

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
Information/Consent Item L.6 – Added

AGENDA
OXNARD CITY COUNCIL
OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY
OXNARD FINANCING AUTHORITY
OXNARD HOUSING AUTHORITY

Meeting Location: Council Chambers, 305 West Third Street

September 17, 2024

Closed Session - 4:30 PM

Appointment Items - 5:00 PM

Regular Meeting - 7:00 PM

Zoom details to call-in for public comment during a meeting:

1. Dial Phone Number: (888) 475-4499
2. Enter Meeting ID: 823 0727 3007
3. Passcode: 189227

If you wish to speak during public comments or a particular item on the agenda, please sign-on by following the zoom call-in steps listed above. Once the presiding officer calls for public speakers, press *9 to raise your hand to inform the City Clerk you would like to speak during the public speaking section for that particular item on the agenda, while in the zoom waiting room. Press *6 when asked to unmute. Listen to the instructions provided virtually on the phone while on hold in the zoom waiting room. Please note that there is a slight time delay when viewing the meeting via television.

IN ACCORDANCE WITH ASSEMBLY BILL 2449, MEMBERS OF THE LEGISLATIVE BODY MAY MEET IN-PERSON OR REMOTELY. TO PARTICIPATE REMOTELY VISIT WWW.OXNARD.ORG.

To find out how you may provide public comment, please refer to the instructions below or at [www.https://www.oxnard.org/city-meetings/](https://www.oxnard.org/city-meetings/).

The public may view the meeting from home on Spectrum channel 10, Frontier channel 35, or YouTube at [Youtube.com/oxnardnews](https://www.youtube.com/oxnardnews). Video recordings of the meeting are typically available online following the meeting at the City's website at www.oxnard.org/city-meetings.

*Please see the link for the Measure M pre-recorded presentation video for each item listed on this agenda.

YOU MAY PARTICIPATE IN THE MEETING IN THE FOLLOWING WAYS:

1. ATTEND THE MEETING AT THE LOCATION LISTED ABOVE: Submit a speaker card to the City Clerk.
2. EMAIL COMMENTS OR SIGN UP TO SPEAK REMOTELY BEFORE THE MEETING
 - a. Submit a request to speak remotely by 3 p.m. on the day of the meeting by using the form available at www.oxnard.org/citymeetings.
 - b. Submit an email to cityclerk@oxnard.org by 3 p.m. on the day of the meeting (indicate the agenda item number in the subject line). All email correspondence will be forwarded to the legislative body prior to the start of the meeting and made part of the legislative record.

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 include: (Minutes for Presentation + Council Discussion + Public Comment)

- c. Contact the City Clerk's Office at (805) 385-7803 to submit your request.

3. PROVIDE PUBLIC COMMENT REMOTELY DURING THE MEETING

- a. Follow Zoom details listed above.
- b. Public comments on agenda items will be taken following the announcement of the item. After the item is announced, members of the public may register or otherwise be recognized for the purpose of providing public comment.

Please review the Zoom instructions on the registration page to help ensure there are no technical difficulties during your comments and help you understand public comment procedures using Zoom. Detailed participation instructions can be found at www.oxnard.org/city-meetings.

In the event of a disruption which prevents a legislative body of the City of Oxnard from broadcasting a meeting using a call-in option or internet-based service option, or in the event of a disruption within the City's control which prevents members of the public from offering public comment using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on a meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. However, if any of the broadcast options are disrupted, but any of the other broadcast options is still available to the public, the legislative body may take further action on items appearing on a meeting agenda without waiting for the disrupted broadcast option(s) to be restored.

A. ROLL CALL, POSTING OF AGENDA

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council.

CONSIDERATION OF TELECONFERENCE PARTICIPATION PURSUANT TO ASSEMBLY BILL 2449.

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 (4:30 PM)

1. CONFERENCE WITH LEGAL COUNSEL — EXISTING LITIGATION (Government Code Section 54956.9(d)(1))
Name of case: *Molina v. Nguyen, et al.*
Court of Appeal, Second Appellate District, Division Six Case No. B327286 (Superior Court Case No. 56-2020-00541689-CU-PT-VTA)
Legislative Body: City Council
2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Government Code section 54956.9(d)(2))
Based on existing facts and circumstances, there is significant exposure to litigation against the City in two potential cases.
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

D. APPOINTMENT ITEMS (5:00 PM)

1. Public Works Department

SUBJECT: Water Workshop. (120 minutes)

RECOMMENDATION: That the City Council hold a Water Workshop.

(Public Works and Transportation Committee approved 3-0 on July 23, 2024.)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/LI7cQ5OeRYk>

Live presentations to be provided by local water agencies.

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

E. OPENING CEREMONIES (7:00 PM)

Pledge of allegiance to the flag of the United States.

