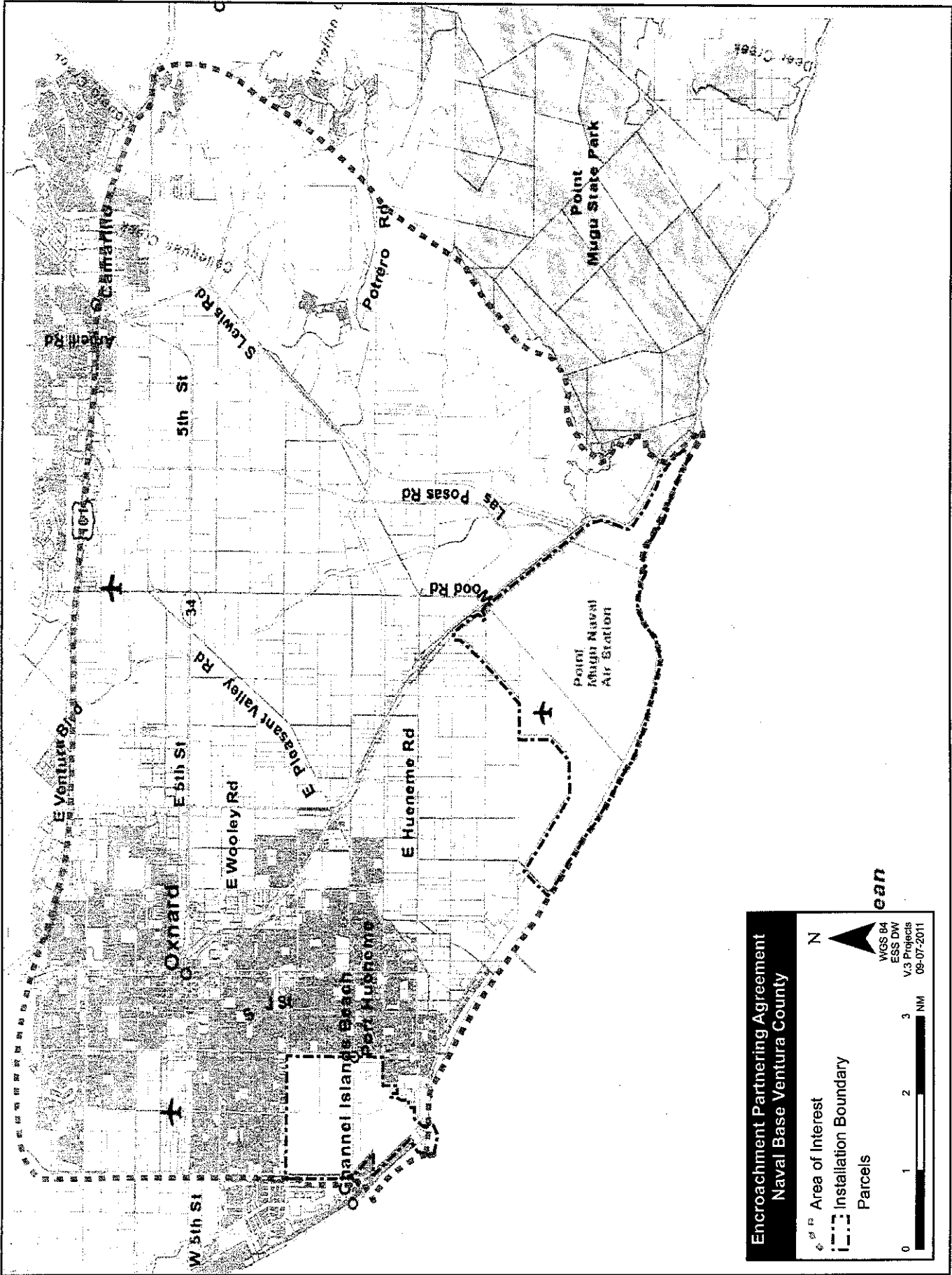
1. Article V – "General Provisions," Section 501 Term is amended to extend the term of the Agreement by inserting the following therein:

"c. The term of the Agreement is extended for a period of five (5) years beginning on September 30, 2016 and ending on September 29, 2021, unless sooner terminated as provided herein, or unless renewed or extended by mutual agreement of the Parties prior to the expiration of the term of this Agreement."

2. Article V – "General Provisions," Section 502 Modification is hereby amended by inserting the following therein:

"Notwithstanding the foregoing, the NAVY may unilaterally amend the Agreement to document the Navy's obligation of additional funding to the Agreement."

3. All other terms and conditions remain in full force and effect.



Attachment A

Agreement No. A-7734
Fifth Amendment

**MODIFICATION FIVE (5) TO
ENCROACHMENT PROTECTION AGREEMENT**

BETWEEN

**THE UNITED STATES OF AMERICA
DEPARTMENT OF THE NAVY**

AND

AND THE NATURE CONSERVANCY

AND

THE TRUST FOR PUBLIC LAND

AND

THE CITY OF OXNARD

1. This Modification Five (5) modifies the agreement as follows:

In accordance with Article V, Section 504(b) titled "Successors and Assigns", the Parties agree to the addition of the Ventura Land Trust, as a partner to this agreement. The Parties further agree that all other parts of the agreement remain unchanged.

Executed this 12TH day of June, 2018

FOR THE DEPARTMENT OF THE NAVY

By:


DAVID B. BIXLER
Real Estate Contracting Officer
Naval Facilities Engineering Command Southwest
San Diego, California

Executed this 23 day of March, 2018

FOR THE NATURE CONSERVANCY

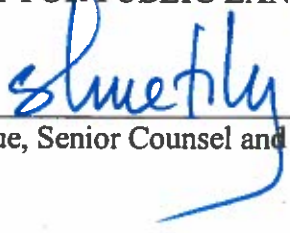
By:


Sarah Newkirk, Project Director

Executed this 3rd day of January 2018

FOR THE TRUST FOR PUBLIC LANDS

By:


Tily Shue, Senior Counsel and Legal Director

Executed this 17th day of April, 2018

FOR THE CITY OF OXNARD, CALIFORNIA

By: Tim Flynn 5/15/18
TIM FLYNN
Mayor

ATTEST:

Michelle Ascension
MICHELLE ASCENSION
City Clerk

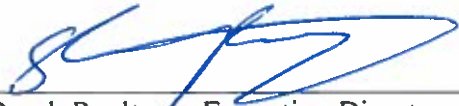
APPROVED AS TO FORM:

Stephen Fischer
STEPHEN FISCHER
City Attorney

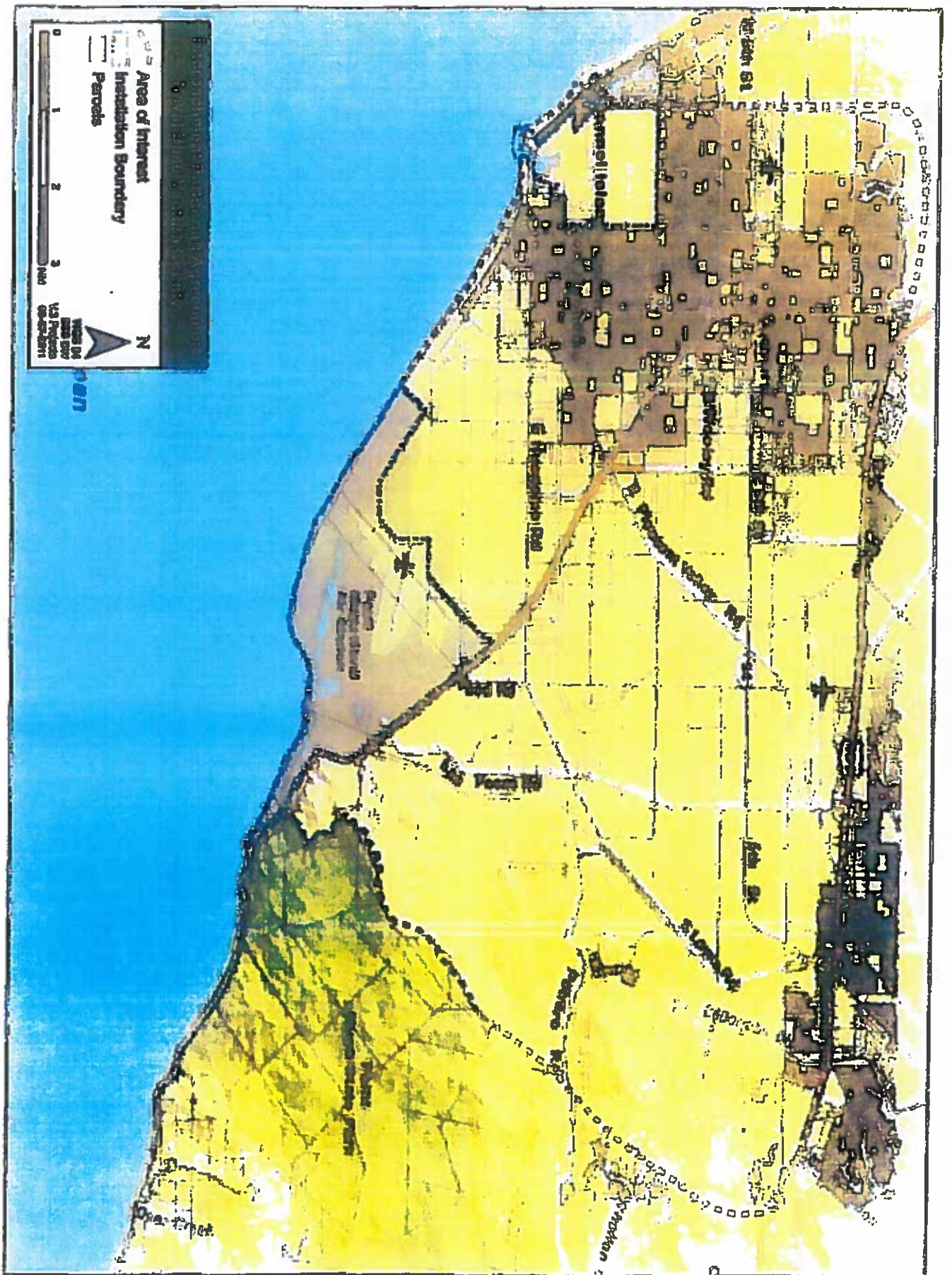
Executed this 19th day of DECEMBER, 2018

FOR THE VENTURA LAND TRUST

By:



Derek Poultney, Executive Director



RESOLUTION NO. 72

**RESOLUTION OF THE OVERSIGHT BOARD OF THE OXNARD
COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY
APPROVING THE OPTION AGREEMENT FOR PURCHASE AND SALE OF
CONSERVATION PROPERTY**

WHEREAS, the Oxnard Community Development Commission (the “**CDC**”) was a redevelopment agency in the City of Oxnard (the “**City**”), duly created pursuant to the California Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) (the “**Redevelopment Law**”); and

WHEREAS, the CDC was responsible for the administration of redevelopment activities within the City; and

WHEREAS, Assembly Bill x1 26 (2011-2012 1st Ex. Sess.) (“**AB 26**”) was signed by the Governor of California on June 28, 2011, making certain changes to the Redevelopment Law and the California Health and Safety Code, including adding Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) (“**Part 1.85**”) to Division 24 of the California Health and Safety Code; and

WHEREAS, pursuant to AB 26, as modified by the California Supreme Court on December 29, 2011 by its decision in *California Redevelopment Association v. Matosantos*, all California redevelopment agencies, including the CDC, were dissolved on February 1, 2012, and successor agencies were designated and vested with the responsibility of paying, performing and enforcing the enforceable obligations of the former redevelopment agencies and expeditiously winding down the business and fiscal affairs of the former redevelopment agencies; and

WHEREAS, the City Council of the City adopted Resolution 14,135 on January 10, 2012, pursuant to Part 1.85 of AB 26, electing for the City to serve as the successor agency to the CDC upon the dissolution of the CDC under AB 26 (the “**Successor Agency**”); and

WHEREAS, the Successor Agency exercises its powers and fulfills its duties pursuant to Part 1.85 of AB 26, and is established as a separate legal entity with rules and regulations that apply to the governance and operations of the Successor Agency; and

WHEREAS, as part of the FY 2012-2013 State budget package, on June 27, 2012, the Legislature passed and the Governor signed Assembly Bill No. 1484, Chapter 26, Statutes 2012 (“**AB 1484**”). Although the primary purpose of AB 1484 was to make technical and substantive amendments to AB 26 based on issues that have arisen in the implementation of AB 26, AB 1484 imposes additional statutory provisions relating to the activities and obligations of successor agencies and to the wind down process of former redevelopment agencies (AB 26, as amended by AB 1484, is hereinafter referred to as the “**Dissolution Act**”); and

WHEREAS, California Health and Safety Code Section 34179 of the Dissolution Act establishes a 7-member local entity with respect to each successor agency and such entity is titled the “oversight board”. The oversight board has been established for the Successor Agency (hereinafter referred to as the “**Oversight Board**”), and all 7 members have been appointed to the Oversight Board

pursuant to California Health and Safety Code Section 34179. The duties and responsibilities of the Oversight Board are primarily set forth in California Health and Safety Code Sections 34179 through 34181 of the Dissolution Act; and

WHEREAS, pursuant to Redevelopment Law, the Successor Agency has formulated a Long Range Property Management Plan (“**LRPMP**”) to guide the disposition process. The LRPMP was subsequently approved by the Oversight Board and submitted to the California Department of Finance (the “**DOF**”) for its review on November 29, 2013. The DOF, by letter dated December 31, 2015, issued its determination on the LRPMP, as revised, approving the disposition and use of all the properties listed in the LRPMP; and

WHEREAS, among the properties approved for disposition is a 13.06-acre parcel located within the former Ormond Beach Redevelopment Project Area south of Hueneme Road, east of Perkins Road, and west of Edison Drive (APN# 231-0-092-235) (the “**Ormond Beach Parcel**”); and

WHEREAS, in 2005, the CDC owned a 50% interest in approximately 309 acres of undeveloped land in the Ormond Beach area, as a tenant in common with the Metropolitan Water District (“**MWD**”). For several years, the CDC and MWD staff, pursuant to City Council direction, discussed with the California Coastal Conservancy’s (“**Coastal Conservancy**”) staff a sale of most of the property to the Coastal Conservancy for the land to be included in a wetlands restoration project. The Coastal Conservancy funded the purchase of 276 acres of property. The Nature Conservancy, a District of Columbia non-profit corporation (“**TNC**”), an organization that worked with the Coastal Conservancy on a number of other restoration projects, agreed to take title to the property. Of the original 309 acres, the former CDC retained approximately 13.06 acres (*i.e.*, the Ormond Beach Parcel) and MWD retained approximately 20 acres. The appraised value of the land at the time was approximately \$51,800 per acre; however the sales price was \$47,000 per acre. The sale to the Coastal Conservancy was for the purpose of preserving and restoring natural conditions. The sale to MWD and purchase by the CDC were for projects not determined or defined at the time of the sale; and

WHEREAS, State planning law requires general plans to establish land use designations. In October 2011, the City adopted the 2030 General Plan Goals and Policies. The 2030 Land Use Map classifies and depicts community land uses and intensity. The Ormond Beach Parcel is located in the “Coastal Zone” and is now designated “Resource Protected”. In January 2015, City Staff received an appraisal on the land. The appraisal report concluded the land value to be about \$4,006 - \$10,631 per acre; the market value conclusion reports the value of the Ormond Beach Parcel to be approximately \$80,000. The report further states that the property has no legal street access, and is zoned Coastal Dependent Industry, which permits energy and industrial activities that require location adjacent to or in the vicinity of the sea. However, to bring the property’s zoning in line with its general designation, the City’s Development Services Department expects the zoning will be changed to a more restrictive open space designation in the near future; and

WHEREAS, with previous consent of the Successor Agency and the Oversight Board, staff has been engaged in negotiations with TNC over the past year. TNC, a non-profit corporation, has worked for more than 50 years to protect the most ecologically important lands and waters of California. TNC is familiar with the competing land use interests at Ormond Beach and, as expressed in Section 6.3 of the Option Agreement for Purchase and Sale of Conservation Property (the “**Option Agreement**”), intends to retain the property in a natural undisturbed condition. Under the Option Agreement, TNC

would have 180 days to exercise an option to purchase the Ormond Beach Property for its appraised market value (which was approximately \$80,000 when last analyzed by an independent licensed appraiser); and

WHEREAS, approval of the Option Agreement will facilitate the requirement per AB 26, the "Dissolution of Redevelopment" bill in winding down the affairs of the former CDC; and

WHEREAS, the Option Agreement is now being submitted to the Oversight Board for review and approval; and

WHEREAS, as required by California Health and Safety Code Section 34180(j) of the Dissolution Act, the Successor Agency has submitted a copy of the Option Agreement to the Ventura County Administrative Officer, the Ventura County Auditor-Controller, and the California Department of Finance (the "DOF") at the same time that the Successor Agency submitted the Option Agreement to the Oversight Board for approval; and

WHEREAS, on June 20, 2016, in accordance with California Health and Safety Code Sections 34181(a) and 34181(f), the Successor Agency posted a ten-day notice entitled "LEGAL NOTICE; PUBLIC MEETING; ACTIONS BY THE OVERSIGHT BOARD OF THE OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY RELATING TO THE DISPOSAL OF PROPERTY OF THE FORMER COMMUNITY DEVELOPMENT COMMISSION"; and

WHEREAS, as required by California Health and Safety Code Section 34179(f) of the Dissolution Act, all notices required by law for proposed actions of the Oversight Board shall be posted on the Successor Agency's Internet website or the Oversight Board's Internet website; and

WHEREAS, pursuant to California Health and Safety Code Section 34179(h) of the Dissolution Act, the Successor Agency is required to provide written notice and information about all actions taken by the Oversight Board, including the proposed approval of the Option Agreement, to the DOF by electronic means and in the manner of the DOF's choosing; and

WHEREAS, the Successor Agency has determined that the actions to be taken pursuant to the Option Agreement do not trigger environmental review insofar as no changes are proposed in the underlying use of property involved; and

WHEREAS, all of the prerequisites with respect to the approval of this Resolution have been met.

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the Governing Board of the Oversight Board of the Oxnard Community Development Commission Successor Agency, as follows:

Section 1. The foregoing recitals are true and correct and are a substantive part of this Resolution.

Section 2. The Oversight Board hereby approves the Option Agreement, substantially in the form attached to the Staff Report.