F. CEREMONIAL ITEMS

1. SUBJECT: Presentation of a Proclamation Designating the Week of September 17 - 23, 2024 as "Constitution Week."
2. SUBJECT: Presentation of a Commendation to the El Rio Fastpitch 12u Gold Allstar Team for Winning the USA Softball State and National Championship.
3. SUBJECT: Presentation of a Commendation to The Arc of Ventura County on the Occasion of Their 70th Anniversary.

G. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

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. After 30 minutes, if all speakers have not 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.

H. 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.

I. 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.

J. 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.

K. 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.

L. INFORMATION/CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the City Council approve the minutes of the July 16, 2024 and July 30, 2024, regular meetings as presented.

Legislative Body: City Council

Contact: Rose Chaparro, (805) 385-7805

2. Public Works Department

SUBJECT: First Amendment for Agreement 32400250 with NBS Government Finance Group for Special District Administrative, Professional, and Technical Services.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute the First Amendment to an Agreement with NBS Government Finance Group in the amount of \$387,718 for a new not to exceed contract amount of \$1,462,952 for ongoing administrative, professional, and technical services for the Special Districts Division.

(This item did not originate in committee because it is a continuation of an item previously approved by the City Council.)

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

3. Police Department

SUBJECT: Southern California High Tech Task Force (SCHTTF) Agreement # 32500147 to provide professional services to the Police Department.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a two-year service agreement (agreement #32500147) with the County of Ventura and the Ventura County Sheriff's Office for services with the Southern California High Technology Task Force (SCHTTF) in an amount not to exceed \$250,000.

Legislative Body: City Council

Contact: Jason Benites, (805) 385-7624

4. City Manager Department

SUBJECT: Readopt a Resolution to Accept a State Grant for \$500,000 to Fund Special Districts Division Water Quality Remediation Projects in the Channel Islands Harbor.

RECOMMENDATION: That the City Council:

1. Readopt a Resolution of the City Council of the City of Oxnard Authorizing the City of Oxnard to enter into an Agreement (4600015993) with the State of California Department of Water Resources to receive funds for the Channel Islands Water Quality Remediation Projects and Authorizing the City Manager to Execute the Agreement on behalf of the City;

2. Accept a grant from the California State Department of Water Resources (DWR) in the amount of \$500,000 for the Channel Islands Harbor water quality remediation; and

3. Reauthorize the City Manager to execute the grant agreement and the Finance Director or designee to submit the financial reports, grant claims, and approve the budget appropriations for the use of the grant funds; and the Director of Public Works or designee to submit the non-financial reports.

Legislative Body: City Council

Contact: Alexander Nguyen, (805) 385-7430

5. Housing Department

SUBJECT: Amendment and Extension of the Agreement with the County of Ventura and local hotel operators in support of the Encampment Resolution Funding Program.

RECOMMENDATION: That the City Council:

1. Approve and authorize the Mayor to execute a First Amendment to Agreement No. 32400434 with the County of Ventura for partnership in delivery of encampment response outreach and case management services via the Ventura County Health Care Agency in the amount of \$145,000 for a total agreement amount not to exceed \$1,308,614.34, and to extend the term of the agreement to April 30, 2025;
2. Authorize the City Manager, or designee, to negotiate and execute agreements with local hotel operators through February 28, 2025 to offer non-congregate shelter.

(This item did not originate in Committee because it is a continuation of an item previously approved by City Council.)

Legislative Body: City Council

Contact: Emilio Ramirez, (805) 385-8094

6. Finance Department

SUBJECT: City's Monthly Investment Report for the period ending July 31, 2024.

RECOMMENDATION: This is an information item for the City Council to receive and file.

This item did not originate in Committee.

Legislative Body: City Council

Contact: Javier Chagoyen-Lazaro, (805) 200-5400

M. PUBLIC HEARINGS

1. Community Development Department

SUBJECT: Request for a Zone Change to adopt the proposed Affordable Housing Discretionary (AHD) Additive Zone for the project site; and Appeal of Planning and Zoning Permit No. 22-500-04 (Special Use Permit); Property Located at 2151 Lockwood Street, APN 213-0-090-275; Project Name: Lockwood III Apartments. (60 minutes).

RECOMMENDATION: That the City Council conduct a public hearing and:

1. Adopt a Resolution adopting Final Initial Study/Mitigated Negative Declaration (Final IS/MND) No. 24-01 for the 2151 Lockwood Street; Lockwood III Apartments Project (Governor's Office of Planning and Research State Clearinghouse No. 2024030528);
2. Introduce an Ordinance (by title only, waiving further reading) approving Planning and Zoning Permit No. 22-570-01 (Zone Change), subject to certain findings and conditions; and
3. Adopt a Resolution denying the appeal and upholding the Planning Commission's decision to grant Planning and Zoning Permit No. 22-500-04 (Special Use Permit) and Planning and

Zoning Permit No. 22-535-03 (Density Bonus), subject to certain findings and conditions.

(This is a Public Hearing and was reviewed by the Planning Commission, therefore 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/vAjct7XkbWc>

Legislative Body: City Council

Contact: Jeff Pengilley, (805) 385-8208

N. REPORTS

1. Finance Department

SUBJECT: Fifth Amendment to Tyler Technologies Software as an ERP Service Agreement (A-8767), Extending the Contract for Five-Year Term, Expiring October 31, 2029. (10 minutes)

RECOMMENDATION: That the City Council approve and authorize the City Manager to execute a Fifth Amendment with Tyler Technologies, Inc. for an Enterprise Resource Planning (ERP) Software as a Service (SaaS) Agreement for a First Renewal for a Five-Year Term for an Amount Not to Exceed \$5,800,000 for a New Ten-Year Contract Total of \$11,500,000.

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

video: <https://youtu.be/UJEE4f8u35o>

Legislative Body: City Council

Contact: Javier Chagoyen-Lazaro, (805) 200-5400

O. ADJOURNMENT



CITY COUNCIL AGENDA REPORT

APPOINTMENT ITEMS (5:00 PM) AGENDA ITEM NO. D.1

DATE: September 17, 2024

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: Water Workshop. (120 minutes)

RECOMMENDATION

That the City Council hold a Water Workshop.

(Public Works and Transportation Committee approved 3-0 on July 23, 2024.)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/LI7cQ5OeRYk>

Live presentations to be provided by local water agencies.

BACKGROUND

Drinking water is a complex subject, ranging from very technical operations and testing to legal water rights and adjudication of groundwater basins. Coupled with this is the influence of climate change, with anticipated dryer than normal dry years and wetter than normal wet years. Oxnard, as a retailer of water, is involved in all aspects of the complex water world. Please review the video regarding Oxnard's water operations for additional background:

<https://www.youtube.com/watch?v=bkf7qsuGW0Y&t=315s>

DISCUSSION

There are many aspects related to the procurement, treatment, and distribution of drinking water. This includes working with outside agencies to provide safe and reliable drinking water. There are also State and Federal regulations along with legal aspects related to the supply of water for Oxnard's customers.

Because of the ever-changing world of water, staff recommends the City Council hold a water workshop. The intent of the workshop is to provide updates on the complexities of supply, reliability, and costs of local and imported water.

City staff has invited staff from our local agency partners to present at the workshop and to be available for questions and discussion. Invitations were provided to United Water Conservation District, Fox Canyon Groundwater Management Agency, and Calleguas Municipal Water District.

The recommended topics for the workshop are, but are not limited to, the following:

1. Oxnard's water
 - a. Operational statistics (customers, total volume averages, etc.)
 - b. Sources of potable water - where it comes from/cycle of water
 - i. City Groundwater

- ii. Import from Calleguas (Metropolitan Water District)
 - 1. Delivery to Port Hueneme Water Agency
 - iii. Groundwater from United Water
 - c. Sustainability/Reliability/Rights of Water
 - i. Importance to Oxnard customers
 - ii. Protecting rights/perfection of rights
 - iii. Cost of water by source
 - d. Recycled water (Advanced Water Purification Facility)
 - i. Theoretical capacity now
 - ii. Future theoretical capacity
 - iii. Production average now
 - 1. Customers
 - iv. Recycled Water Pumping Allocation access
 - v. Recycled Water delivery agreement
 - e. Aquifer Storage and Recovery (ASR)
 - i. Project status
 - ii. Next steps
 - iii. Future uses (indirect potable reuse); theoretical volume
 - f. Other Capital Improvement Program (CIP) Projects and Groundwater Recovery Enhancement and Treatment (GREAT) projects
 - i. CIP Projects
 - ii. AWPf expansion (GREAT)
 - iii. ASR well field and indirect potable reuse (GREAT)
 - iv. Seawater intrusion barrier (GREAT)
- 2. Fox Canyon Groundwater Management Agency
 - a. Mission
 - b. Interaction with the City
 - c. Key items
 - i. Sustainable Groundwater Management Act
 - ii. Groundwater Sustainability Plan
 - 1. Groundwater ramp down
 - iii. Storage of water in the basin
 - d. Allocations
 - i. Why do we have them
 - ii. New ordinance regarding flex allocation
- 3. Calleguas Municipal Water District
 - a. Mission
 - b. Interaction with the City
 - c. Key items
 - i. MWD connection
 - ii. Import water/treated water
 - iii. Single connection
- 4. United Water Conservation District
 - a. Mission
 - b. Interaction with the City
 - c. Key items
 - i. Groundwater recharge
 - ii. Groundwater provider
 - iii. Freeman diversion
 - iv. Future CIP projects
- 5. Groundwater basin adjudication
 - a. What is it
 - b. Key items
 - i. Oxnard impact
 - 1. Reliability of water
 - 2. Cost of water - impact to rate payers

3. Impact to future Oxnard Water CIP projects
 - c. Current status
 - d. Next steps

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 fiscal impact with this recommendation.