Section 3. The Oversight Board hereby directs the Successor Agency to: (i) submit the Option Agreement, as approved by the Oversight Board, and written notice of the Oversight Board's approval of the Option Agreement, to the DOF (electronically, in PDF format) and the Ventura County Auditor-Controller; (ii) post a copy of the Option Agreement, as approved by the Oversight Board, on the Successor Agency's Internet website and (iii) revise the Option Agreement and make such changes and amendments as necessary, before official submittal of the Option Agreement to the DOF.

Section 4. The Oversight Board hereby authorizes and directs the Executive Director of the Successor Agency, or designee, to take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the Successor Agency and the Oversight Board.

Section 5. The Secretary of the Oversight Board and the staff of the Successor Agency are hereby authorized and directed, jointly and severally, to do any and all things which they may deem necessary or advisable to effectuate this Resolution.

Section 6. The Oversight Board determines that the activity approved by this Resolution will not trigger environmental review insofar as no changes are proposed in the underlying use of property involved.

Section 7. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, then such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Oversight Board declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Section 8. This Resolution shall take effect immediately upon its adoption and is subject to review by the DOF in accordance with California Health and Safety Code Section 34179(h) of the Dissolution Act.

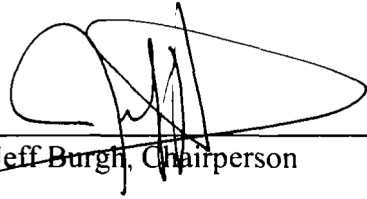
PASSED, APPROVED AND ADOPTED, by the Governing Board of the Oversight Board of the Oxnard Community Development Commission Successor Agency at its meeting held on the 30th day of June, 2016, by the following vote:

AYES: Boardmembers Burgh, Flynn, Driscoll and Dean

NOES: None.

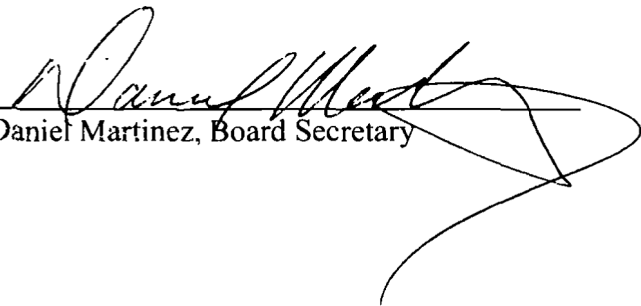
ABSENT: Boardmembers Herrera, Bush, and Turner

ABSTAIN: None.



Jeff Burgh, Chairperson

ATTEST:



Daniel Martinez, Board Secretary

ENCROACHMENT PROTECTION AGREEMENT
N6247311RP00229
BETWEEN
THE UNITED STATES OF AMERICA DEPARTMENT
OF THE NAVY
AND
THE NATURE CONSERVANCY
AND
THE TRUST FOR PUBLIC LAND
AND
THE CITY OF OXNARD
AND
THE VENTURA LAND TRUST

AMENDMENT SIX – SEPTEMBER 2021

Encroachment Protection Agreement
N6247311RP00229
Amendment Six (6)

Encroachment Protection Agreement N6247311RP00229 (“Agreement”) between the United States of America, acting by and through the Department of the Navy (“Navy”) and The Nature Conservancy (“TNC”) and The Trust for Public Land (“TPL”) and the City of Oxnard and the Ventura Land Trust, hereinafter collectively referred to as the “Parties” was executed by the Parties on September 30, 2011.

This Agreement is hereby amended as follows:

1. Article V – GENERAL PROVISIONS, Section 501, Term of Agreement, is amended by removing the following therefrom:

“c. The term of the Agreement is extended for a period of five (5) years beginning on September 30, 2016 and ending on September 29, 2021, unless sooner terminated as provided herein, or unless renewed or extended by mutual agreement of the Parties prior to the expiration of the term of this Agreement.”

And inserting the following therein:

“c. The term of the Agreement is extended for a period of five (5) years beginning on September 30, 2021 and ending on September 29, 2026, unless sooner terminated as provided herein, or unless renewed or extended by mutual agreement of the Parties prior to the expiration of the term of this Agreement.”

2. The Parties further agree that all terms and conditions of the Agreement remain unchanged and in full force and effect.

Executed this _____ day of _____ 2021

FOR THE NAVY

BY: _____

DAVID B. BIXLER, Real Estate Contracting Officer
Naval Facilities Engineering Command Southwest

Encroachment Protection Agreement
N6247311RP00229
Amendment Six (6)

FOR THE NATURE CONSERVANCY

BY: _____ DATE: _____

PRINT NAME: _____

TITLE: _____

Encroachment Protection Agreement
N6247311RP00229
Amendment Six (6)

FOR THE TRUST FOR PUBLIC LAND

BY: _____ DATE: _____

PRINT NAME: _____

TITLE: _____

Encroachment Protection Agreement
N6247311RP00229
Amendment Six (6)

FOR THE CITY OF OXNARD

BY: _____ DATE: _____

PRINT NAME: _____

TITLE: _____

Encroachment Protection Agreement
N6247311RP00229
Amendment Six (6)

FOR THE VENTURA LAND TRUST

BY: _____ DATE: _____

PRINT NAME: _____

TITLE: _____

Encroachment Protection Agreement Sixth Amendment - between the United States Department of the Navy, the Nature Conservancy, the Trust for Public Land, the Ventura Land Trust and the City of Oxnard

Isidro Figueroa, Principal Planner
Scott Kolwitz, Planning Manager
Vyto Adomaitis, Community Development Director
Community Development Department

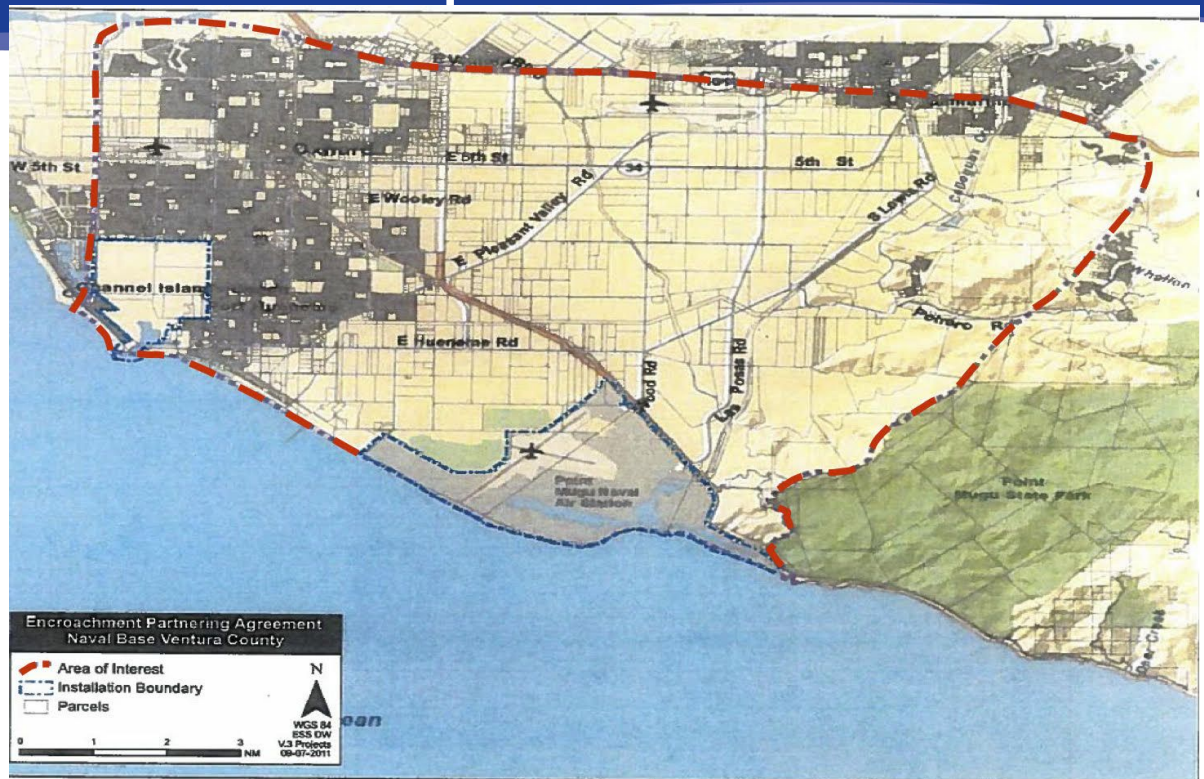
City Council
September 7, 2021



Sixth Amendment

2

- Sixth Amendment to the Encroachment Protection Agreement (Agreement) between the United States Department of the Navy, The Nature Conservancy, the Trust for Public Land, the Ventura Land Trust and the City of Oxnard (A-7734):
 - For the purpose of acquiring long-term interests in lands for a period of five (5) years beginning on September 30, 2021 and ending on September 29, 2026



Background

- In 2011, the Navy entered into an Encroachment Protection Agreement (Agreement) with The Nature Conservancy (TNC), and the Trust for Public Land (TPL).
- Agreement created for the purpose of acquiring long-term interests in lands within the vicinity of, or ecologically related to, Naval Base Ventura County.
- Amendment No. 1 - Obligated additional federal funding to the Agreement.
- Amendment No. 2 - In November 2014, Agreement was amended by Council to establish the City as an eligible entity for encroachment protection projects.

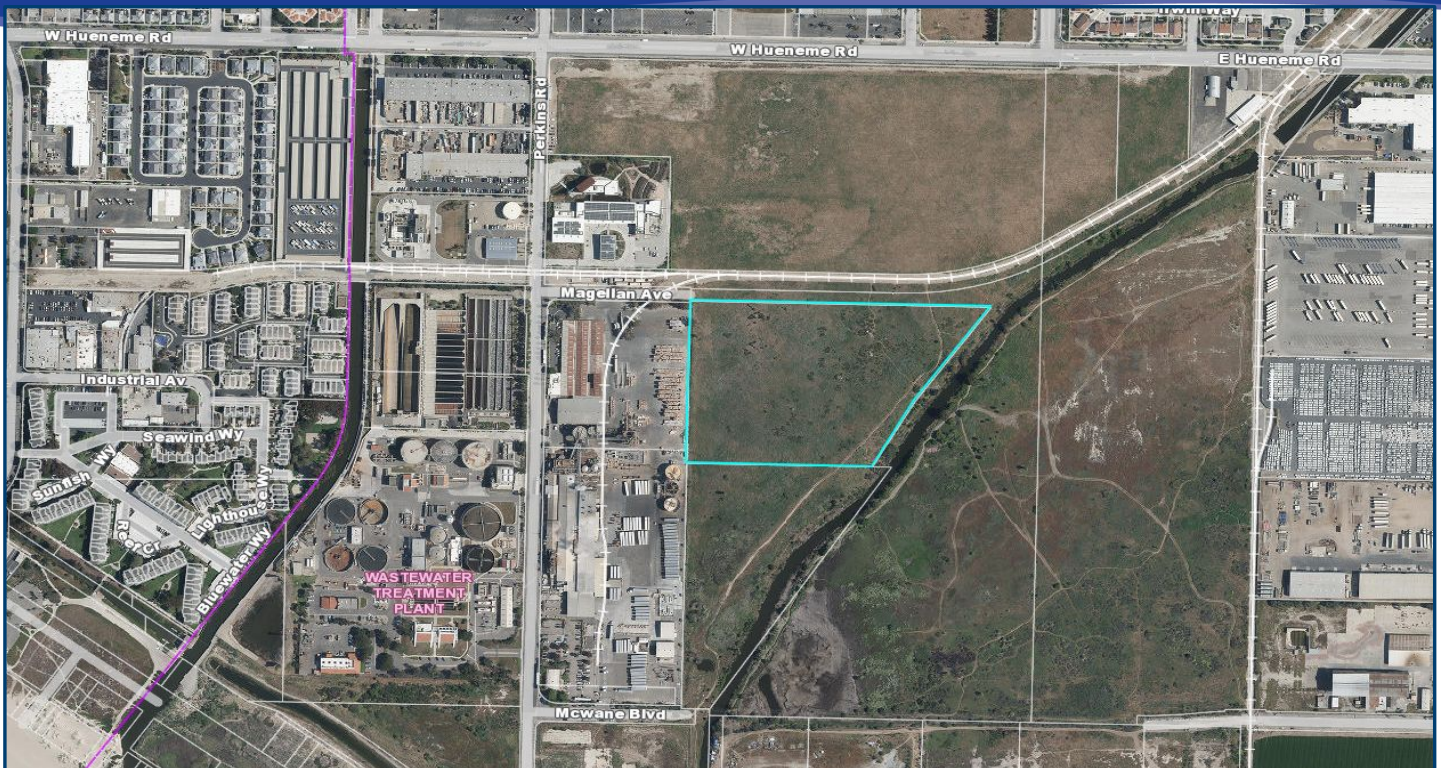
- Amendment No. 3- In March 2015, Agreement amended to obligate additional federal funds toward the Agreement.
- Amendment No. 4- In June 2016, Agreement extended to an additional five (5) years beyond its expiration on September 30, 2016, and the Agreement allowed the Navy to unilaterally amend the Agreement only for the purpose of adding funding.
- Amendment No. 5- In April 2018, Agreement was amended to incorporate the Ventura Land Trust as a partner to the Agreement.

Analysis

- Sixth Amendment intends to extend the term of the Agreement for an additional five (5) years.
 - Amendment No. 5 is set to expire on September 29, 2021.
 - If approved, the extended term of the Agreement will commence on September 30, 2021, and it would expire on September 29, 2026.

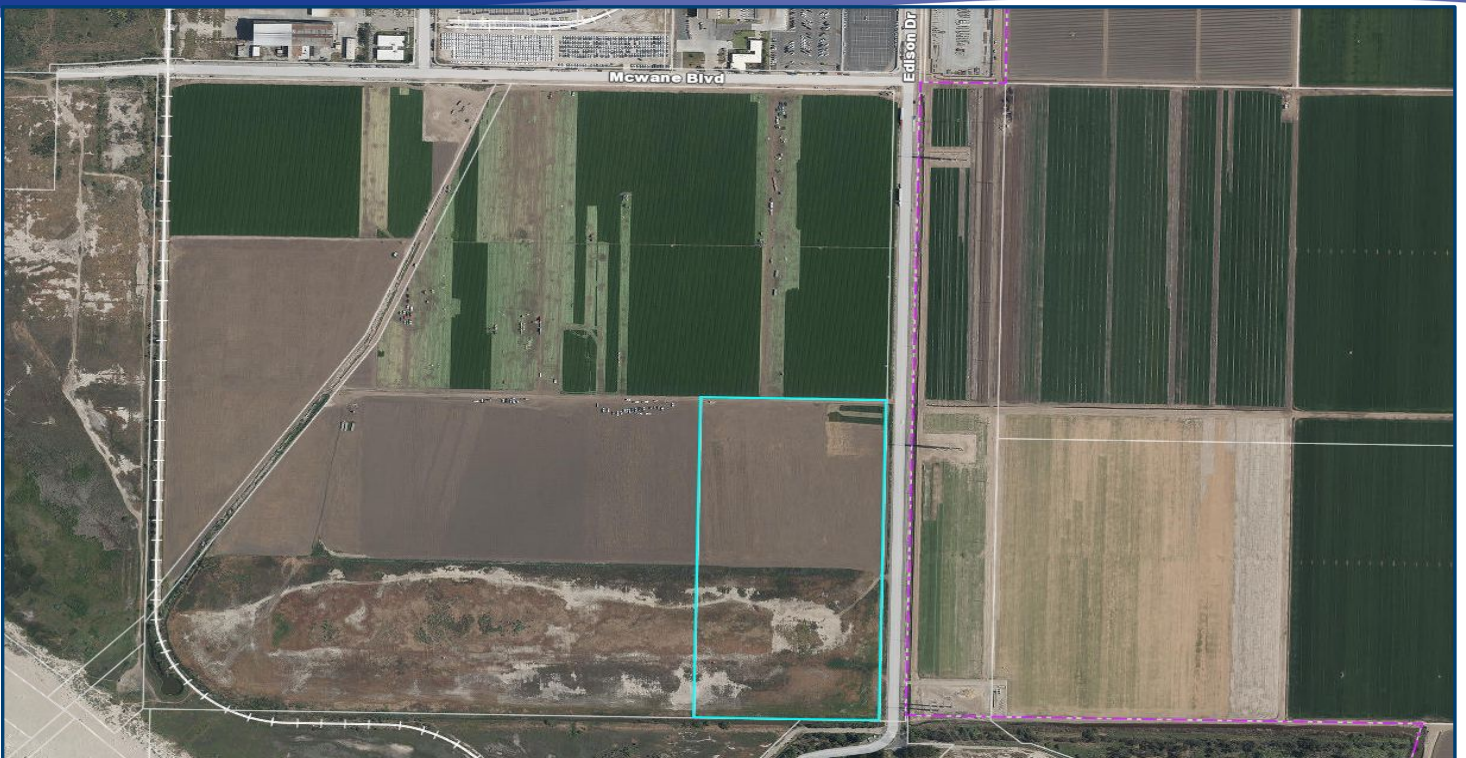
- TNC acquired 13.06 acres of land located in Ormond Beach south of Hueneme Road, east of Perkins Road and west of Edison Drive (APN 231-0-092-235) from the City and the Metropolitan Water District (MWD)
 - Property was an asset from the former Oxnard Community Development Commission
 - Property is included in the Ormond Beach Restoration and Access Plan (OBRAP)

13.06-acres TNC Property



- TNC acquired a 20-acre site located south of McWane Boulevard and west of Edison Drive (APN 231-0-040-395) which was purchased from the Metropolitan Water District (MWD)
 - Property will be included in the OBRAP

20-acre TNC Property



- Approval of the 5 year extension to the Encroachment Protection implements a plan that will support Council Priorities:
 - Infrastructure and Natural Resources
 - Quality of Life
 - Public Safety

Environmental Determination

The proposed action is not a Project as defined by 14 California Code of Regulations 214 15378 (State of California Environmental Quality Act (CEQA) Guidelines) and therefore CEQA is not applicable.

That the City Council approve and authorize the Mayor to execute a Sixth Amendment to the Encroachment Protection Agreement between the United States Department of the Navy, The Nature Conservancy, the Trust for Public Land, the Ventura Land Trust and the City of Oxnard (A-7734), for the purpose of acquiring long-term interests in lands, for a period of five (5) years beginning on September 30, 2021 and ending on September 29, 2026.



End of Presentation



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. M.6

DATE: September 7, 2021

TO: City Council

FROM: Vyto Adomaitis, Community Development Director, (805) 385-7882, vyto.adomaitis@oxnard.org

SUBJECT: First Amendment to Agreement Number 9041-20-CD for Consulting Services. (0/5/5)

RECOMMENDATION

That City Council approve and authorize the Mayor to execute a contract amendment to increase the contract amount by \$375,000 for a total contract amount of \$525,000 with Bureau Veritas North America, Inc., (Agreement Number 9041-20-CD) for on-call plan check and inspection services, ending on December 31, 2022.

(This item did not originate in Committee.)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/xaywa-NBchk>

BACKGROUND

The existing agreement with Bureau Veritas North America, Inc. (Bureau Veritas) has a total contract amount of \$150,000. The initial contract was initiated after Bureau Veritas was selected at the conclusion of an RFP process that closed on April 3, 2020. At the time Agreement 9041-20-CD was initiated, the total contract amount was constrained by the approved FY 20-21 budget and revenue. A total of approximately \$100,000 of the original contract amount was utilized in FY20-21.

Additional staffing resources approved in the FY 21-22 Budget are currently being recruited in addition to the utilization of consulting services in order to improve project turnaround times and customer service levels in general. The ongoing effort to reduce plan check turnaround times is a significant customer service effort to better serve both the business and residential communities. By continuing to reduce project turnaround times, businesses are able to expand and relocate to Oxnard more quickly, and residents can implement Accessory Dwelling Units (ADUs) and other construction and repair projects in a more effective manner, consistent with City Council goals and priorities.

DISCUSSION

The Building and Engineering Division continues to experience a significant number of plan check submittals, with many projects having very aggressive processing timelines. The Building and Engineering Division utilizes Bureau Veritas to assist with the review of projects on an as-needed basis. Bureau Veritas also has the ability to provide on-call inspection services to provide a backup option should we have an emergency need to supplement our inspection services. By utilizing Bureau Veritas for on-call plan check services, peaks in workload can be better managed and the workload backlog can be addressed in order to improve our ongoing project turnaround times.

STRATEGIC PRIORITIES

This agenda item supports the Economic Development strategy. The purpose of the Economic Development strategy is to develop and enhance Oxnard's business climate, promote the City's fiscal health, and support economic growth in a manner consistent with the City's unique character.

By continuing to utilize Bureau Veritas to manage peaks in workload and to help in the immediate and ongoing efforts to reduce our project backlog, project timelines can steadily improve and business expansion, retention, and new business attraction is facilitated.

FINANCIAL IMPACT

With this amendment, the total cost of the agreement is not to exceed \$525,000. A total of approximately \$100,000 of the original contract amount was utilized in FY 20-21, which would leave approximately \$425,000 remaining on this contract if this First Amendment is approved. The estimated costs of FY 21-22 are \$300,000 and \$125,000 for FY 22-23, subject to City Council approval of the FY 22-23 budget. There is sufficient funding in the current FY 21-22 General Fund Building and Engineering Division operating budget (101-4301-804.8209) to cover the anticipated needs for FY 21-22. Additionally, the cost for these consulting services is anticipated to be fully offset by Plan Check/Permit Fee revenue and developer deposits.

COMMITTEE OUTCOME

This item did not originate in Committee, as the Amendment implements the funding Council approved as part of the FY 21-22 budget.

Prepared by: Jeff Pengilly, Assistant Community Development Director

ATTACHMENTS

1. Attachment 1 - Amendment to Agreement #9041-20-CD Signed by BV 08.02.21
2. Attachment 2 - Original Agreement #9041-20-CD_Bureau Veritas North America
3. Presentation - First Amendment to Agreement Number 9041-20-CD for Consulting Services

FIRST AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES

This First Amendment ("First Amendment") to the Agreement for Professional Services ("Agreement") is made and entered into in the County of Ventura, State of California, this _____ day of _____, 2021, by and between the City of Oxnard, a municipal corporation ("City"), and Bureau Veritas North America, Inc. ("Consultant"). This First Amendment amends the Agreement entered into on November 2, 2020, by City and Consultant.

City and Consultant agree as follows:

1. The amount in Section 6 of the Cover Page of the Agreement is hereby amended to \$525,000.
2. As so amended, the Agreement remains in full force and effect.

[Signatures on next page]

Agreement No. 9041-20-CD

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the date first written above.

CITY OF OXNARD

CONSULTANT

John C. Zaragoza, Mayor Date

Heather Bush, Secretary and
VP Corporate Council² Date

Craig Baptista, Vice President Date

ATTEST:

Rose Chaparro, City Clerk Date

APPROVED AS TO FORM:

Stephen M. Fischer Date
City Attorney

¹ The City Council must authorize and the Mayor must sign the amendment if the original contract and all amendments collectively total over \$200,000 annually. The City Manager may authorize and sign the amendment if the original contract and all amendments collectively total over \$100,000 but up to \$200,000 annually. The Purchasing Manager may authorize and sign the amendment if the original contract and all amendments collectively total up to \$100,000 annually. A Buyer may authorize and sign the amendment if the original contract and all amendments collectively total up to \$25,000 annually.

² The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

AGREEMENT FOR PROFESSIONAL SERVICES
COVER PAGE

- (1) Agreement Start Date: November 2, 2020
- (2) Consultant: Bureau Veritas North America
- (3) Services: On-call building plan check and inspection services
- (4) Schedule of Services: See Schedule of Services Exhibit, which is attached hereto and incorporated herein.
- (5) Agreement Ending Date: December 31, 2022
- (6) Total Agreement Amount: \$150,000
- (7) City's Project Manager: Jeff Pengilley, Interim Community Development Director
- (8) Consultant's Project Manager: Tom Harris, S.E., Principal-in-Charge
- (9) Insurance Coverage: INS-A
- (10) Addresses for Notice:

FOR CONSULTANT:

250 N. Westlake Blvd., Suite 150
Westlake Village, CA 91362
Attn: Tom Harris, S.E., Principal-in-Charge

FOR CITY:

214 South C Street
Oxnard, CA 93030
Attn: Jeff Pengilley, Interim Director

- (11) Contact Emails:

*CONSULTANT'S PROJECT
MANAGER:*

tom@bureauveritas.com

CITY'S PROJECT MANAGER:

jeff.pengilley@oxnard.org

The Agreement for Professional Services is attached hereto and incorporated herein by this reference. The following exhibits are also attached hereto and incorporated herein by this reference into the Agreement:

- ☐ Scope of Services Exhibit
- ☐ Rates and Costs Exhibit
- ☐ Schedule of Services Exhibit
- ☐ Insurance Exhibit (INS-A)

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") is entered into in Ventura County, California, on the date that is written as "(1) Agreement Start Date" on the Cover Page, which is attached hereto and incorporated herein by this reference. This Agreement is entered by and between the City of Oxnard ("City") and the person or entity listed as "(2) Consultant" on the Cover Page, subject to the following terms and conditions:

1. Scope of Services. Consultant shall provide to City the services listed as "(3) Services" on the Cover Page (the "Services"). Consultant shall provide the Services during the term of this Agreement, as set forth below, according to the schedule written as "(4) Schedule of Services" on the Cover Page, and as further explained in the Scope of Services Exhibit, which is attached hereto and incorporated herein by this reference. In the event of any conflict between the terms of this Agreement and any incorporated document(s), the terms of this Agreement shall control.

2. Standard of Performance. Consultant shall undertake and complete the Services to conclusion using the standard of care, skill and diligence normally provided by a professional person in the performance of similar consulting services.

3. Correction of Errors. Consultant shall correct, at its expense, all errors which may be disclosed during review of the Services. Should Consultant fail to make such correction in a reasonably timely manner, such correction shall be made by City, and the cost thereof shall be paid by Consultant.

4. Term. This Agreement shall begin on the date that is written as "(1) Agreement Start Date" on the Cover Page and shall end on the date that is written as "(5) Agreement Ending Date" on the Cover Page. Time is of the essence in this Agreement.

5. Compensation. For the Services performed during the term of this Agreement, City shall pay Consultant an amount not to exceed the amount that is listed as "(6) Total Agreement Amount" on the Cover Page, at the rates listed in Rates and Costs Exhibit, attached hereto and incorporated herein by this reference. The rates in Rates and Costs Exhibit shall be in effect through the end of this Agreement. Except as otherwise expressly provided in this Agreement, City shall not be responsible for expenses incurred by Consultant in performing the Services.

6. Invoices. Consultant shall submit a payment request to City by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Each invoice must also list the current balance on the Agreement, including that invoice, as well as the months remaining on the term of the Agreement. Invoices may be emailed to: invoices@oxnard.org.

7. Acceptance of Payment. Consultant's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Consultant for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Consultant and its employees, agents and subcontractors. Consultant shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Consultant or materials or products provided to City by Consultant, Consultant shall pay the sales tax. City shall not reimburse Consultant for sales taxes paid by Consultant.

8. Non-Appropriation of Funds. Payments to be made to Consultant by City for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and unencumbered appropriation of City. In the event City does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the conclusion of the last fiscal year in which City appropriated sufficient funds and shall automatically terminate at that fiscal year's conclusion.

9. Coordination of Services. The Services shall be coordinated with the person in the position listed in "(7) City's Project Manager" on the Cover Page, subject to the direction of the City Manager and Department Director. Consultant hereby designates the person in the position listed in "(8) Consultant's Project Manager" on the Cover Page as the person responsible for the Services who shall coordinate with City's Project Manager in making binding decisions in line with this Agreement on behalf of Consultant.

10. Personnel. Consultant represents that it has, or shall secure at its own expense, all personnel required to perform the Services. Any person who performs engineering services pursuant to this Agreement shall be licensed as a Civil Engineer by the State of California and in good standing. Consultant shall make reasonable efforts to maintain the continuity of Consultant's staff who are assigned to perform the Services. Consultant may associate with or employ associates or subcontractors in the performance of the Services, but at all times shall Vendor be responsible for its associates and subcontractors' labor, advice or materials provided in furtherance of providing the Services. Should any of Consultant's employees, assigns or subcontractors not conduct him- or herself appropriately, as determined by the City's Project Manager, in the process of providing the Services or any portion thereof, the City's Project Manager may notify the Consultant's Project Manager, who shall immediately handle the problem, as determined appropriate by him or her, such that the problem does not persist.

11. Additional Work. City may request additional specified work under this Agreement. The City's Project Manager must authorize all such work in writing before commencement. Consultant shall perform such work, and City shall pay for such additional work, in accordance with Rates and Costs Exhibit. Should the work not fall under any such listed rate or cost, Consultant shall submit a quote for all additional work, which the City's Project Manager must approve in writing by before any such work may commence. The City shall compensate Consultant for any work that does not fall under a rate or cost listed in the Rates and Costs Exhibit, and for which Consultant did not obtain the City's Project Manager's written approval before work commenced, as determined by the City's Project Manager in his or her sole discretion.

12. Audit. City shall have the option of inspecting, auditing and/or reproducing all records and other written materials used by Consultant in preparing its billings to City as a condition precedent to any payment to Consultant. Consultant will promptly furnish all documents requested by City. Additionally, if this Agreement is in excess of \$10,000, the State Auditor may examine and audit Consultant for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Consultant shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement. Consultant shall include a copy of this Section 12 in all contracts with its subcontractors, and Consultant shall be responsible for immediately obtaining those records or other written material from its subcontractors upon a request by the State Auditor and/or City.

13. Termination. City may terminate this Agreement at any time, with or without cause and without penalty, upon 15 days prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 10 calendar days from the date of delivery or mailing of such notice. Consultant may terminate this Agreement at any time, with or without cause and without penalty, upon 30 days prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 10 calendar days from the date of delivery or mailing of such notice and only if all assignments accepted by Consultant have been completed before the date of termination. In the event of termination of this Agreement by either party due to no fault or failure of performance by Consultant, City shall pay Consultant compensation for all Services satisfactorily completed in accordance with all of the terms and provisions of this Agreement, as determined by the City, before the effective date of termination; provided, in no event shall the Consultant receive an amount exceeding that which would have been paid to Consultant for the full performance of the Services.

14. Hold Harmless, Defense and Indemnity.

a. If Consultant provides any architectural, landscape architectural, engineering or land surveying ("design professional") services, to the maximum extent permitted by law, Consultant shall hold harmless, defend, and indemnify City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (collectively, "Indemnitees") from and against any and all claims, demands, causes of action, damages, injuries, liabilities, losses, penalties, fines, judgments, costs or expenses, including reimbursement of attorneys' fees, court costs and costs of alternative dispute resolution, including but not limited to those relating to death or injury to any person and injury to any property (collectively, "Claims"), to the extent that the Claims arise out of, pertain to,

or relate to the negligence, recklessness, or willful misconduct of Consultant or of any of its officers, employees, subcontractors or agents in the performance of the Agreement or in the failure to comply with any of the obligations contained in this Agreement. Consultant's obligation to defend is a separate and distinct obligation from Consultant's duty to indemnify and applies through final judgment, including exhaustion of any appeals. Consultant shall be obligated to defend Indemnitees in all legal, equitable, administrative, or special proceedings, with counsel approved by the City Attorney, to the extent required herein immediately upon tender to Consultant of the Claim in any form or at any stage of an action or proceeding. The defense obligation includes the obligation to provide independent defense counsel if Consultant asserts that the liability is caused in whole or in part by the negligence or willful misconduct of any of the Indemnitees.

b. If Consultant provides no design professional services, to the maximum extent permitted by law, Consultant shall hold harmless, defend and indemnify the Indemnitees from and against any and all Claims, which arise out of, pertain to, or relate to the performance of this Agreement, or the failure to comply with any of the obligations contained in this Agreement, by Consultant or of any of its officials, directors, officers, employees, subcontractors, or agents. Consultant's obligation to defend is a separate and distinct obligation from Consultant's duty to indemnify and applies through final judgment, including exhaustion of any appeals. Consultant shall be obligated to defend Indemnitees in all legal, equitable, administrative, or special proceedings, with counsel approved by the City Attorney, immediately upon tender to Consultant of the Claim in any form or at any stage of an action or proceeding. The defense obligation includes the obligation to provide independent defense counsel if Consultant asserts that the liability is caused in whole or in part by the negligence or willful misconduct of any of the Indemnitees.

c. The review, acceptance or approval of Consultant's work or work product by any of the Indemnitees shall not affect, relieve or reduce Consultant's indemnification or defense obligations. This Section 14 shall survive completion of the Services or termination of this Agreement. The provisions of this Section 14 shall not be restricted by and does not affect the provisions of this Agreement relating to insurance.

15. Insurance. Consultant shall obtain and maintain during the performance of any services under this Agreement the insurance coverages listed within the insurance document stated in "(9) Insurance Coverage" on the Cover Page and in the Insurance Exhibit, which is attached hereto and incorporated herein by this reference, unless the City's Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages. Consultant shall, before performance of any Services, file with the City's Risk Manager evidence of insurance coverage as specified in "(9) Insurance Coverage" on the Cover Page and in the Insurance Exhibit. Maintenance of insurance coverages by Consultant is a material element of this Agreement. Consultant's failure to maintain or renew insurance coverages or to provide renewal evidence, and any lapse in insurance coverage, may be considered a material breach of this Agreement.

16. Documents and Materials.

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data, photographs, specifications, information, images, video files, media, or other deliverables prepared, created, drawn, calculated, photographed or developed by Consultant pursuant to this Agreement ("Documents and Materials") shall be the City's property without restriction or limitation upon its use, duplication or dissemination. All Documents and Materials shall be considered "works made for hire," and all Documents and Materials and any and all intellectual property rights arising from their creation, including, but not limited to, all copyrights and other proprietary rights, shall be and remain the property of the City without restriction or limitation upon their use, duplication or dissemination by the City. Consultant shall not obtain or attempt to obtain copyright protection as to any Documents and Materials. Consultant hereby assigns to the City all ownership and any and all intellectual property rights to the Documents and Materials that are not otherwise vested in the City pursuant to this Section 16.

b. Consultant shall deliver all Documents and Materials to City's Project Manager upon completion of the Services or termination of this Agreement without additional cost or expense to the City. Additionally, anytime at City's request, City shall be entitled to possession of, and Consultant shall furnish to City's Project Manager within 10 calendar days, any or all of the Documents and Materials without additional cost or expense to the City. In both situations, if Consultant prepares Documents and Materials on a computer, Consultant shall provide City with said Documents and Materials both in a printed format and in an electronic format that is acceptable to the City.

Consultant may retain copies of these Documents and Materials but must request permission from the City before use, duplication or dissemination of these Documents and Materials for any purpose other than for the Services provided to the City pursuant to this Agreement.

c. Any substantive modification of the Documents and Materials by City staff or any use of the completed Documents and Materials for other City projects, or any use of incomplete Documents and Materials, without the written consent of Consultant, shall be at City's sole risk and without liability or legal exposure to Consultant.

d. Consultant warrants and represents that it has secured all necessary licenses, consents or approvals to use any instrumentality, thing or component as to which any intellectual property right exists, including computer software, used in the rendering of the Services and the production of all Documents and Materials, and that the City has full legal title to and the right to use, duplicate or disseminate the Documents and Materials. Consultant shall defend, indemnify and hold Indemnitees harmless from any loss, claim or liability in any way related to a claim that City's use of any of the Documents and Materials is violating federal, state or local laws, any contractual provisions, or any laws relating to trade names, licenses, franchises, copyrights, patents or other means of protecting intellectual property rights and/or interests in products or inventions. Consultant shall bear all costs arising from the use of patented, copyrighted, trade secret or trademarked documents, materials, equipment, devices or processes in connection with its provision of the services and Documents and Materials. In the event the use of any of the Documents and Materials by the City is held to constitute an infringement and the use of any of the same is enjoined, Consultant, at its own expense, shall: secure for City the right to continue using the Documents and Materials by suspension of any injunction, or by procuring a license or licenses for City; or modify the Documents and Materials so that they become non-infringing while remaining in compliance with the requirements of this Agreement.

e. This Section 16 shall survive the termination of this Agreement.