COMMITTEE OUTCOME

The Public Works and Transportation Committee approved 3-0 on July 23, 2024 to approve the staff recommendation and to forward the item for Council.

Prepared by: Michael Wolfe, Public Works Director

ATTACHMENTS

1. Presentation

Water Workshop

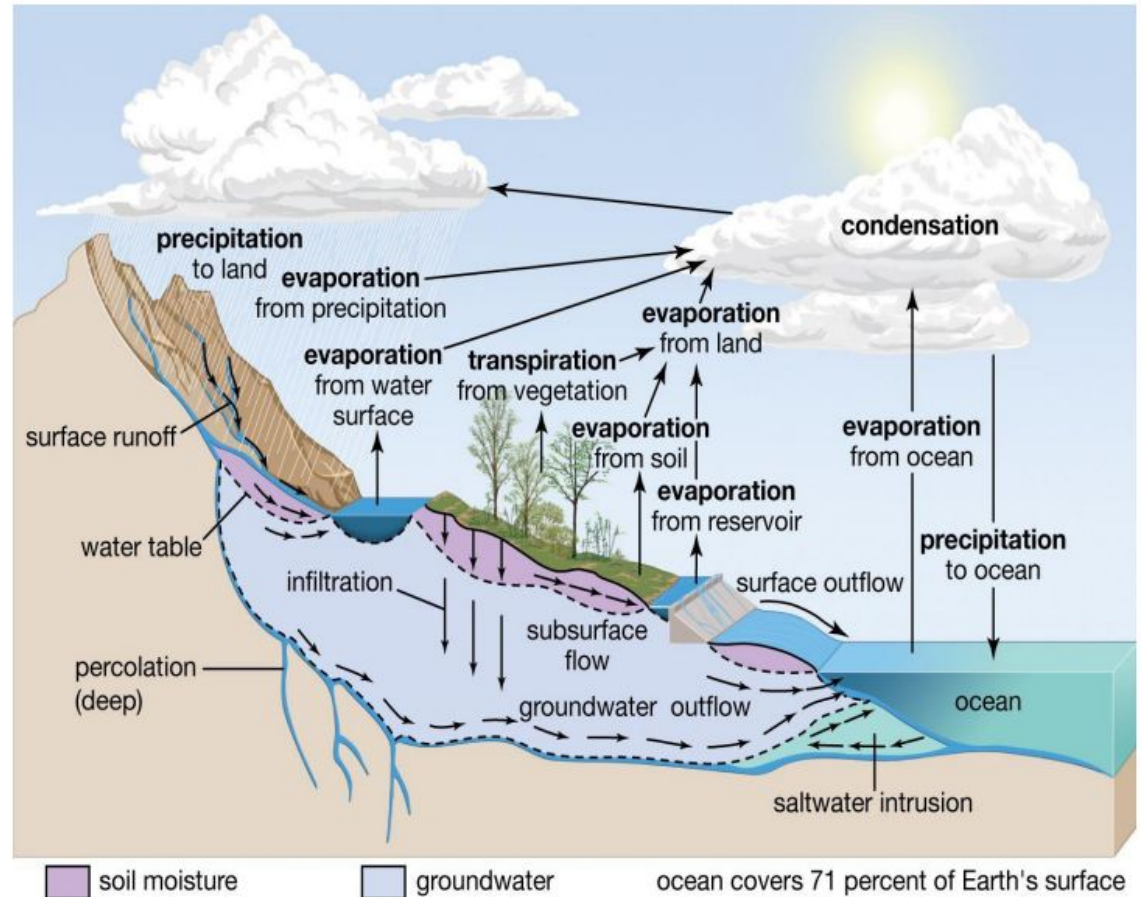
City Council
September 17, 2024

Michael Wolfe, P.E.
Director of Public Works

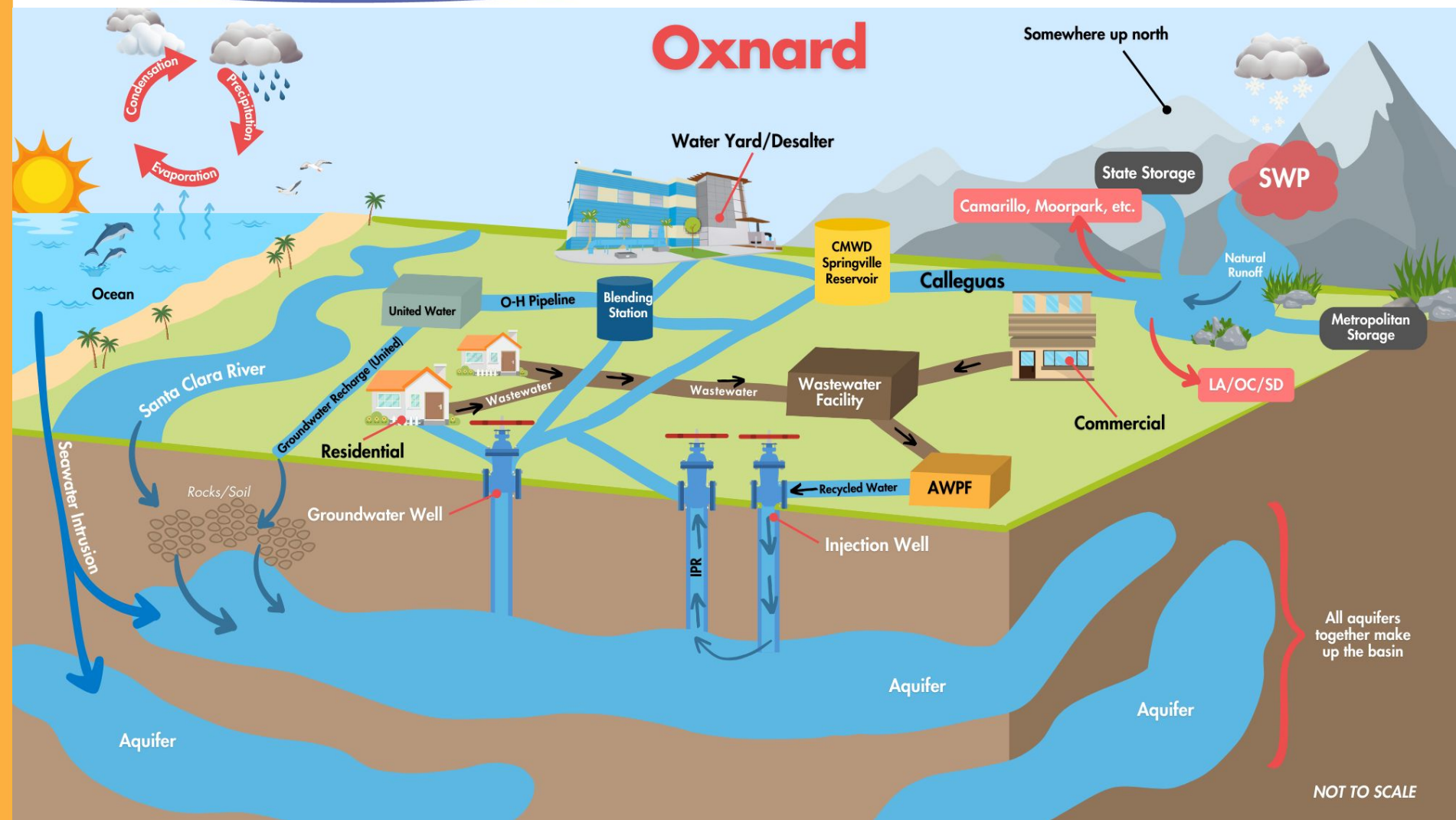
That the City Council hold a Water Workshop

- Complexity of Drinking Water
 - Operations
 - Testing
 - Capital projects
 - Water rights and allocations
 - Groundwater adjudication
- Impact of the climate
 - Availability and how much is needed
 - dry years
 - wet years
- Oxnard's water operations: [Oxnard Water Operations Video](#)

Hydrologic Cycle



*Image from Ventura County PWA Presentation July 2022



- Procurement, Treatment, and Distribution
 - Collaboration with external agencies
 - Changing State and Federal regulations; local governances
- Proposal for Water Workshop
 - Update on supply, reliability, and cost complexities

Proposed Workshop Outline

- I. Overview of Oxnard's Water
 - I. Fox Canyon Groundwater Management Agency
 - I. Calleguas Municipal Water District
 - I. United Water Conservation District
 - I. Groundwater Basin adjudication

There are no fiscal impact with the recommendations.



QUESTIONS?



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

DATE: September 17, 2024
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 July 16, 2024 and July 30, 2024, regular meetings as presented.

BACKGROUND

Approval of Minutes.