17. Confidentiality of Information.

a. For the purposes of this Agreement, "Confidential Information" means all information, in whatever form transmitted, relating to the past, present or future business affairs of the City, including without limitation, (i) technical information, including patent, copyright, trade secret, and other proprietary information, techniques, sketches, drawings, models, inventions, processes, apparatus, equipment, algorithms, software programs, software source documents, and formulas; or (ii) non-technical information, including without limitation finances, financial and accounting data and information, suppliers, customers, customer lists, purchasing data and any other information belonging to the City or to a third party whose information is in the City's possession or control under obligations of confidentiality, and which is disclosed to Consultant or is developed by Consultant in whole or in part at the City's expense.

b. All Documents and Materials shall be considered Confidential Information and shall not be reproduced, transmitted, disclosed or used by the Consultant without the written consent of the City, except as may be necessary for Consultant to fulfill its obligations to the City.

c. Notwithstanding the above, these limitations shall not apply to information that (i) is already known to Consultant at the time of that information's disclosure or becomes publicly known through no wrongful act or omission of Consultant, (ii) is communicated to a third party with the express written consent of City and is not subject to restrictions on further use or disclosure, (iii) is independently developed by Consultant and has no relation to this Agreement, or (iv) is required by law, court order, court-issued subpoena or other legal process to be disclosed; provided, however, that before making such disclosure, Consultant shall immediately provide City with written notice and a reasonable opportunity for City to object to the disclosure or to take action to maintain the confidentiality of the information, unless such prior disclosure is legally impermissible.

d. Consultant shall use reasonable care to protect the Confidential Information. In the event of a breach or threatened breach of this Agreement, City shall be entitled to obtain an injunction prohibiting any such breach, the costs of which shall be paid by Consultant. Any relief granted shall be in addition to and not in lieu of any other legal or equitable relief, including money damages. The parties acknowledge that Confidential Information is

valuable and unique and that disclosure of the Confidential Information in breach of this Agreement may result in irreparable injury to the City.

c. Other than an obligation upon the City to deal in good faith, the City makes no warranties and shall bear no liability or responsibility for errors or omissions in any Confidential Information disclosed under this Agreement or for any business decisions made by Consultant in reliance on any Confidential Information disclosed under this Agreement.

f. This Section 17 shall survive the termination of this Agreement.

18. Independent Contractor. Consultant is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its employees or agents shall have control over the conduct of Consultant or any of its employees, except as stated in this Agreement. Consultant has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting Consultant, and it is free to dispose of all portions of its time which it is not obligated to devote to City in such a manner and to such persons, firms, or corporations as Consultant wishes except as expressly provided in this Agreement. This Agreement shall not be interpreted to prevent or preclude Consultant from rendering any services for Consultant's own account or to any other person or entity as Consultant in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services Consultant shall perform for the City. Except as City's Project Manager specifies in writing, Consultant and its employees and agents have no authority, express or implied, to act on behalf of City in any capacity, to incur any debt, obligation or liability on behalf of City, bind City in any manner, or otherwise act on behalf of City as an agent. Consultant and its employees are not employees of City. Consultant and its employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits. Consultant shall not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. Consultant agrees to pay all required taxes on amounts paid to Consultant under this Agreement, and to indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Consultant's subcontractors, material suppliers, directors, officers, employees, agents and representatives, including compliance with social security requirements, federal and State income tax withholding, and all other regulations governing employer-employee relations, as applicable. City shall have the right to offset against the amount of any compensation due to Consultant under this Agreement any amount due to City from Consultant as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section 18.

19. Nondiscriminatory Employment. Consultant shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration status, citizenship or military and veteran status. Consultant understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Consultant shall be responsible for such subcontractor's compliance with this Section 19.

20. Consultant's Representations. Consultant represents, covenants and guarantees that: a) Consultant is licensed, qualified, and capable of furnishing the labor, materials, and expertise necessary to perform the Services in accordance with the terms and conditions set forth in this Agreement; b) there are no obligations, commitments, or impediments of any kind that will limit or prevent Consultant's full performance under this Agreement; c) to the extent required by the standard of practice, Consultant has investigated and considered the scope of Services performed, has carefully considered how the Services should be performed, and understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement.

21. Compliance with Laws. In performing the Services under this Agreement, Consultant shall comply with all applicable laws, ordinances and regulations. Before providing any Services under this Agreement, Consultant shall,

at its own expense, obtain and maintain all required certificates, licenses and permits, including a City business tax certificate.

22. Conflict of Interest. If, in performing the Services set forth in this Agreement, Consultant makes, or participates in, a "governmental decision" as described in Title 2, Section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for City that would otherwise be performed by a City employee holding a position specified in City's conflict of interest code, Consultant shall be subject to City's conflict of interest code, the requirements of which include the filing of one or more statements of economic interests disclosing the relevant financial interests of Consultant's personnel providing the Services set forth in this Agreement. Furthermore, Consultant shall not to accept any employment or representation during the term of this Agreement or within 12 months after completion of the Services which is or may likely make Consultant "financially interested," as provided in California Government Code Sections 1090 and 87100, in any decisions made by City on any matter in connection with which Consultant has been retained pursuant to this Agreement.

23. Fictitious Name. If Consultant has a fictitious name, Consultant shall submit to City a new Fictitious Business Name Statement approved by any California county before Consultant's prior Fictitious Business Name Statement expires if such expiration may occur during the term of this Agreement, including any term amendment.

24. Non-Assignability. This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's personnel's unique competence, experience and specialized personal knowledge. Consultant shall not assign or transfer any interest in this Agreement or any part thereof, whether by assignment or novation, without City's prior written consent, which may be withheld for any reason or for no reason at all. Any purported assignment without written consent shall be null, void, and of no effect, and Consultant shall hold harmless, defend and indemnify Indemnitees from and against all Claims arising from or relating to any unauthorized assignment.

25. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of Consultant.

26. Applicable Law; Venue. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the State of California, excluding California's choice of law rules. Venue for any such action relating to the Agreement shall be in the Ventura County Superior Court.

27. Titles. The titles used in this Agreement are for convenience only and shall in no way define, limit or describe the scope or intent of this Agreement or any part of it.

28. Force Majeure. Neither City nor Consultant shall be responsible for delays or failures in performance resulting from acts beyond the control of either party. Such acts shall include but are not be limited to acts of God, riots, acts of war, epidemics, fire, earthquakes, or other disasters.

29. Authority. Any person executing this Agreement on behalf of Consultant warrants and represents that s/he has the authority to execute this Agreement on behalf of Consultant and to bind it to the performance of these obligations.

30. Binding Agreement. The parties do not intend this Agreement to be binding upon them and shall not be held liable to its terms until it is fully executed by all required signers.

31. Integration; Amendment. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and Consultant regarding the subject matter described herein. This Agreement supersedes all prior oral or written communications, negotiations, representations, agreements and promises. This Agreement may not be modified or amended, nor any provision or breach waived, except in a writing, signed by both parties, that expressly refers to this Agreement.

32. Construction. In the event of any asserted ambiguity in or dispute regarding the interpretation of any matter herein, the interpretation of this Agreement shall not be resolved by any rules of construction providing for interpretation against the party who causes the uncertainty to exist or who drafted the Agreement in whole or in part.

33. No Waiver. Waiver by either party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by City of any payment to Consultant constitute or be construed as a waiver by City of any breach of covenant, or any default that may then exist on the part of Consultant, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default.

34. Attorneys' Fees. The prevailing party shall be entitled to recover reasonable costs, attorneys' fees (including the reasonable value of the services rendered by the City Attorney's Office) and expenses, including investigation fees and expert witness fees, in addition to any other relieve to which that party may be entitled, in any legal action or other proceeding, including an action for declaratory relief, for the enforcement of this Agreement or because of an alleged dispute, breach, default or misrepresentation in connection with this Agreement.

35. Notice. Except as otherwise required by law, a notice or communication authorized or required by this Agreement shall be in writing and shall be deemed received—on (a) the day of delivery if delivered by hand or overnight courier service during City's regular business hours or (b) the third business day following deposit in the United States mail, postage prepaid—to the addresses listed as "(10) Addresses for Notice" on the Cover Page or at such other address as one party may notify the other in writing.

36. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same agreement. A signed copy of this Agreement transmitted by email to Project Managers' emails listed in "(11) Contact Emails" on the Cover Page or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

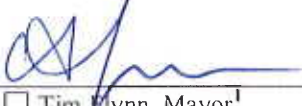
37. Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

[Signatures on next page]

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the date that is written as “(1) Agreement Start Date” on the Cover Page.

CITY OF OXNARD

CONSULTANT

 ☐ Tim Flynn, Mayor ¹ ☒ Alexander Nguyen, City Manager ☐ Dan Willhite, Purchasing Agent ☐ _____, Buyer	<u>2/04/2021</u> Date	 Heather Bush, Secretary and VP Corporate Council ²	<u>12/04/2020</u> Date
		 Craig Baptista, Vice President	<u>12/4/2020</u> Date

APPROVED AS TO FORM:

 Stephen M. Fischer, City Attorney (always required)	<u>12/2/21</u> Date
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¹ The City Council must authorize and the Mayor must sign any agreement over \$200,000 annually. The City Manager may authorize and sign any agreement over \$100,000 but up to \$200,000 annually. The Purchasing Manager may authorize and sign any agreement up to \$100,000 annually. A Buyer may authorize and sign any agreement up to \$25,000 annually.

² The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC; or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

SCOPE OF SERVICES EXHIBIT

Consultant shall provide professional engineering and inspection services as stipulated in work orders issued by the Manager or designee including the following specific services:

-Perform building plan review including commercial, industrial, residential, and tenant improvements.

1. Plan review for compliance with applicable codes, standards, local ordinances, and permit requirements as per the currently adopted California Building Codes (California Building Code, California Residential Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Energy Code, California Green Building Standards Code, Uniform Code for the Abatement of Dangerous Buildings, International Property Maintenance Code, California Historical Building Code, California Existing Buildings Code, California Reference Standards Code, California Fire Code), OSHPD 3 standards, and local ordinances.

2. Submit two legibly written copies of the corrections to the Manager and the permit applicant's contact person.

3. Stamp and sign two sets of each page of the plans and mark Recommend for Approval when plan check and recheck(s) are completed.

4. Limit contact with applicant to those questions or items that cannot be effectively and expeditiously handled in concise written form.

5. Use calculations and reports provided by the City including two copies of plans, supporting calculations, reports and conditions of approval of the structure. The calculations and reports provided shall include, but not be limited to, the following:

- a. Structural Calculations
- b. Energy Code Compliance Forms
- c. CalGreen Checklists and Worksheets
- d. Geotechnical Reports
- e. Acoustical sound/noise transmission reports.
- f. All other calculations/reports furnished by Developer.

6. Return the initial plan check and recheck to the City within the timeframe as set forth in the Schedule of Services Exhibit.

7. Pick up and deliver plan check packages from the Building and Engineering public counter or packages may be sent via U.S. Postal Service, Federal Express or other common carrier.

8. As needed, attend two-hour meetings with applicants at the City each Monday, Wednesday, and Friday that City offices are open.

-Perform inspection services for commercial, industrial, residential, and tenant improvements on an as-needed basis.

1. Inspect construction projects for conformance to the approved plans and all applicable Codes and City ordinances.

-Provide on-site counter-technician and/or plan checking services on an as-needed basis.

RATES AND COSTS EXHIBIT

COST PROPOSAL AND HOURLY RATES

Below is the cost proposal for the provision of Building Plan Check and Inspection Services.

Percentage of Fee, Based Upon the City's Plan Review Collected Fee (\$500.00 min. fee)	
70% of the City's Collected Building Plan Check Fee for Project Valuations Up To \$1 Million*** 60% of the City's Collected Building Plan Check Fee for Project Valuations Over \$1 Million*** Building Plan Review Fee - Includes initial, 1st re-check, and a 2nd/final re-check. If 2nd re-check results with more responses needed, then additional hourly fees may apply. Subsequent re-checks will be billed hourly thereafter (applies when City PC fees are a % of Permit fee)	
Hourly Rates	
Additional Building Plan Review	Hourly Billing Rates (2 hour min. fee)
Building Plan Review Fee - For Revisions to Approved Plans Including "Supplemental Information" and Deferred Submittals (applies when City PC fees are hourly)	\$110
Structural Only or MEP Only Building Plan Review	\$110
Grading Plan Review	\$110
Fire Code, Fire Sprinkler/Suppression and Alarm Review	\$125
Geotechnical Review	\$180
Meetings/Consultation regarding specific projects will be charged on an hourly basis. Travel reimbursement* may apply and will be assessed prior to meeting.	\$110
Fees for On-Site Support (4 hour minimum/day/individual)	Hourly Billing Rates**
Contract Plans Examiner	\$105
Contract Building Inspector	\$80 (PW \$110)
Counter Technician	\$59
Mileage (adjusted when IRS rate changes)	IRS Rate
*Any travel expenses which may apply for meetings will be advised/negotiated prior to the rendering of those services.	
**A 4 hr/day minimum per individual will be assessed for every scheduled day of work unless the personnel voluntarily elect to take time off. Overtime (OT) will be charged at 1.5 times the standard hourly rate and double-time (DT) will be charged at 2.0 times the standard rate. (If working a 4/10 schedule, OT is over 10 hours on any day and/or over 40 hours per week and weekends. Same principle applies to 9/80 schedules. DT is charged according to the state and federal laws. Hours worked on a designated holiday will be charged at the appropriate OT and DT rates). When the firm's professional(s) provide(s) more than one service, each service will be billed according to the contracted rate for each service type. Pick-up and delivery provided for all reviews, including re-checks.	
*** Mechanical, Electrical, Plumbing, and Disabled Access plan check reviews for new construction, and for complete Tenant Improvements similar to new construction, shall be charged additional fees as follows: Electrical = 6.4 % of Building Plan Check Fee; Plumbing = 6.4% of Building Plan Check Fee; Mechanical = 3.5% of Building Plan Check Fee; Disabled Access = 16.5% of Building Plan Check Fee.	

SCHEDULE OF SERVICES EXHIBIT

Consultant will allocate the necessary staff and resources to adhere to the plan review turnaround times presented below:

Project Type	Initial Check (working days)	Recheck (working days)
Residential Room Additions (up to 500 square feet)	3	3
Residential Room Additions (over 500 square feet)	5	3
Complete Single-Family Dwelling	10	5
Commercial/Industrial Interior Improvement	10	5
Complete Commercial/Industrial Projects	15	10
Complete Multi-Family Projects	15	10
Special Projects Including OSHPD 3 Review	15	10

Expedited Plan Check

At the City's request, and as mutually agreed upon, Consultant can provide plan review activities on a fast-track basis. Turnaround times for each submittal will relate to the size and nature of the project and its impact on the construction schedule. To reduce turnaround times for plan review, electronic submittals, phased submittals, conference calling, and video conferencing, can be used. Additional fees and turnaround times shall be negotiated prior to the commencement of work but shall not exceed 150% of the standard plan check fees.

**INSURANCE REQUIREMENTS FOR CONSULTANTS
(WITH ERRORS AND OMISSIONS REQUIREMENT)**

1. Consultant shall obtain and maintain during the performance of any services under this Agreement the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Consultant, its agents, representatives, employees or subconsultants.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project or shall be twice the occurrence amount;

b. Business automobile liability insurance in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office automobile liability coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. Professional liability/errors and omissions insurance appropriate to Consultant's profession to a minimum coverage of \$1,000,000, with neither Consultant nor listed subconsultants having less than \$500,000 individually. The professional liability/errors and omissions insurance must be project specific with at least a one year extended reporting period, or longer upon request.

d. Workers' compensation insurance in compliance with the laws of the State of California, and employer's liability insurance in an amount not less than \$1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

2. Consultant shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-A. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before commencement of services. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email (or fax if necessary) to the Risk Manager, addressed as follows (do not send hard copies):

City of Oxnard
Insurance Compliance
Reference No. _____
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

3. Consultant agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Consultant agrees that the commercial general liability and business automobile liability insurance policies shall be endorsed to name City, its City Council, officers, employees, agents and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees, agents and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-A or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 and CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages (**this must be endorsed**). Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6. The insurer shall declare any deductibles or self-insured retentions to and be approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7. All insurance standards applicable to Consultant shall also be applicable to Consultant's subconsultants. Consultant agrees to maintain appropriate agreements with subconsultants and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS***Certificates of Insurance***

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that the Consultant/insurer use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the sample accord form.

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

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

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY [x] COMMERCIAL GENERAL LIABILITY [] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE \$1,000,000 PRODUCTS COMP/OP AGG. \$1,000,000 PERSONAL & ADV. INJURY \$1,000,000 EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person) \$
A	AUTOMOBILE LIABILITY [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT \$1,000,000 BODILY INJURY \$ (Per person) BODILY INJURY \$ (Per accident) PROPERTY DAMAGE \$
A	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
A	OTHER Errors and omissions insurance or malpractice insurance available for the insured's profession				Minimum coverage \$1,000,000 Each consultant/ & listed sub-consultant \$500,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD

Attn: Insurance Compliance

Reference No. _____

P.O. Box 100085 - OX

Duluth, GA 30096

Via Email: cityofoxnard@ebix.com

Via Fax: 678-259-1007

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

GENERAL LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")		SUBMIT IN DUPLICATE	
		ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
PRODUCER	POLICY INFORMATION: Insurance Company: _____ Policy No. _____ Policy Period: (from) _____ (to) _____ LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits		
Telephone: _____	☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which) _____		
NAMED INSURED	APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered		
CITY AGREEMENTS/PERMITS			
TYPE OF INSURANCE			
GENERAL LIABILITY ☐ COMMERCIAL GENERAL LIABILITY ☐ Claims Made ☐ COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____ ☐ OWNERS & CONTRACTORS PROTECTIVE ☐ Occurrence		OTHER PROVISIONS	
COVERAGES	LIABILITY LIMITS IN THOUSANDS \$ EACH OCCURRENCE AGGREGATE		CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: () _____
☐ GENERAL ☐ PRODUCTS/COMPLETED OPERATIONS ☐ PERSONAL & ADVERTISING INJURY ☐ FIRE DAMAGE ☐ _____ ☐ _____			
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:			
1 INSURED. The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured 2 CONTRIBUTION NOT REQUIRED. As respects (a) work performed by the named insured for or on behalf of the City, or (b) products sold by the named insured to the City, or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it 3 SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included 4 CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City 5 PROVISIONS REGARDING THE INSURED'S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers 6 SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: a Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or b If excess, affords coverage which is at least as broad as the primary insurance form CG0001			
Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached			
ENDORSEMENT HOLDER			
CITY OF OXNARD Attn: Insurance Compliance Reference No. _____ P.O. Box 100085 - OX Duluth, GA 30096 Via Email: cityofoxnard@ebix.com Via Fax: 678-259-1007		AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I, _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement Signature _____ (original signature required) Telephone: () _____ Date Signed: _____	

First Amendment to Agreement Number 9041-20-CD for Consulting Services

Jeff Pengilley, P.E., Assistant Director
Vyto Adomaitis, Community Development Director
Community Development Department

City Council
September 7, 2021



Background

2

- Agreement No. 9041-20-CD with Bureau Veritas North America, Inc. (Bureau Veritas), formerly known as California Code Check, provides for on-call plan check and inspection services.
- The current agreement has a total contract amount of \$150,000 and will expire on December, 31, 2022.
- First Amendment will increase the total contract amount to \$525,000 over the same term, an increase of \$375,000.