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 financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Rose Chaparro, City Clerk

ATTACHMENTS

1. MINUTES 07 16 2024 CC Regular Meeting
2. MINUTES 07 30 2024 CC Regular Meeting

MINUTES
OXNARD CITY COUNCIL
Regular Meeting
July 16, 2024

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, 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, Oscar Madrigal, Bert E. Perello, Gabriel (Gabe) Teran, Arthur Valenzuela, Mayor Pro Tem Bryan A. MacDonald, and Mayor John C. Zaragoza were present.

Councilmember Basua joined the meeting at 5:08 p.m. Councilmember Valenzuela arrived at 5:11 p.m.

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council.

CONSIDERATION OF TELECONFERENCE PARTICIPATION PURSUANT TO ASSEMBLY BILL 2449.

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 two potential cases. Legislative Body: City Council.
2. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION ((Government Code section 54956.9(d)(1)).
Name of case: Consolidated Electrical Distributors Inc. v. JTEC Corporation, et al.
Ventura County Superior Court, Case No. 2023CLBC016758
Legislative Body: City Council
3. PUBLIC EMPLOYEE ANNUAL PERFORMANCE EVALUATION (Government Code section 54957)
Title: City Manager
Legislative Body: City Council
4. PUBLIC EMPLOYEE ANNUAL PERFORMANCE EVALUATION (Government Code section 54957)
Title: City Attorney
Legislative Body: City Council

At 5:02 p.m., the City Council recessed into a closed session. At 6:12 p.m., the City Council

reconvened in an open session in the Council Chambers. Stephen Fischer, City Attorney reported that on Item C.1 of the closed session agenda, 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.

City Attorney Fischer also noted that the Council would be reconvening in closed session following the end of the open session agenda business to conduct the public employee performance evaluation of the City Attorney. At 7:58 p.m., the City Council recessed into a second closed session. At 8:26 p.m., the City Council reconvened in an open session in the Council Chambers. City Attorney Fischer announced that no reportable actions resulted from the second closed session for item C.4. No public comments were received.

D. OPENING CEREMONIES (6:00 PM)

Mayor Zaragoza led the pledge of allegiance.

E. CEREMONIAL ITEMS

1. Presentation of the 2024 Ventura County Fair Poster.

Mayor Zaragoza read the proclamation and presented it to Miriam Mack, Board Member followed with a few words and announced that it is the Ventura County Fair's 150th Anniversary. 1st Place winning poster artwork created by Stephanie Garcia won the 2024 Youth Poster Contest for the Ventura County Fair.

2. Presentation of a Commendation to Climate First: Replacing Oil & Gas (CFROG) on the Occasion of their 10th Anniversary.

Mayor Zaragoza read the proclamation and presented it to Haley Ehlers, Executive Director of Climate First: Replacing Oil & Gas (CFROG), a grassroots nonprofit dedicated to the transition to a fossil fuel free future in Ventura County. Brook Balthaser, Community Organizing Manager; Abrah Cate Steward, Program Manager; and Merrill Berge, Board Chair also joined Council on the dais to accept the proclamation and followed with a few words.

3. Presentation of the Oxnard Housing Authority Education Scholarship Program.

Mayor Zaragoza introduced Emilio Ramirez, Housing Director who shared information about the Oxnard Housing Authority Education Scholarship Program requirements and who is eligible to apply.

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Gabriela Renteria, Jess Ramirez, and Esperanza Andrade (youth

championship soccer team trip fundraiser); Cami Pinsak, Ventura County Coastal Association of Realtors (Quarterly Outreach Program/Housing Market Crisis); Jovanni Flores Santillan, Eiliethya Ruiz, and Alex Flores (Community Park/Recreational Area).

G. REPORT OF CITY MANAGER/EXECUTIVE DIRECTOR/SECRETARY

City Manager Alex Nguyen provided a few community updates. Police Chief Jason Benites provided a brief presentation of fireworks statistics, the dangers of fireworks and injuries, and reminded the residents that fireworks are illegal in the City of Oxnard.

1. Public Works Department

SUBJECT: Continuation of an Emergency Order for Replacement of the City's Data Center Cooling System.

RECOMMENDATION: That the City Council review and approve the continuation of the City Manager's emergency order to dispense with public bidding requirements pursuant to Public Contract Code section 22050 for the replacement of the Data Center Cooling System.

(This item did not originate in Committee because it is a continuation of an item previously approved by the City Council on June 4, 2024.)

Michael Wolfe, Public Works Director was available to answer questions. No public comments were received.

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

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

The members of the Council provided brief announcements regarding their various activities.

I. REVIEW OF INFORMATION/CONSENT AGENDA

Items K-1 through K-8 were reviewed and discussed among the Council and staff. Councilmember Teran recused from voting on Item K-7 due to a professional business contract with the County of Ventura.

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

K. INFORMATION/CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the City Council approve the minutes of the June 27, 2024 regular meeting as presented.