- The Building & Engineering Division's project timelines increased significantly during FY 20-21, despite the COVID-19 pandemic, due to a high plan check workload, key recruitments of vacant positions on hold due to budget concerns, and a loss in efficiency due to modified COVID-19 work procedures.



Discussion

- The Building & Engineering Division seeks to continue its aggressive use of consulting services in order to address the project backlog, reduce project timelines and improve project turnaround times in the current budget year.
- The goal is to provide better customer service, reduce barriers to homeowners, and facilitate business expansion, retention, and attraction in support of City Council's Economic Development strategy.
- Additional staffing is currently being recruited as authorized in the FY 21-22 Budget in order to address project backlogs and enhance customer service levels in the longer term. The use of consulting services is expected to taper off as new staffing resources are added.

- Original Contract - A new contract was implemented with Bureau Veritas in FY 20-21, but this contract was limited to \$150,000 due to budget and revenue limitations.
- FY 21-22 Budget - City Council's recent Budget included an increase to the consulting services budget line item, with \$300,000 being allocated to consulting plan check services.
- First Amendment - recognizes the additional FY 21-22 budget allocation by increasing the contract amount to \$525,000. If First Amendment is approved, the balance available on the contract would be \$425,000 (approximately \$100,000 of the original contract amount was utilized in the prior fiscal year).

Financial Impact

- If this First Amendment is approved, the \$425,000 remaining on the contract would be fully funded in the FY 21-22 and FY 22-23 budgets.
- A total of \$300,000 is budgeted for consulting services in FY 21-22. A total of \$125,000 could be used in FY 22-23, subject to Council approval of FY 22-23 budget.
- The costs for consulting plan check services are fully offset by Plan Check revenue and developer deposits.

That City Council approve and authorize the Mayor to execute a contract amendment to increase the contract amount by \$375,000 for a total contract amount of \$525,000 with Bureau Veritas North America, Inc., (Agreement Number 9041-20-CD) for on-call plan check and inspection services, ending on December 31, 2022.



End of Presentation



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. M.7

DATE: September 7, 2021

TO: City Council

FROM: Brian Yanez, Acting Public Works Director, (805) 200-5412, brian.yanez@oxnard.org

SUBJECT: Water Infrastructure Finance and Innovation Act (WIFIA) Application Update. (0/5/5)

RECOMMENDATION

That the City Council adopt a resolution, and repeal Resolution 15,429, authorizing the City Manager to submit an application for an amount not to exceed \$49,792,000 from the Water Infrastructure Finance and Innovation Act Loan program administered by the U.S. Environmental Protection Agency; designating the amount of project expenditures to be reimbursed by proceeds from the Water Infrastructure Finance and Innovation Act loan; and dedicating and pledging revenues and funds for the repayment of the Water Infrastructure Finance and Innovation Act loan from the U.S. Environmental Protection Agency.

Please click the following link to view the required Measure M pre-recorded presentation video:

<https://youtu.be/F0IV94BEQ48>

BACKGROUND

The Water Infrastructure Finance and Innovation Act of 2014 (WIFIA) established a federal credit program administered by the U.S. Environmental Protection Agency (EPA). The WIFIA program accelerates investment in water and wastewater infrastructure of national and regional significance by offering loans to creditworthy borrowers for up to 49 percent of eligible project costs. WIFIA authorizes EPA to provide direct loans and loan guarantees to eligible borrowers for water infrastructure projects. Prospective borrowers submit a letter of interest that demonstrates their projects' eligibility, financial creditworthiness, engineering feasibility, and alignment with WIFIA selection criteria.

The City submitted a letter of interest for the Aquifer Storage and Recovery (ASR) Completion Project on October 12, 2020 which included materials necessary to underwrite the proposed WIFIA assistance and to develop an individual loan agreement between the City and EPA. Using the information provided in the letter of interest, and after evaluation by the EPA, the City was selected to submit an application for credit assistance up to \$27,600,000. The application process involves multiple steps and the average time from application submission to closing is approximately seven months.

WIFIA loans have distinct benefits that are not readily available in the capital markets. The WIFIA program can act as a patient investor and offer credit assistance with extended maturities due to the federal government's long-term investment horizon. In the WIFIA Base Program, it can offer borrowers the advantage of developing customized terms, including sculpted repayment terms to match the specific needs of a project.

Finally, the WIFIA program lends at a low, fixed interest rate equal to the Treasury rate for a comparable maturity. EPA recognizes the importance of capital markets in developing and improving water and wastewater infrastructure throughout the nation. The WIFIA program is intended to complement existing funding resources rather than supplant them. All projects that receive WIFIA credit assistance must be cofinanced with other sources of funding, including tax-exempt or taxable bonds, loans, grants, and equity. EPA balances the distinct credit advantages that the WIFIA program offers with prudent lending practices. The WIFIA program will only fund projects that it finds to be creditworthy during the evaluation process.

DISCUSSION

On March 2, 2021, City Council adopted Resolution 15,429 authorizing the City Manager to submit an application for an amount not to exceed \$27,600,000 from the WIFIA loan program. In the five months since this was authorized, staff has worked closely with the EPA as well as Kennedy Jenks Consultants to complete the application process. In that process, there were additional items related to the GREAT program that were identified that would qualify under WIFIA and City staff would like these to be considered as part of the application process prior to final submittal of the application. The original amount included enhancements to the City's recycled water system at the Advanced Water Purification Facility (AWPF), expansion of ASR by constructing the remaining five full-scale wells, and distribution of treated water in order to augment potable water supplies for long-term water supply reliability. These newly identified improvements increased the estimated project cost from \$56,330,000 to \$97,631,000, which brings the total loan amount to \$49,792,000, which is 49% of the total estimated cost of the project. This increase to the project costs requires a new resolution with an amount not to exceed \$49,792,000.

There are two (2) major additional items that are now being considered for the application, which include increasing capacity from the current 6.25 million gallons per day (mgd) to 12.5 mgd at the AWPF as well as mechanical and electrical upgrades to blending stations 1, 3 & 6. These upgrades to the blending stations include piping modifications and variable frequency drive pump replacements.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

This action only involves authorizing the application and submitting resolutions that are required with the application process which updates the loan application amount from \$27,600,000 to \$49,792,000. Applying for the WIFIA loan will require an application fee of \$100,000 and will be credited to the credit processing fee, which ranges from \$100,000 - \$300,000 and reimburses the EPA for its financial, technical, and legal advisory costs. This fee is due upon execution of the loan and will be funded in the Water Operations fund (601-6010-842.82-09). The financial impact of accepting the loan will be determined once the terms for repayment of the loan are established as part of the negotiation process. There is no financial impact to the General Fund.

Funding for the Project would be included in the Capital Improvement Program (CIP) starting in FY 2022-23 through FY 2027-28.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Tatiana Arnaout, City Engineer

ATTACHMENTS

1. WIFIA Updated Resolution
2. Reso 15,429
3. WIFIA_OxnardASR_Application_Updated
4. WIFIA ASR Update Presentation

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING
SUBMITTAL OF A WATER INFRASTRUCTURE FINANCE AND INNOVATION ACT
LOAN APPLICATION

WHEREAS, the U.S. Environmental Protection Agency has an available low interest (currently below 2%) loan for up to \$49,792,000 in Water Infrastructure Finance and Innovation Act funds which can be used for upgrades to and expansion of the City's Advanced Water Purification Facility (AWPF) to increase its capacity from the current 6.25 million gallons per day (mgd) to 12.5 mgd Upgrades will include product water disinfection equipment and improved site security systems and new water storage tanks, construction of six ASR wells – one demonstration well and five full-scale wells, a 20-inch diameter distribution pipeline to convey recovered groundwater from the ASR wells to three existing water blending stations (numbers 1, 3 & 6), and mechanical and electrical upgrades to those blending stations, as well as piping modifications and variable frequency drive pump replacements.

WHEREAS, On March 2, 2021, City Council approved and authorized the Mayor to adopt Resolution No. 15,429, authorizing the City Manager to submit an application for an amount not to exceed \$27,600,000 from the WIFIA loan program. This Resolution is intended to replace the prior authorization.

NOW, THEREFORE,

SECTION 1. The City Council of the City of Oxnard resolves to approve the submittal of an application by the City regarding Water Infrastructure Finance and Innovation Act funds by the City Manager for the aforementioned purposes. The City Council further resolves that the City Manager or designee is authorized to execute loan agreements; the Finance Director or designee is authorized to submit financial reports and approve special budget appropriations for the use of the WIFIA funds; and the Director of Public Works or designee is authorized to submit non-financial reports.

SECTION 2. Resolution 15,429 is hereby repealed.

PASSED AND ADOPTED THIS _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John C. Zaragoza, Mayor
ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 15,429

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING
SUBMITTAL OF A WATER INFRASTRUCTURE FINANCE AND INNOVATION ACT
LOAN APPLICATION

WHEREAS, the U.S. Environmental Protection Agency has an available low interest (currently below 2%) loan for up to \$27,600,000 in Water Infrastructure Finance and Innovation Act funds which can be used for upgrades to and expansion of the City's Advanced Water Purification Facility (AWPF) to increase its capacity from the current 6.25 million gallons per day (mgd) to 12.5 mgd Upgrades will include product water disinfection equipment and improved site security systems and new water storage tanks, construction of six ASR wells – one demonstration well and five full-scale wells, a 20-inch diameter distribution pipeline to convey recovered groundwater from the ASR wells to three existing water blending stations (numbers 1, 3 & 6), and mechanical and electrical upgrades to those blending stations, as well as piping modifications and variable frequency drive pump replacements.

NOW, THEREFORE, the City Council of the City of Oxnard resolves to approve the submittal of an application by the City regarding Water Infrastructure Finance and Innovation Act funds by the City Manager for the aforementioned purposes. The City Council further resolves that the City Manager or designee is authorized to execute loan agreements; the Finance Director or designee is authorized to submit financial reports and approve special budget appropriations for the use of the WIFIA funds; and the Director of Public Works or designee is authorized to submit non-financial reports.

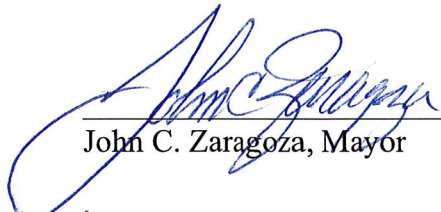
PASSED AND ADOPTED THIS 2nd day of March, 2021, by the following vote:

AYES: Councilmembers Basua, Lopez, Madrigal, Perello, Teran and Zaragoza.

NOES: None.

ABSENT: None.

ABSTAIN: Mayor Pro Tem MacDonald.



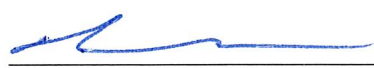
John C. Zaragoza, Mayor

ATTEST:



Rose Chaparro, City Clerk

APPROVED AS TO FORM:

 2/24/2021

Stephen M. Fischer, City Attorney



For the WIFIA Application Instructions

The U.S. Environmental Protection Agency (EPA) will invite selected applicants to submit an application for Water Infrastructure Finance and Innovation Act (WIFIA) loans. Unsolicited applications will not be considered. Following selection, each selected applicant will be assigned a transaction team led by an underwriter. The transaction team can answer the applicant's questions regarding the application form, its attachments, and the project review, negotiation, and closing processes.

The applicant should answer all questions in this form. It may indicate if a requirement is not applicable to its project. Narrative answers can reference source documents by including the name of the document and relevant pages or sections and providing any referenced documents as attachments. The applicant must sign the Certification in the appropriate space and submit a scanned version of the signature pages to EPA. If the applicant anticipates a delay in one or more source documents, it should discuss the situation with its transaction team and indicate the anticipated date of submitting that document in the application. Additionally, the applicant is required to notify and submit to EPA any updated application materials that become available during the review period. EPA may request additional items from applicants on a case-by-case basis.

The applicant may assert a Confidential Business Information (CBI) claim covering part or all of the information submitted to EPA as part of its letter of interest, in a manner consistent with 40 C.F.R. 2.203, 41 Fed. Reg. 36902 (Sept. 1, 1976), by placing on (or attaching to) the information a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as trade secret, proprietary, or company confidential. The applicant should also state whether it desires confidential treatment until a certain date or until the occurrence of a certain event. Information covered by a business confidentiality claim will be disclosed by EPA only to the extent and only by means of the procedures set forth under 40 C.F.R. Part 2, Subpart B. Information that is not accompanied by a business confidentiality claim when it is received by EPA may be made available to the public by EPA without further notice to the applicant. More information about CBI is available in the WIFIA program handbook and frequently asked questions (FAQ) available at <http://www.epa.gov/wifia>.

The applicant must submit a non-refundable application fee. The application fee is \$25,000 for an application for a project serving small communities (population of not more than 25,000 people). For all other project applications, the application fee is \$100,000. For further information regarding the application fee, as well as the credit processing fee which will be charged at loan closing, and any other applicable fees, please see the [WIFIA fee rule](#).

WIFIA Application Submission

The final application submission must include:

1. Completed application form;
2. All attachments requested and referenced in this form; and
3. The application fee.



The applicant should reference the supporting document checklist provided on page 4 to ensure all needed information is provided in the application submission. Upon receipt of the application fee and materials, EPA will provide a confirmation email.

Application Form and Attachment Submittal: When finished, the application form and attachments must be uploaded to EPA's SharePoint site. To be granted access to the WIFIA SharePoint site, the applicant should email the WIFIA Underwriter assigned to the applicant with the names and emails of all staff that need access.

Application Fee Submittal: The applicant should use of Pay.gov to make electronic payments to EPA. In Pay.gov, the applicant can track its payments to EPA and schedule recurring or automatic payments. Although it is not mandatory to register for a user id to access and use Pay.Gov, registration is recommended to have access to all Pay.gov system functionality. To use Pay.gov, follow these instructions:

1. Access the Pay.gov system by going to <https://www.pay.gov> and search for WIFIA or click on the following hyperlink to directly launch the [WIFIA Loan Collection & Fees Form](#).
2. Provide the following information on the payment to ensure proper credit:
 - Remitter's contact phone number
 - Company/Organization Name as it appears on EPA document
 - Complete address, including city, state, zip code
 - Project Name
 - Loan Number: this is EPA WIFIA Loan number, NOT the remitter's number
 - From the "Payment Type" drop down menu select "Application Fee (Fee01)"
 - Other Description: please enter the EPA WIFIA Loan number followed by -FEE01, for example 16123DC-FEE01
3. Follow the remaining on-screen instructions to successfully process the payment to EPA.
4. Send an email to OCFO-OC-ACD-WIFIA@epa.gov and wifia_portfolio@epa.gov informing that a payment has been made.

The application fee may also be paid via FEDWIRE; for questions about payments, email to OCFO-OC-ACD-WIFIA@epa.gov and wifia_portfolio@epa.gov. For detailed payment instructions, contact the WIFIA program.

Burden

The public reporting and recordkeeping burden for this collection of information is estimated to average 200 hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Regulatory Support Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

Warning



US Environmental Protection Agency
WIFIA Program
Application

OMB Control No. 2040-0292

EPA Form No. 6100-032

Approval expires 4/24/2023

Falsification or misrepresentation of information or failure to file or report information required to be reported may be the basis for denial of financial assistance by the Environmental Protection Agency. Knowing and willful falsification of information required to be submitted and false statements to a Federal Agency may also subject you to criminal prosecution. See, for example, 18 U.S.C. §1001.

Additional information is available at <https://epa.gov/wifia> and by contacting wifia@epa.gov.



SUPPORTING DOCUMENT CHECKLIST

The applicant should submit its completed application form plus all relevant supporting documents listed in the checklist as attachments.

Question	Supporting Document(s)*	Included
Application Fee – Refer to fee instructions on page 2		
Section A: Key Applicant and Loan Information* (No attachments)		
9. System for Award Management (SAM) registration <i>Provided in text.</i>	Screen shot verifying active SAM registration^{1*}	☒
Section B: Applicant Background		
5. Capital Improvement Planning Process	Current year and previous 3 years Capital Improvement Plans	☒
7. Liabilities	Liabilities Description	☒
8. System Condition	- System Master Plan - System Condition Assessment	☒ ☒
10. Organization Chart <i>Provided in text.</i>	Organization Chart	☒
Section C: Financing Plan		
4. Preliminary Rating Letter	Preliminary Rating Letter*	☒
5. Audited Financial Statements	Audited Financial Statements (3 years)*	☒
6. Cash flow pro forma(s)	Cash flow pro forma*	☒
7. Rate Setting Process <i>Described in text.</i>	- Rate Studies - Rate Schedules	☐ ☐
8. Flow of Funds <i>Described in text.</i>	Flow of Funds	☐
9. Loan Agreement	- Master Indenture - Bond Ordinance	☐ ☐
Section D: Federal Requirements		
1. National Environmental Policy Act (NEPA)/ Programmatic Environmental Assessment Questionnaire	- Environmental Assessment (Draft or Final) - Environmental Impact Statement (Draft or Final) - Supporting Documentation - Programmatic Environmental Assessment Questionnaire	☐ ☐ ☒ ☒
2. SRF Environmental Review	- SRF Findings - SRF Consultation Documentation	☐ ☐
4. Cross-Cutter Consultation Agencies	- State Historic Preservation Officer - Fish and Wildlife Service - National Marine and Fisheries Service	☐ ☐ ☐

¹ Applicants must have an active registration in SAM to do business with the Federal Government. Registration information is available at <https://sam.gov/SAM/>.



	- Coastal Zone Management Agency - Other:	☐ ☐
5. Additional Permits		☐ ☐ ☐
7. Additional Forms	 epa_form_6600_06.pdf  SFLLL_1_2-V1.2.pdf  epa_form_4700_4.pdf	☒ ☒ ☒
8. Uniform Act	Narrative of Compliance	☐
Section E: Contract Information (Refer to Supplemental Spreadsheet)		
Complete Section E of spreadsheet and indicate which of the following attachments are included: - Project Map (Attachment E.1) - Preliminary Engineering Report (Attachments E.2a, b) - Preliminary Design Report - Planning Documents (Attachments E.3a, 4a-d) - Executed Contract Documents - Procurement Documents - Detailed project schedule(s)* (Attachment E.5) - Engineer's Cost Estimate associated with detailed project scope* (Attachment C.1) - Existing Operation and Maintenance Plan - Professional Service Contract or similar evidence of new Operation and Maintenance Plan to be developed - Risk Mitigation Plan/Matrix - Project Management Plan - Evidence of Experience with Similar Projects - Draft of Final Bid Specifications with required language - Sample of Final Bid Specifications with required language		☐ ☐ ☒ ☒ ☐ ☒ ☐ ☐ ☐ ☒ ☒ ☐ ☐ ☐ ☐ ☐ ☐ ☐
Certifications		☐

*Required



APPLICATION FORM

Provide the following information in this form. Narrative answers can reference source documents (include the name of the document and relevant pages or sections). Provide any referenced documents as attachments.

Section A: Key Applicant and Loan Information

1. Legal name of prospective borrower:

The City of Oxnard (City, Oxnard)

2. Project name (for purposes of identification assign a short name to the project):

Aquifer Storage Recovery (ASR) Project

3. Estimated total eligible project costs (in dollars):

\$97,631,000

Refer to proforma model and Engineers Cost Estimate for details.

- ☐ Check here if total eligible project costs have changed since the letter of interest submittal

4. Requested amount of the WIFIA loan (in dollars):

\$49,792,000

5. Anticipated Closing Date and what is driving date: December, 2021, based on readiness to proceed

6. Applicant Contact Information

Team Member	Name and Title	Email	Phone Number
Authorized Signatory	Alexander Nguyen, City of Oxnard City Manager	Alexander.nguyen@oxnard.org	805-385-8017
WIFIA Point of Contact	Kevin Riper CFO	kevin.riper@oxnard.org	(805) 385-7461
Financial Advisor	Craig Hill NHA Advisors	craig@nhaadvisors.com	(415) 785-2025 ext 2001
Bond Counsel	Kim Byrens Best, Best & Kreiger	kim.byrens@bbklaw.com	(951) 826-8273
Project Manager	Tatiana Arnaout, City Engineer	Tatiana.arnaout@oxnard.org	805-385-8341



US Environmental Protection Agency
WIFIA Program
Application

OMB Control No. 2040-0292

EPA Form No. 6100-032

Approval expires 4/24/2023

Environmental Review Contact	Tatiana Arnaout, City Engineer	Tatiana.arnaout@oxnard.org	805-385-8341
Other: Primary Point of Contact	Tim Beaman, Senior Civil Engineer	Timothy.beaman@oxnard.org	805-385-8141
Other: Secondary Point of Contact			
Other: Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.

7. Employer/taxpayer identification number (EIN/TIN):

95-6000756

8. Dun and Bradstreet Data Universal Number System (DUNS) number:

081790214

9. Is the applicant registered in the System for Award Management (SAM)? If yes, provide

☒ Yes

☐ No

Tracy Corbett [Log Out](#)

MY SAM | SEARCH RECORDS | DATA ACCESS | CHECK STATUS | ABOUT | HELP

Search 

ALERT: SAM.gov will be down for scheduled maintenance Saturday, 03/13/2021 from 8:00 AM to 1:00 PM.

Entity Dashboard	Oxnard, City of DUNS: 081790214 CAGE Code: 1P6L9 Status: Active Expiration Date: 01/13/2022 Purpose of Registration: Federal Assistance Awards Only	300 W 3RD ST OXNARD, CA, 93030-5738 , UNITED STATES
Entity Overview		



Section B: Applicant Background

1. Describe the authorizing actions required by the applicant in order to enter into a loan agreement with the WIFIA program (e.g., board vote, local vote, ordinance).

The City Council authorized, by resolution, entering into a loan agreement with the WIFIA program on March 2, 2021.

2. Disclose any current, threatened, or pending litigation involving the applicant related to permitting, public involvement, environmental irregularities, construction defects, securities fraud, conflict of interest, failure to perform under a State or Federal contract, or other charges which may reflect on the applicant's financial position or ability to complete the project(s).

There is no current, threatened, or pending litigation involving the City related to permitting, public involvement, environmental irregularities, construction defects, securities fraud, conflict of interest, failure to perform under a State or Federal contract, or other charges which may reflect on the City's financial position or ability to complete the ASR Project.

The City of Oxnard recently released an Official Statement associated with their 2021 Water Revenue Bonds (Attachment B.2), which stated that there is no controversy or litigation of any nature now pending against the City (with service of process having been completed), or to the knowledge of its officers, threatened, restraining or enjoining the issuance, sale, execution or delivery of the 2021 Bonds, or contesting the validity of the 2021 Bonds, any proceeds of the City, concerning the issuance or sale thereof, pledge or application of the money or security provided for payment of the 2021 Bonds, or the existence or powers of the City. The Official Statement also noted that there are currently various litigation matters pending against the City, however, the City does not believe that these actions materially adversely affect the collection of System Revenues or the payment of debt service on the 2021 Bonds.

This Official Statement is also applicable to the City's financial position and ability to complete the ASR Project under a WIFIA loan agreement.

3. List the historical, if available, or projected customer concentration analysis, including a breakdown of customers by class (residential, non-residential, commercial, bulk, etc.), usage, and revenues for the past 12 months and a list of the top ten (10) customers by percentage of revenues.



Table B-1: Breakdown of customers by class, usage, and revenues

WATER			
Customer Class	# Customers	Water Usage (HCF)	Revenues last 12 months (Feb 2020-Jan 2021)
Single Family Residential	34,764	3,897,736	\$151,215,130
Multi-Family Residential	2,012	1,582,836	\$44,482,535
CII*	4,463	4,414,687	\$165,648,535
Recycled Water	6	73,589	\$2,462,824
Fire Service	1,669	0	\$6,452,044
Total	42,914	9,968,849	\$370,261,068
SEWER			
Customer Class	# Customers	Sewer Usage (HCF)	Revenues last 12 months (Feb 2020-Jan 2021)
Single Family Residential	35,512	3,096,950	\$130,991,395
Multi-Family Residential	2,046	1,418,557	\$43,482,297
CII*	2,549	903,017	\$91,834,472
Total	40,107	5,418,525	\$266,308,164

* Commercial/Industrial/Institutional

Table B-2: Top 10 Customers as percentage of Revenue (in last 12 months)

Customer Name	Revenue	% of Total Revenue
Procter & Gamble	\$3,471,311	5.9
New Indy Oxnard	\$1,188,866	2
E F Oxnard	\$440,307	0.7
Gills Onions	\$418,109	0.7
Boskovich Farms	\$408,781	0.7
Puretec	\$339,013	0.6
RRI Energy Ormond Beach	\$215,983	0.4
St. John's Regional Medical Center	\$208,612	0.4
Harris Water Conditioning	\$208,448	0.4
Dandy Cooling	\$157,975	0.3
Total	\$7,057,405	12.1

4. Provide the average residential customer combined water and sewer rates as a percentage of Median Household Income.



Table B-3: Average Customer Rates and Median Household Income		
Residential Customer	Unit	Average
Water Rate	\$/year	\$815
Sewer Rate	\$/year	\$650
Total	\$/year	\$1,465
Median Household Income (MHI)	Annual	\$72,843
Rates/MHI	(-)	2.01%

5. Describe the applicant's capital improvement planning process. Include a capital improvement plan, other planning documents, and capital budgets produced in the current year and previous three (3) years as attachments.

The City conducts a capital improvement planning processes to evaluate the existing infrastructure and whether rehabilitation or replacement is merited and to identify any needs to meet future uses for their water and wastewater systems. The City's **Engineering Division** is responsible for all Public Works engineering, design, and project management functions. This includes construction, project management, inspection, procurement, and master planning functions. The Division includes staff with diverse experience in Master Planning, Value Engineering, Civil Engineering, Process Engineering, Landscape Architecture, Project Management, Construction Procurement and Coordination, Public Works Inspection and Asset Management.

The most recent **Five-Year Capital Improvement Program (CIP)** for 2021 – 2026 was prepared by the Public Works Department, the Finance Department and the City Manager's Office, in conjunction with multiple other departments. The CIP provides the inventory of the City's current and needed infrastructure, with a forecast of our construction and repair needs over a five-year period.

The 2021-2026 CIP, the 2020-2025 CIP and 2019-2024 CIP are provided as the following attachments. The City does not have a formalized CIP prior to 2019.

- Attachment B.5a: 2021-2026 City of Oxnard Five Year Capital Improvement Plan
- Attachment B.5b: 2020-2025 City of Oxnard Five Year Capital Improvement Plan
- Attachment B.5c: 2019-2024 City of Oxnard Five Year Capital Improvement Plan

The City included the ASR Project in the 2021-2026 Capital Improvement Plan.

6. Describe accounts receivables outstanding, including the 12-month trailing average of on-time payment amounts as a percentage of amount billed per period. Include a brief description of the process for collections.



Amounts due from individuals, organizations or other governmental units are recorded as receivables at year-end. These amounts include charges for services rendered, or for goods and material provided by the City, including amounts for unbilled services.

A description of the accounts receivables outstanding and process for collections is provided as follows:

12-Month Average of On-time payments for 2020 =	90%
Amount Billed per month in 2020 =	\$11,200,000 *
Average On-Time Cash =	\$10,080,000
Average Number of Delinquent Accounts =	4,500
Average Amount Outstanding Per Residential Accounts =	\$600 **
Total Past Due to Date =	\$6,470,000 ***
<i>*Based on February Actuals</i>	
<i>**Average does not include City of Port Hueneme Past Due amount</i>	
<i>***\$3 million of Total Past Due is owed by the City of Port Hueneme</i>	

7. Describe or provide an attachment with the status of liabilities and funding for pension contributions, defined benefits, and other post-employment benefits.

The status of liabilities and funding for pension contributions, defined benefits, and other post-employment benefits is provided in Attachment B.7_StatementofNetPosition.

8. Provide the latest system condition assessment report or master plan available for the water and/or wastewater system this project supports. If a report or plan is unavailable, provide a brief description of significant facilities (i.e. pump stations or treatment plants) within the system, including construction and major rehabilitation dates, and any asset management processes utilized for the system.

The City has prepared an Integrated Master Plan for their water, wastewater and recycled water systems to address their many challenges in managing its future water resources and utilities, which include responding to immediate drought conditions while also planning for long-term water needs, reducing dependence upon costly imported water, addressing aging infrastructure and reliability concerns, pursuing aggressive. The Integrated Master Plan includes a summary report and a series of Project Memorandum (PM), which are available on the City's website: <https://www.oxnard.org/city-department/public-works/public-works-integrated-master-plan-2/>

The Integrated Master Plan Summary Report and select PMs have been included to provide the information requested in the application:

- Attachment B.8a_Integrated Master Plan Summary Report
- Attachment B.8b_Integrated Master Plan_PM-1.1_MasterPlanningProcessOverview



- Attachment B.8c_Integrated Master Plan_PM-1.2.2_ComputerizedMaintenanceManagementSystemAssesment
- Attachment B.8d_Integrated Master Plan_PM-2.1_WaterSystemBackgroundSummary
- Attachment B.8e_Integrated Master Plan_PM-2.2_WaterSystemFlowProjections
- Attachment B.8f_Integrated Master Plan_PM-2.4_WaterSystemConitionAssesment
- Attachment B.8g_Integrated Master Plan_PM-3.1_WWSystemBackgroundSummary
- Attachment B.8h_Integrated Master Plan_PM-3.2_WWSystemFlowsandLoadProjections
- Attachment B.8i_Integrated Master Plan_PM-3.5_WWSystemConitionAssesment
- Attachment B.8j_Integrated Master Plan_PM-4.1_RWSystemBackgroundSummary
- Attachment B.8k_Integrated Master Plan_PM-4.2_InfrastructureModeling+Alts
- Attachment B.8l_Integrated Master Plan_PM-4.3_AWPF-OutfallRegulatory
- Attachment B.8m_Integrated Master Plan_PM-4.5_EnvisionAssesment
- Attachment B.8n_Integrated Master Plan_PM-4.6_PathogenAnalysis
- Attachment B.8o_Integrated Master Plan_PM-4.7_SaltNutrientMgntPlanSummary

9. If applicable, describe community outreach efforts conducted to date and planned for the project(s). Include community meetings, outreach sessions and groups contacted.

The City of Oxnard has a strong outreach and public engagement team to support all City-led projects. The outreach program serves to educate customers about Projects to build support and create goodwill. The City's outreach, communication and education team strives for innovative and creative outreach tactics that provide learning opportunities aimed to provide an opinion/perception changing experience. Typically, an outreach and education program provides a variety of ways for people to learn about the Project, including a Project specific website, award-winning videos, presentations, fact sheets, special events, education programs for kids, booths at community events, and electronic newsletters. All outreach materials are produced in English and Spanish to account for the City's diverse community. Project representatives provide free presentations to community groups or a location requested by the party of interest.

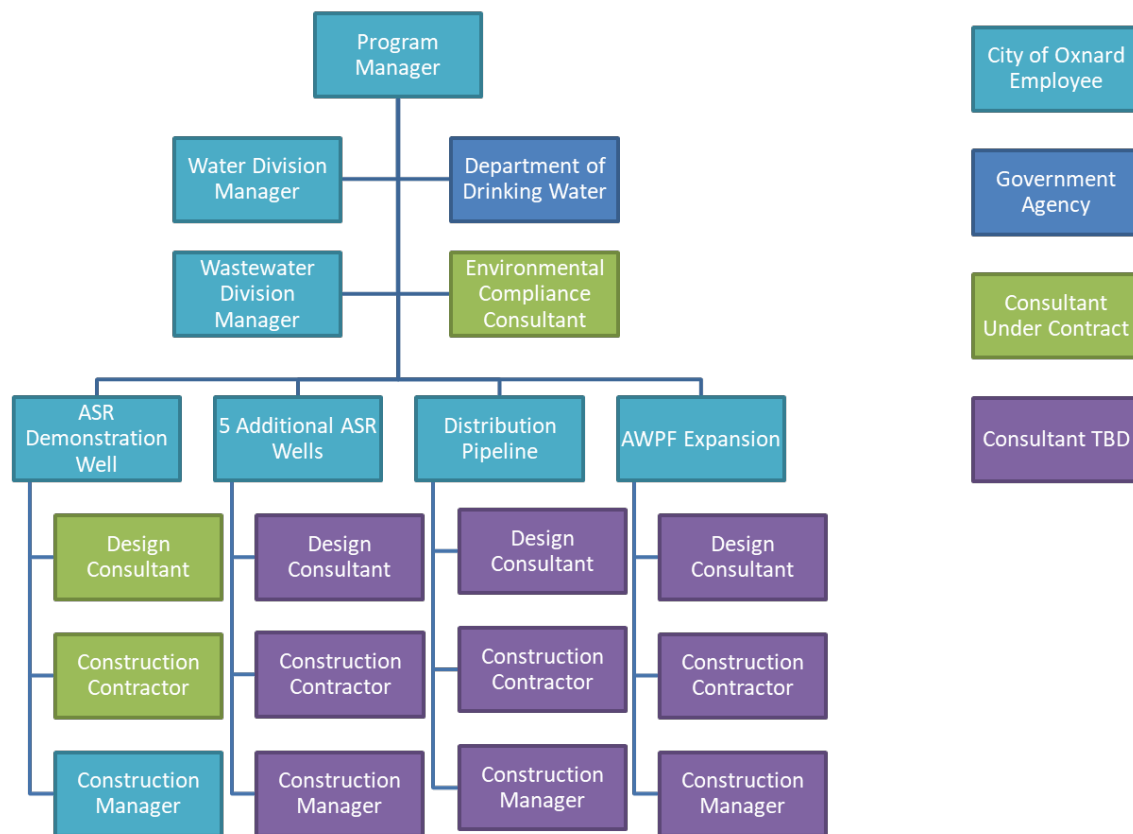
The City's recycled water program's website (<https://www.oxnard.org/city-department/public-works/water/recycled-water/>) provides general information about the use and safety of recycled water, the Groundwater Recovery Enhancement and Treatment (GREAT) program, and the existing advanced water purification facility. The City has yet to initiate a formal outreach effort to the general public to discuss this ASR project, however, key regional stakeholders are aware of this IPR project. These stakeholders include agencies that are directly involved in water supply to the City (e.g. Calleguas Municipal Water District, United Water Conservation District, Fox Canyon Groundwater Management Agency and the City of Ventura). Other regional stakeholders include various regulatory and governmental bodies, and several environmental organizations. The Program Environmental Impact Report (PEIR), completed in 2004, included the required public notice and engagement regarding the various aspects of the GREAT program, including potable reuse (CH2MHill, 2004). Once the T22 Engineer's Report for the ASR Project is approved by DDW and the Regional Water Quality Control Board (RWQCB), the City will re-engage with project stakeholders and the public and follow all public hearing requirements.



For Project and Corporate Financing Transactions Only:

10. Provide a project-level organizational chart, include the major parties involved in planning, owning, financing, providing supply and/or offtake, constructing, operating, and/or maintaining the project(s). Include the major service contractors that have been, or will be, retained for the project (e.g., architects, developers, engineers, attorneys, financial advisors and underwriters, environmental consultants). Please also disclose if there is a financial relationship between the project sponsor and any key project partners.

A project-level organizational chart is provided below, describing City roles, consultant roles and coordination with government agencies.





Section C: Financing Plan

1. Provide a sources and uses of funds table for the construction period(s), including the proposed WIFIA assistance. For applicants other than Public Entities, please identify the amount and source(s) of project equity, letters of credit, and other sources of debt as applicable. Note any ineligible project costs. More information about eligible costs is available in the [WIFIA program handbook](#). If other debt is being issued, describe the timing and certainty.