2. Community Development Department

SUBJECT: Planning and Zoning Permit No. 22-300-03 (Final Map for Tentative Subdivision Map No. 6062) for the Santiago Industrial Suites Subdivision.

RECOMMENDATION: That the Oxnard City Council:

1. Accept Final Map No. 6062 (Planning and Zoning Permit No. 22-300-03) for the Santiago Industrial Suites Subdivision;
2. Receive and file a “Notice of Pending Approval” for Subdivision Map No. 6062 (Planning and Zoning Permit No. 22-300-03) by the Community Development Director including signature of “City Council’s Certificate” on the title sheet.

3. Public Works Department

SUBJECT: Third Amendment to Agreement A-8136 with Enterprise Fleet Management.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a Third Amendment to the Agreement with Enterprise Fleet Management, Inc. increasing the current agreement value by \$8,518,000 for a total not to exceed amount of \$15,313,000 and extend the term through April 18, 2026, utilizing the Sourcewell contract 030122-EFM for Fleet Management Services that includes vehicle leasing and maintenance management.

(Public Works and Transportation Committee approved 2-0 on June 25, 2024)

4. Public Works Department

SUBJECT: Public Project Agreement 32400551 with West Star Environmental, Inc. for Oxnard Wastewater Treatment Plant Fuel Management System Replacement Project (Rebid), Specification No. PW 23-13R2.

RECOMMENDATION: That the City Council approve and authorize:

1. A total of \$301,560 in Project funds for the Oxnard Wastewater Treatment Plant Fuel Management System Replacement Project (Rebid), Specification No. PW 23-13R2;
2. The Mayor to execute an Agreement with West Star Environmental, Inc. in the amount of \$251,300 with a Project contingency amount of \$25,130 (10%) with West Star Environmental, Inc. for a total not to exceed value of \$276,430 for the Project;
3. A Project allocation amount of \$25,130 (10%) for engineering, inspection, and project management for the Project;
4. Adding Oxnard Wastewater Treatment Plant Fuel Management System Replacement Project to the City of Oxnard Five Year Capital Improvement Program; and
5. A new Fiscal Year 2024-25 project budget appropriation of \$301,560 from the Wastewater Operating Fund (611) available fund balance as well as the corresponding Wastewater Capital Fund (612) transfer in / appropriation in the same amount.

(Public Works and Transportation Committee approved 2-0 on June 25, 2024.)

5. Police Department
SUBJECT: Response to Grand Jury Report on Ventura County Regional Radio System.
RECOMMENDATION: That the City Council authorize the Mayor to respond, on behalf of the City Council, to the Grand Jury's "Linking First Responders Ventura County Regional Radio System" report dated May 22, 2024.
6. Police Department
SUBJECT: MOU with Ventura County for Regional Radio System.
RECOMMENDATION: That the City Council approve and authorize a Memorandum of Understanding between the City of Oxnard and the County of Ventura for Regional Radio System subscription fees for Fiscal Years 2024/2025, 2025/2026, and 2026/2027 at an annual cost of \$170,302.00.
7. Police Department
SUBJECT: MOU Agreement with Ventura County District Attorney's Office for Internet Crimes Against Children Investigations.
RECOMMENDATION: That the City Council approve and authorize the Mayor to sign a three-year agreement with the Ventura County District Attorney's Office, with a total agreement amount not to exceed \$494,544 for the collaborative partnership between the Police Department and Ventura County District Attorney's Office for the detection, investigation, and prosecution of Internet Crimes Against Children (ICAC) cases.
8. City Attorney Department
SUBJECT: Adoption of **Ordinance No. 3047** Prohibiting City Subsidy of Services Previously Funded by a Special District Under Specific Circumstances.
RECOMMENDATION: That the City Council adopt **Ordinance No. 3047** titled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD ADDING ARTICLE VIII TO CHAPTER 2 OF THE OXNARD CITY CODE TO PROHIBIT THE CITY FROM SUBSIDIZING SERVICES PREVIOUSLY FUNDED BY A COMMUNITY FACILITIES DISTRICT, LANDSCAPE MAINTENANCE DISTRICT OR WATERWAYS ASSESSMENT DISTRICT IF RESIDENTS OF THOSE SPECIAL DISTRICTS VOTE TO TERMINATE OR REDUCE SUCH FUNDING.

Consent Items K.1 – K.6 & K.8

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

Consent Item K.7

It was moved by Councilmember Perello, seconded by Mayor Pro Tem MacDonald, to approve the recommended action as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Valenzuela, and

Zaragoza voted in favor; motion passed 6-0-1. Councilmember Teran recused due to a professional business contract with the County of Ventura.

L. PUBLIC HEARINGS

1. Community Development Department

SUBJECT: Subdivision of a 3.69-acre lot into nine lots to permit the individual sale of the proposed eight buildings on separate lots within a commonly owned parcel, located at 1750 Solar Drive (APN: 213-0-070-055).