Sources Category	Estimated Dollar Value
1. WIFIA Loan (cannot exceed 49% of eligible costs)	\$47,839,000
2. Revenue Bonds	\$49,792,000
3. SRF Loan	Click or tap here to enter text.
4. Borrower Cash	Click or tap here to enter text.
5. Previously Incurred Eligible Costs*	Click or tap here to enter text.
6. Other (please specify) Rates, taxes, and fees	Click or tap here to enter text.
TOTAL SOURCES	\$97,631,000
Uses Category	Estimated Cost
1. Construction	\$68,045,000
2. Design	\$6,310,000
3. Planning	\$1,890,000
4. Land Acquisition	Click or tap here to enter text.
5. Other Capital Costs	\$2,720,000
6. Contingency	\$6,850,000
7. Total Capital Costs	\$85,815,000
8. Financing Costs	\$11,816,000
9. Ineligible Costs (if applicable)	Click or tap here to enter text.
10. Other (please specify)	Click or tap here to enter text.
11. Other (please specify)	Click or tap here to enter text.
TOTAL USES	\$97,631,000

*Previously Incurred Eligible Costs are project related costs incurred prior to the WIFIA loan's execution. Please see the WIFIA Program Handbook for additional information on Eligible Costs.

This project will provide a long-term sustainable water supply for the City to benefit ratepayers for many years to come. Once this project is ready to proceed and the WIFIA agreement is executed, the City would issue revenue bonds, which would be supported by the revenues for the system.

An Engineer's Cost Estimate associated with detailed project scope is included in the application:

- Attachment C.1_Engineer'sCostEstimate

The pro forma model, discussed in item #6 below and included in Attachment C.6, includes details on the financing costs.



2. Describe the proposed credit terms of the WIFIA assistance. Complete the following table and include additional text below.

Credit Term	Proposed
Lien Priority	☐ Senior Lien Subordinate Lien: all project debt ☐ having the same priority as the WIFIA loan. Subordinate Lien: not all project debt has the same priority as the WIFIA loan. A springing lien will be used in a bankruptcy related event. ☒
Security Pledge	See below
WIFIA Loan Maturity Date	35-year loan, starting when loan closes with repayment starting after substantial project completion.

The Installment Purchase Agreement provides that all Net Water System Revenues are pledged to the payment of the Installment Payments and Net Water System Revenues will not be used for any purpose other than as permitted in the Installment Purchase Agreement while any of the Installment Payments remain unpaid. The pledge constitutes a lien on Net Water System Revenues, including Net Water System Revenues in the Water Revenue Fund for the payment of the Installment Payments and all other Contracts and Bonds in accordance with the terms of the Installment Purchase Agreement and the Indenture.

Net Water System Revenues. The Installment Purchase Agreement defines Net Water System Revenues as (i) for any Fiscal Year, the Water System Revenues for such Fiscal Year less the Maintenance and Operation Costs for such Fiscal Year, or (ii) in applying the provisions of the Installment and Purchase Agreement with respect to Additional Obligations only, the Water System Revenues for the selected 12-month period less the Maintenance and Operation Costs for the same 12-month period.

“Water System Revenues” means all income, rents, rates, fees, charges, and other moneys derived from the ownership of or operation of the Water System, including, without limiting the generality of the foregoing, (1) all in lieu charges and groundwater augmentation charges (including investment earnings thereon) collected by or on behalf of the City, (2) all income, rents, rates, fees, charges, business interruption insurance proceeds, or other moneys derived by the City from the sale, furnishing, and supplying of the water, drainage or other services, facilities, and commodities sold, furnished, or supplied through the facilities of or in the conduct or operation of the business of the Water System, and (3) the earnings on and income derived from the investment of such income, rents, rates, fees, charges, proceeds, or other moneys, including City reserves; but excluding in all cases (a) customers' deposits or any other deposits or



advances subject to refund until such deposits or advances have become the property of the City, (b) proceeds of taxes or benefit assessments restricted by law to be used by the City to pay amounts due on bonds or other obligations hereafter incurred, and (c) connection fees and charges.

“Maintenance and Operation Costs” means (1) costs spent or incurred for maintenance and operation of the Water System calculated in accordance with generally accepted accounting principles applicable to governmental agencies, including, but not limited to, the reasonable expenses of management and repair and other expenses necessary to maintain and preserve the Water System in good repair and working order, and including administrative costs of the City that are charged directly or apportioned to the Water System, including, but not limited, to salaries and wages of employees, payments to the Public Employees Retirement System, overhead, insurance, taxes (if any), fees of auditors, accountants, attorneys or engineers and insurance premiums, and including all other reasonable and necessary costs of the City or charges (other than debt service payments) required to be paid by it to comply with the terms of the City Bonds, as defined in the Installment Purchase Agreement (the “City Bonds”), or any other Contract, other than Debt Service, or of any resolution or indenture authorizing the issuance of any City Bonds or Contract, and (2) all payments under any contract for the purchase of water; but excluding in all cases depreciation, replacement, and obsolescence charges or reserves therefor and amortization of intangibles or other bookkeeping entries of a similar nature.

3. Describe all dedicated revenue sources to be used to repay project financing, the expected rate(s), and the base to which such rates will be applied (e.g. average monthly consumption). Include rate covenant requirements that may affect these revenue sources.

Funding will be from **“Water System Revenues”**, as defined in item B.2 above.

Existing water sale rates generate funds that are used to maintain and operate the existing water system, as well as secure new water sources such as this project. Funding through water sales is certain, however if a WIFIA loan is unavailable the City would continue to search for grant opportunities and alternative funding sources. If no other sources become available, the schedule of the project would be extended to allow for payment through water sales.

4. Provide the file name for and submit a new or recent preliminary rating letter from a nationally recognized statistical rating organization opining on the proposed WIFIA financing and describing the applicant’s ability to obtain an investment grade rating on the project’s senior obligations. An existing rating may be used in place of a preliminary rating letter if it is recent and actively maintained. The applicant should discuss using an existing rating with its transaction team prior to application submittal.



The City had a rating assessment performed by S&P Global Ratings in November 2020, and received a long-term rating of A/Stable. The rating assessment is included as Attachment C.4_Rating Letter.

5. Provide the year-end audited financial statement for the applicant for past three (3) years, as an attachment, and enter the file names below.

The following audited City financial statements (Comprehensive Annual Financial Reports [CAFR]) are included in the application:

- Attachment C.5a_CAFR_2020
 - Attachment C.5b_CAFR_2019
 - Attachment C.5c_CAFR_2018
 - Attachment C.5d_CAFR_2017
6. Attach the financial model for the project(s) and provide its file name below. All amounts should be expressed on a cash (year-of-expenditure) basis and should clearly show assumptions used to arrive at such estimates. A sample pro forma can be found [here](#). The pro forma(s) should include:
- a. Details on projected revenues, operations and maintenance expense, capital expenditures and other key line items. Include rate changes and inflation factors as appropriate;
 - b. Estimated total debt service coverage. Also show senior and junior lien debt coverages separately, if applicable;
 - c. Disbursement and repayment schedule for all debt sharing the WIFIA security, addressing, as applicable, senior- and junior-lien debt. Same lien debt amounts may be aggregated;
 - d. Anticipated disbursement and repayment schedule of the requested WIFIA loan.

The pro forma model, included in Attachment C.6, includes details on projected revenues, operations and maintenance expense, capital expenditures and other key line items in the City of Oxnard's budget.

- The first tab presents the City Water System Historical Operating Results and Debt Service Coverage from 2012/13 to 2019/20 (audited period) and estimated for 2020/21. The projections tie to what the City showed investors for the Official Statement for the 2021 Water Bonds.
- The second tab presents the projected debt service coverage for a 35-year period, reflecting the total debt service and coverage. The first 5 years of the projections tie to the projections on the first tab (again, these are what the City showed investors for the 2021 Bonds OS.)
- The third tab details the combined project costs, combining all eligible costs into a total (i.e., "Total Eligible Project Costs" in Row 34) and then applying a 51%/49% split to the total eligible costs



- The fourth tab presents ASR Project Financing from the WIFIA loan at 49% of Total Eligible Project Costs. This is the estimated repayment schedule for the WIFIA Loan. The debt service is based on repayment assumptions that match the City's current outstanding Water Fund debt (i.e., June principal & interest payments and December interest only payments). The estimated debt service uses a 2.62% rate, which is derived from the SLGS rate for a 25.5 year WAM + 1 bp + 50 bps cushion. We also incorporated the annual servicing fees so they would be reflected in the coverage calculation on Tab 2.
 - The fifth tab presents the proposed Aquifer Storage Recovery (ASR) Project Financing at 51% to match the requested WIFIA Loan. As with the WIFIA loan and the City's other Water Fund debt, this was also structured with a June principal & interest and December interest only payment schedule. We used a conservative 4% interest rate given the amount of time expected before these matching bonds are sold.
 - The sixth tab describes the proposed disbursement schedule for the eligible costs through 2027. The monthly graph on that page shows phases of the costs, between "planning" (which is happening currently), "Design", and "Construction". Accordingly, the expected disbursement schedule is back-end loaded, with most of the construction payments happening between Spring 2025 and Spring 2027.
 - Tabs 7 through 10 are the semiannual debt service schedules on the City's outstanding debt and are included for reference purposes only.
7. Describe the rate setting process, including regulations governing rate setting, approval requirements, timing for implementation, etc. Include 10 years of rate schedule history for the applicant and specify if recommended rate increases were ever rejected.

Cities perform periodic reviews of their utility finances and rates in order to ensure that resources are available to adequately and equitably fund utility operations, maintenance, and capital investments. In California, water rates must conform to cost of service requirements imposed by Proposition 218 and the State Constitution. The Proposition requires that water rates and other property related fees and charges do not exceed the reasonable and proportional cost of providing the service. The City sets rates in compliance with California Proposition 218 ratepayer approval process following studies that determine the costs of providing water and wastewater services. The City Council holds a public hearing prior to approval of the rates. The timing of implementation is that rates are set for up to 5 years in the future. Recommended rate increases have not been rejected by ratepayers in the last 10 years.

The rate setting process determines whether the existing rates adequately cover the utility's costs; allocates operating, maintenance, and capital costs to customer classes based on the burden they place on the system; and designs rates to allow for total cost recovery by incorporating the results of the cost of service study and calculating rates that do not exceed the costs of providing the service. The rate setting process can be broken into three main components.

- 1) **Revenue Requirements:** The revenue requirement analysis compares the revenues received for providing the services to the operating and capital costs associated with providing the services to determine the adequacy of the existing rates to recover the full costs. If current



- rates are insufficient to cover costs, the revenue requirement analysis is used to determine the appropriate amount of rate revenue necessary to fully cover expenses and other obligations (such as debt service coverage), while not exceeding the cost to provide service.
- 2) **Cost of Service Analysis:** The cost of service analysis is the fundamental element in making sure that each customer receives its proportional cost. The operating and capital costs are allocated to functional cost centers and then reallocated to the specific customer classes based on the burden they place on the system. Lastly, unit rates are developed for each customer class and used to assess charges to customers based on their account type, meter size, and water usage.
- 3) **Rate Design:** The rate design element is the development of rate structures that allow for recovery of total costs while incorporating the results of the cost of service analyses. The rate structures have a multitude of guidelines that can be incorporated, but rely on the fundamental fact that they will not exceed the costs of providing the services.

Because utility operations are inherently complex, rate studies typically reflect multiple goals and objectives and consider operational, maintenance, financial, and capital planning requirements. The City of Oxnard performed a cost of service study in 2017 and successful rate adoption which achieved the following goals:

- Adopted a single utility rate adjustment, effective on September 1, 2017, which supports the water utility's ability to meet its financial obligations and to provide sufficient, predictable, and reliable revenues to deliver utility services in response to customer demand.
- Strengthened the financial position of the water utility in order to meet revenue and reserve obligations associated with the outstanding bonds, provide financial sustainability and stability, and to finance critical capital investments.
- Aligned with the updated City Council's adopted financial policies (January 2016).
- Confirmed and adjusted water rates consistent with the requirements of CA Proposition 218 that effectively distribute the cost of water supply based on each customer's usage pattern. This included minor adjustments to the City's tiered block rates to reflect changed consumption patterns and support water conservation goals.

The City's 10-year rate setting history is as follows (for Single Family Residential - Tier 1):

Year	Single Family Residential Fixed Charge	Single Family Residential Tier 1 Variable Charge
2021	New Rate Study Planned	
2020	No Change	
2019	No Change	
2018	\$19.52	\$3.43
2017	\$17.33	\$3.09
2016	No Change	
2015	\$16.89	\$2.84
2014	\$15.61	\$2.78
2013	\$15.22	\$2.72
2012	\$13.88	\$2.54



To date, the City of Oxnard has successfully adopted and implemented water rates.

Additional information is found on the City's website: <https://www.oxnard.org/city-department/public-works/water/water-rates/>

[Click or tap here to enter text.]

8. If available, provide a flow of funds diagram or description and summarize key obligations in the flow of funds.

To carry out and effectuate the pledge and lien contained in the Installment Purchase Agreement, the City agrees and covenants that all Water System Revenues will be received by the City in trust hereunder and deposited when and as received in a special fund designated as the "Water Revenue Fund," which fund is created and established under the Installment Purchase Agreement and which fund the City agrees and covenants to maintain and to hold in trust separate and apart from other funds so long as any Installment Payments remain unpaid.

The City will, first from the moneys in the Water Revenue Fund, pay all Maintenance and Operation Costs (including amounts reasonably required to be set aside in contingency reserves for Maintenance and Operation Costs, the payment of which is not then immediately required) as they become due and payable. Thereafter, all Net Water System Revenues in the Water Revenue Fund will be set aside by the City at the following times for the transfer to the following respective special funds in the following order of priority:

Bond Payment Fund. On or before each Installment Payment Date until the 2021 Bonds have been paid or provision for their payment has been made as provided in the Indenture, the City will, from the moneys in the Water Revenue Fund, transfer to the Trustee for deposit in the Bond Payment Fund the Installment Payment due and payable on that Installment Payment Date. Such deposit to the Bond Payment Fund will be reduced to the extent amounts on deposit therein are available for application to the Installment Payment due and payable on such Installment Payment Date.

The City will also, from the moneys in the Water Revenue Fund, transfer to the trustee for deposit in the respective payment fund, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference, to pay any other debt service in accordance with the provisions of any Bond or Contract.

Reserve Fund. On or before each Installment Payment Date until the 2021 Bonds have been paid, or provision for their payment has been made as provided in the Indenture, the City will, from the remaining moneys in the Water Revenue Fund, without preference or priority, and in the event of any insufficiency of such moneys ratably without any discrimination or preference, transfer to the Trustee or other fiduciary for deposit in any reserve fund and/or account as may have been established in connection with Bonds or Contracts, other than the Installment Purchase Agreement, that sum, if any, necessary to restore such reserve funds or accounts to an amount equal to the amount required to be maintained therein.



Surplus. Moneys on deposit in the Water Revenue Fund not necessary to make any of the payments required above, may be expended by the City at any time for any purpose permitted by law.

9. Describe what document(s) will be the starting point for the WIFIA loan agreement:

- ☐ Standard WIFIA loan agreement.
- ☒ Existing Master Indenture or Bond Ordinance. Included as an attachment is the Existing Master Indenture or Bond Ordinance.
- ☐ Customized loan agreement for the project(s) and applicant.
- ☐ Other.

Additional notes for loan agreement:



Section D: Federal Requirements Compliance

1. Describe the status of the environmental review in accordance with the National Environmental Policy Act (NEPA). If applicable, submit the [Programmatic Environmental Assessment \(PEA\) Questionnaire form](#), Environmental Assessment (draft or final), or Environmental Impact Statement (draft or final),

To date, no environmental review in accordance with the National Environmental Policy Act (NEPA) has occurred, however California Environmental Quality Act (CEQA) review has occurred, as described in the following. Additionally, a PEA Questionnaire form has been filled out and is provided as an attachment.

The CEQA process for the City of Oxnard's Groundwater Recharge Enhancement and Treatment (GREAT) treatment facilities was completed in 2004. The GREAT Program Environmental Impact Report (PEIR) included the required public notice and engagement regarding the various aspects of the GREAT program, including potable reuse.

An addendum to that EIR was completed in January of 2015 to address the ASR well and monitoring wells. The addendum concluded that there are no possible significant adverse environmental effects associated with the approval of a change in the project description that designates a new location of one of the ASR injection demonstration well and three monitoring wells (shown in Attachment E.1) proposed for Phase II of the GREAT Program.

In a letter dated January 21, 2016, the Governor's Office of Planning and Research State Clearinghouse and Planning Unit issued a letter of compliance to Oxnard for the ASR project, stating "that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act" (State of California, 2016).

The GREAT Program environmental documents and the PEA questionnaire form are included as attachments:

- Attachment D.1a_GREAT Program - Draft EIR - Volume 1_2004
- Attachment D.1b_GREAT Program - Draft EIR Technical Reports - Volume 2_2004
- Attachment D.1c_GREAT Program - Final EIR_May 2004
- Attachment D.1d_Addendum to Final GREAT Program EIR_Pilot Well_2015
- Attachment D.1e_Approval of DRAFT ASR CEQA_2016
- Attachment D.1f_PEA Questionnaire_OxnardASR_Project
- Attachment D.1f_PEA_Attachment 1-Project Location Map

2. Describe the status of the SRF environmental review, if applicable. Submit the available SRF Findings and/or SRF consultation documentation.

Not Applicable



-
3. If the environmental review for the project is underway or complete, complete the following table to identify the anticipated impacts and mitigations. Mark a “X” in the appropriate column to identify the impacts anticipated for each resource type and, if applicable, provide a short explanation of the mitigations.

The Draft PEIR indicates that with the exception of the small but finite safety risk associated with project elements located in the tsunami hazard zone (a safety risk which is present with or without implementation of the GREAT Program), no long-term significant impacts will result from Phase 1 of the proposed project with implementation of proposed mitigation measures. (Phase 1 generally captures facilities proposed with this application.)

Mitigation measures are detailed in Table ES-1 and Section 4 of the GREAT Program Draft PEIR, and summarized in the Mitigation Monitoring and Reporting Plan (Appendix A of the Final PEIR). The following tables includes brief summaries of mitigation measures outlined in the PEIR.



Resource Type	Anticipated Impacts			Mitigations
	No Impact	Less Than Significant Impact	Potentially Significant Impact	
Water	☐	☒	☐	The project will incorporate specific project design features and project construction measures, and generally address requirements in compliance with applicable federal, state, and local regulations and standards (ie Clean Water Water Act, Regional Water Quality Control Board requirements, etc.)
Biological	☐	☒	☐	Best Management Practices (BMPs) will be implemented to reduce potential for erosion. Preconstruction surveys for sensitive plants will be conducted and mitigation will be developed if needed (relocation of affected plants/seed collection and replanting/topsoil collection and replacement post construction). Preconstruction survey will also be conducted for burrowing owls and nesting raptors by a qualified biologist. Nesting status will dictate necessary mitigation and/or construction schedule modifications.
Cultural	☐	☒	☐	Cultural sites will be avoided and protected from inadvertent impacts associated with construction. City's qualified archaeologist will implement a monitoring and recovery program in any area identified as having the potential to contain unique archaeological resources. City's archaeologist will monitor construction and excavation activities to verify compliance. City will consult with Native Americans for review. City will relocate unavoidable structure(s).



Land Use	☒	☐	☐	Based on currently selected project locations and components, no land use impacts, such as conflicts with existing plans or conversions of existing uses.
Air Quality	☐	☒	☐	Mitigation measures will focus on BMPs to address potential temporary impacts from construction.
Noise	☐	☒	☐	Mitigation measures will focus on BMPs to address potential temporary impacts from construction.
Geology and Soils	☐	☒	☐	Soil erosion during construction would be reduced to acceptable levels by implementing standard erosion control measures. An unavoidable significant impact is posed due to select facilities being located within a tsunami hazard zone.
Traffic and Transportation	☐	☒	☐	A traffic management plan will be prepared to address temporary traffic impacts.
Public Services and Utilities	☐	☒	☐	Potential temporary impacts may occur during construction which would be addressed by standard construction practices and requirements.
Hazardous Materials and Wastes	☐	☒	☐	Potential impacts related to hazardous materials and waste will be addressed by incorporating design features and construction measures in compliance with applicable federal, state, and local regulations and standards.
Visual Resources/Aesthetics	☐	☒	☐	Potential impacts to visual resources will be addressed by design and construction measures to minimize impacts and maintain existing conditions.
Socioeconomic/Environmental Justice	☒	☐	☐	No socioeconomic or environmental justice impacts are anticipated



4. Identify any agencies with which cross-cutter consultations have been undertaken for the project and include supporting documentation as attachments. (Check all that apply)

- ☐ State Historic Preservation Officer – To be consulted.
- ☐ Fish and Wildlife Service – To be consulted.
- ☐ National Marine and Fisheries Service – To be consulted.
- ☐ Coastal Zone Management Agency - California Coastal Commission to be coordinated with during design for any portion of the project that is located within the coastal zone, to obtain a Coastal Development Permit. A Federal Consistency Review will be performed during design.
- ☐ Other (Click or tap here to enter text.)

5. Describe the status of any additional permits and approvals that the project(s) may require. Add additional rows as needed. If providing permit information as attachments, list the filenames below.

The City currently operates an Advanced Water Purification Facility (AWPF) under its GREAT Program, to produce non-potable water for reuse. The GREAT Program operates under a separate WRR and WDR Order No. R4-2008-99-0083 (WW-17), as amended by Order No. R4-2011-0079 and R4-2008-0083-A01. The Monitoring and Reporting Program of the revised GREAT permit will specify the monitoring program for the ASR project.

An AWPF Indirect Potable Reuse Engineer's Report (Engineer's Report) was submitted to the State Water Resources Control Board Division of Drinking Water (SBDDW) for review in 2016 and updated based on comments received in 2017 (included as Attachment E.2a/b with this application). The Engineer's Report serves as the means for compliance with DDW's groundwater recharge regulations and any other features specified by the Regional Water Quality Control Board (RWQCB), and in total, gain approval for the City to implement an IPR groundwater recharge project. The advanced treated recycled water from the AWPF facility will need to satisfy the discharge limits included in the revised GREAT permit prior to injection.

Implementation of the ASR Project will require the City to obtain customary approval, permits, licenses, certifications, or other entitlements from various federal, state, and local agencies. We do not foresee any issues that may adversely affect obtaining permits or approvals for the project and result in schedule delays. A majority of the permits and approvals will be the responsibility of the design and construction (or DB) teams, as is common for this project delivery method, to obtain prior to beginning construction. Therefore, the majority of permit applications are anticipated to start after the authorization of contracts, based on the schedule included in Section E.

The following table summarizes permits and approvals anticipated to be required and obtained for implementation of the project, however additional or modified permitting requirements may be identified during design activities.



Major Permits or Approvals Required	Approving Authority	Status	Expected Approval Date
CWA Section 404 Permit	U.S. Army Corp of Engineers	Need TBD during design.	TBD
CWA Section 401 Certification	Regional Water Quality Control Board Los Angeles Region (LA RWQCB)	To be obtained prior to distribution of new potable water supplies.	TBD
Coastal Development Permit and Federal Consistency Review	California Coastal Commission	Need TBD during design/construction	TBD
Endangered Species Act Section 7 Consultation	U.S. Fish and Wildlife Service, National Marine Fisheries Service	Need TBD during design.	TBD
Section 106 of the National Historic Preservation Act	California State Historic Preservation Officer	To be evaluated during design.	TBD
Domestic Water Permit Amendment	State Water Resources Control Board Division of Drinking Water (SBDDW)	To be obtained prior to distribution of new potable water supplies.	12/31/2025
Title 22 Engineering Report Approval	SBDDW	Draft and Final Submitted on 2016 and 2017	TBD
Groundwater Replenishment Reuse Project (GRRP) Approval	State Water Resources Control Board (SWRCB)	Coordinated with as part of Engineer's Report	TBD
Updates to NPDES, WDR (as needed)	LA RWQCB	Coordinated with as part of Engineer's Report	TBD
NPDES Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities	LA RWQCB	To be obtained prior to construction	2024-2025
Encroachment Permit	California Department of Transportation, District 7	To be obtained prior to construction	TBD
Construction Permit, Trenching and Excavation Permit, and Tunneling Permit (if needed)	California Division of Occupational Safety and Health	To be obtained prior to construction	2024-2025
Encroachment Permit	County of Ventura Public Works	To be obtained prior to construction	2024-2025
Utility Crossing Approval	County of Ventura Public Works	To be obtained prior to construction	2024-2025



Major Permits or Approvals Required	Approving Authority	Status	Expected Approval Date
Well Permit	County of Ventura Public Works	To be obtained prior to construction	2025
Well Permit	Fox Canyon Groundwater Management Agency	To be obtained prior to construction	2025

6. If applicable, specify if a new or relocated discharge, either permanent or temporary, to surface or groundwater is expected or new or relocated water intakes are expected.

The LA RWQCB regulates groundwater recharge projects under numerous state laws and regulations, including the Water Quality Control Plan, Los Angeles Region (hereinafter, the Basin Plan) and SWRCB policies. The ASR Project involves injection of advanced treated water into the local groundwater basin at a new location and will require a reissuance of the GREAT Program's WDR/WRR, including the Monitoring and Reporting Program No. 9456. A Report of Waste Discharge (ROWD) is required to initiate the permit application process. In addition, the ASR Project will need to demonstrate the ability to meet Basin Plan requirements, which include groundwater objectives for minerals and drinking water Maximum Contaminant Levels (MCLs) and application of the state's Anti-degradation Policy.

7. Additional forms will need to be completed and submitted prior to closing the WIFIA loan. Check all that are included with the application:

- ☒ Certification regarding lobbying:
[Attachment D.7a_EPA Form 6600-06 Certification regarding Lobbying](#)
- ☒ Disclosure of Lobbying Activities:
[Attachment D.7b_SF-LLL Disclosure of lobbyist activities](#)
- ☒ Civil Rights Pre-Award Compliance Review Report:
[Attachment D.7c_EPA Form 4700-4 Civil Rights Compliance](#)

8. If the project(s) include acquisition of real property, identify how the project complies or will comply with [Uniform Relocation Assistance and Real Property Acquisition Policies Act](#) (Uniform Act).

[This project does not include acquisition of real property.](#)

Section E: Contract Information

Complete the "Section E: Supplemental Spreadsheet." Instructions for each column are available on the first tab labeled "Instructions – Section E". Provide answers for each project in the application using separate rows designated, "Contract 1, Contract 2, etc."



CERTIFICATIONS

1. *National Environmental Policy Act:* The applicant acknowledges that any project receiving credit assistance under this program must comply with all provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
2. *American Iron and Steel:* The applicant acknowledges that any project receiving credit assistance under this program for the construction, alteration, maintenance, or repair of a project may only use iron and steel products produced in the United States and must comply with all applicable guidance.
3. *Prevailing Wages:* The applicant acknowledges that all laborers and mechanics employed by contractors or subcontractors on projects receiving credit assistance under this program shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor, in accordance with sections 3141-3144, 3146, and 3147 of Title 40 (Davis-Bacon wage rules).
4. *Credit Ratings:* This applicant has received a preliminary rating opinion letter(s) on the project's senior debt instrument, from one or more rating agencies. These letters or ratings are attached.
5. *Credit Processing Fees:* The undersigned certifies that it will reimburse EPA for its costs incurred in negotiating the credit agreement, irrespective of whether the credit agreement is executed.
6. *Lobbying:* Section 1352 of Title 31, United States Code provides that none of the funds appropriated by any Act of Congress may be expended by a recipient of a contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, or an employee of a Member of Congress in connection with the award or making of a Federal contract, grant, loan, or cooperative agreement or the modification thereof. EPA interprets this provision to include the use of appropriated funds to influence or attempt to influence the selection for assistance under the WIFIA program.

WIFIA applicants must file a declaration: (a) with the submission of an application for WIFIA credit assistance; (b) upon receipt of WIFIA credit assistance (unless the information contained in the declaration accompanying the WIFIA application has not materially changed); and (c) at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any declaration previously filed in connection with the WIFIA credit assistance.

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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 any 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 Federal appropriated funds have been paid or will be paid 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 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.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. 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.
7. *Debarment:* The undersigned further certifies that it is not currently: 1) debarred or suspended from participating in any Federal programs; 2) formally proposed for debarment, with a final determination still pending; or 3) indicted, convicted, or had a civil judgment rendered against it for any of the offenses listed in the Regulations Governing Debarment and Suspension (Governmentwide Nonprocurement Debarment and Suspension Regulations: 2 C.F.R. Part 180 and Part 1532).
8. *Default/Delinquency:* The undersigned further certifies that neither it nor any of its subsidiaries or affiliates are currently in default or delinquent on any debt or loans provided or guaranteed by the Federal Government.
9. *Other Federal Requirements:* The applicant acknowledges that it must comply with all other federal statutes and regulations, as applicable. A non-exhaustive list of federal cross-cutting statutes and regulations can be found at : <https://www.epa.gov/wifia/wifia-resources#complianceanchor>.
10. *Signature:* By submitting this application, the undersigned certifies that the facts stated and the certifications and representations made in this application are true, to the best of the applicant's knowledge and belief after due inquiry, and that the applicant has not omitted any material facts. The undersigned is an authorized representative of the applicant.

Name: Alexander Nguyen
Title: City Manager
Organization: City of Oxnard
Street Address: 300 West 3rd Street
City/State/Zip: Oxnard, CA
Phone: 805-385-8017
E-mail: alexander.nguyen@oxnard.org

Signature: _____

Date Signed: _____



KEY DEFINITIONS

- (a) *Administrator* means the Administrator of EPA.
- (b) *Community water system* has the meaning given the term in section 1401 of the Safe Drinking Water Act (42 U.S.C. 300f).
- (c) *Credit assistance* means a secured loan or loan guarantee under WIFIA.
- (d) *Credit agreement* means a contractual agreement between EPA and the project sponsor (and the lender, if applicable) that formalizes the terms and conditions established in the term sheet (or conditional term sheet) and authorizes the execution of a secured loan or loan guarantee.
- (e) *Eligible project costs* mean amounts, substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of:
 - (1) Development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;
 - (2) Construction, reconstruction, rehabilitation, and replacement activities;
 - (3) The acquisition of real property or an interest in real property (including water rights, land relating to the project, and improvements to land), environmental mitigation (including acquisitions pursuant to section 33 U.S.C. §3905(7)), construction contingencies, and acquisition of equipment; and
 - (4) Capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.
- (f) *Investment-grade rating* means a rating category of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a nationally recognized statistical rating organization (NRSRO) to project obligations offered into the capital markets.
- (g) *Iron and steel products* means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.
- (h) *Nationally Recognized Statistical Rating Organization (NRSRO)* means a credit rating agency identified and registered by the Office of Credit Ratings in the Securities and Exchange Commission.
- (i) *Project* means:
 - (1) Any project for flood damage reduction, hurricane and storm damage reduction, environmental restoration, coastal or inland harbor navigation improvement, or inland and intracoastal waterways navigation improvement that the Secretary determines is technically sound, economically justified, and environmentally acceptable, including—



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- (A) a project to reduce flood damage;
 - (B) a project to restore aquatic ecosystems;
 - (C) a project to improve the inland and intracoastal waterways navigation system of the United States; and
 - (D) a project to improve navigation of a coastal or inland harbor of the United States, including channel deepening and construction of associated general navigation features.
- (2) 1 or more activities that are eligible for assistance [under section 1383\(c\) of this title](#), notwithstanding the public ownership requirement under paragraph (1) of that subsection.
 - (3) 1 or more activities described in section [300j-12\(a\)\(2\) of title 42](#).
 - (4) A project for enhanced energy efficiency in the operation of a public water system or a publicly owned treatment works.
 - (5) A project for repair, rehabilitation, or replacement of a treatment works, community water system, or aging water distribution or waste collection facility (including a facility that serves a population or community of an Indian reservation).
 - (6) A brackish or sea water desalination project, including chloride control, a managed aquifer recharge project, a water recycling project, or a project to provide alternative water supplies to reduce aquifer depletion.
 - (7) A project to prevent, reduce, or mitigate the effects of drought, including projects that enhance the resilience of drought-stricken watersheds.
 - (8) Acquisition of real property or an interest in real property—
 - (A) if the acquisition is integral to a project described in paragraphs (1) through (6); or
 - (B) pursuant to an existing plan that, in the judgment of the Administrator or the Secretary, as applicable, would mitigate the environmental impacts of water resources infrastructure projects otherwise eligible for assistance under this section.
 - (9) A combination of projects, each of which is eligible under paragraph (2) or (3), for which a State infrastructure financing authority submits to the Administrator a single application.
 - (10) A combination of projects secured by a common security pledge, each of which is eligible under paragraph (1), (2), (3), (4), (5), (6), (7), or (8), for which an eligible entity, or a combination of eligible entities, submits a single application.
- (j) *Public entity* means:
- (1) a Federal, State, or local Governmental entity, agency, or instrumentality; or
 - (2) a Tribal Government or consortium of Tribal Governments.
- (k) *Publicly sponsored* means the obligor can demonstrate, to the satisfaction of the Administrator that it has consulted with the affected State, local or Tribal Government in which the project is located, or is otherwise affected by the project, and that such government supports the proposed project. Support can be shown by a certified letter signed by the approving municipal department or similar agency, mayor or other similar designated authority, local ordinance, or any other means by which local government approval can be evidenced.



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- (l) *Small Community* means a community with a population of no more than 25,000 individuals.
- (m) *State* means any one of the fifty states, the District of Columbia, Puerto Rico, or any other territory or possession of the United States.
- (n) *State infrastructure financing authority* means the State entity established or designated by the Governor of a State to receive a capitalization grant provided by, or otherwise carry out the requirements of, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et. seq.) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12).
- (o) *Term sheet* means a contractual agreement between EPA and the project sponsor (and the lender, if applicable) that sets forth the key business terms and conditions of a Federal credit instrument. Execution of this document represents a legal obligation of budget authority.
- (p) *Treatment works* has the meaning given the term in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292).
- (q) *WIFIA* means the Water Infrastructure Finance and Innovation Act of 2014, Pub. L. 113-121, 128 Stat, 1332, codified at 33 U.S.C. §§ 3901-3914.

WATER INFRASTRUCTURE FINANCE AND INNOVATION ACT (WIFIA) APPLICATION UPDATE

City Council
September 7, 2021

Tatiana Arnaout, City Engineer

That the City Council approve and authorize the Mayor to adopt a resolution, and repeal Resolution 15,429, authorizing the City Manager to submit an application for an amount not to exceed \$49,792,000 from the Water Infrastructure Finance and Innovation Act Loan program administered by the U.S. Environmental Protection Agency; designating the amount of project expenditures to be reimbursed by proceeds from the Water Infrastructure Finance and Innovation Act loan; and dedicating and pledging revenues and funds for the repayment of the Water Infrastructure Finance and Innovation Act loan from the U.S. Environmental Protection Agency.

- The Water Infrastructure Finance and Innovation Act of 2014 (WIFIA) established a federal credit program administered by the U.S. Environmental Protection Agency (EPA)
 - WIFIA focus is on water and wastewater infrastructure investment
 - Provides for direct low interest loans by the U.S. EPA
 - Loans are customized as to terms and offers extended maturities
 - Designed to compliment existing funding sources
 - Loans must be cofinanced with other sources of funding

- October 12, 2020: Letter of interest submitted for the Aquifer Storage and Recovery (ASR) Completion Project
- March 2, 2021: City Council adopted Resolution 15,429 to submit a loan application in the amount of \$27,600,000
- Loan is limited to 49% of the total estimated project cost
 - Original estimated project cost was \$56,330,000
 - Updated estimated project cost is \$97,631,000

- The original loan amount (\$27M) included enhancements to the City's recycled water system at the Advanced Water Purification Facility (AWPF), expansion of ASR by constructing the remaining five full-scale wells, and distribution of treated water in order to augment potable water supplies for long-term water supply reliability.

- Two (2) major additional items that are now being considered for the application which include:
 - Increasing capacity from the current 6.25 million gallons per day (mgd) to 12.5 mgd at the AWPf and
 - Mechanical and electrical upgrades to blending stations 1, 3 & 6
 - These upgrades to the blending stations include piping modifications and variable frequency drive pump replacements

- This action updates the loan application amount from \$27,600,000 to \$49,792,000
- There is no financial impact to the City's General Fund
- Initial cost is for the application process only
 - WIFIA loan application fee is \$100,000 and will be funded with Water Operations Funds
 - Application fee will be credited to the credit processing fee, which ranges from \$100,000 to \$300,000
 - Fee reimburses U.S. EPA for its financial, technical, and legal advisory costs and is due upon execution of the loan



QUESTIONS