RECOMMENDATION: That the City Council:

1. Conduct a public hearing;
2. Find the project to be Categorically Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15332 (In-fill Development); and,
3. Adopt **Resolution No. 15,818** approving Planning and Zoning Permit No. 22-300-02 for a Tentative Subdivision Map (Tentative Tract Map No. 6078), subject to certain findings and conditions.

(This item did not originate in Committee.)

The City Clerk announced the affidavit of publication and stated that no written communications were received.

Councilmembers reported the ex parte communications received on this item.

Joe Pearson II, AICP, Planning and Environmental Services Manager was available to answer questions and stated that there is a correction to the recommendation, the location is west instead of east Rice Avenue.

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

Without objection, the Council approved closing the public testimony portion of the public hearing.

It was moved by Councilmember Valenzuela, seconded by Councilmember Teran, to approve the recommended actions as amended. VOTE: Basua, MacDonald, Madrigal, Perello, Teran, Valenzuela, and Zaragoza voted in favor; motion passed 7-0.

M. REPORTS

1. City Attorney Department

SUBJECT: Introduction of Omnibus City Code Update – **Ordinance No. 3049**.

RECOMMENDATION: That the City Council introduce and waive further reading of **Ordinance No. 3049** titled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING VARIOUS SECTIONS OF THE OXNARD CITY CODE TO REGULATE ELECTION SIGNS, MODIFY SUBDIVISION MAP ACT SIGNATURE REQUIREMENTS, AMEND SHORT TERM RENTAL NOTICE REQUIREMENTS, AND STRENGTHEN RENT STABILIZATION AND JUST CAUSE EVICTION REGULATIONS

Jason Zaragoza, Deputy City Attorney was available to answer questions. No public comments were received.

It was moved by Councilmember Teran, seconded by Councilmember Basua, to approve the recommended action. VOTE: Basua, Madrigal, Perello, Teran, Valenzuela, and Zaragoza voted in favor; motion passed 6-0. Mayor Pro Tem MacDonald was absent during this vote.

2. Fire Department

SUBJECT: Oxnard EMS Corps Project Update and Staff Request.

RECOMMENDATION: That the City Council:

1. Receive a report on the progress of the “Oxnard EMS Corps” Workforce Development Project.
2. Approve and Adopt **Resolution No. 15,819** to Amend Resolution No. 15,800 Authorizing Full-Time Equivalent Positions Pursuant to Chapter 4 of the City Personnel Rules and Regulations to include an Administrative Services Coordinator Limited-Term Position to fill the Grant EMS Corps Educator Role and the reclassification of the Department’s Community Paramedic Position to an EMS Specialist Senior, to perform grant administration activities and EMT program education.
3. Approve and Adopt **Resolution No. 15,820** to **Amend Resolution No. 15,801** Authorizing Classification and Salary Schedules Pursuant to Chapter 4 of the City Personnel Rules and Regulations to add and establish the EMS Specialist Senior classification salary schedule, and,
4. Authorize the City Manager or designee to approve budget appropriations for the use of State grant funding (Fund 210) upon award.

Alexander Hamilton, Fire Chief was available to answer questions. No public comments were received.

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

3. Public Works Department

SUBJECT: Five Year Capital Improvement Program for Fiscal Years 2025-2029.

RECOMMENDATION: That the City Council receive and file the final Capital Improvement Program document, with incorporated changes per City Council direction from the June 4, 2024 City Council meeting

(The Public Works and Transportation Committee recommended the item to be forwarded to

Council for discussion and review. The City Council approved this item, with modification, on June 4, 2024.)

Morgan Kessler, City Engineer was available to answer questions. No public comments were received.

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

4. Public Works Department

SUBJECT: Authorization to Accept a Federal Grant of \$3.8M for the Kamala Neighborhood Water Cast Iron Replacement Capital Improvement Project.

RECOMMENDATION: That the City Council:

1. Accept a federal grant from the U.S. House Transportation and Infrastructure Committee in the amount of \$3,806,152 (with 20% local match) for the Kamala Neighborhood Water Cast Iron Replacement Capital Improvement Project C2228; and
2. Authorize the City Manager to execute grant agreements; the Finance Director or designee to submit financial reports and grant claims and approve budget appropriations for the use of grant funds; and the Director of Public Works or designee to submit non-financial reports.

(This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.)

Timothy Beaman, Assistant Public Works Director was available to answer questions. No public comments were received.

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

5. Human Resources Department

SUBJECT: Resolution Certifying Exception to CalPERS 180 Day Wait Period for Employment of a Retired Annuitant.

RECOMMENDATION: That City Council adopt **Resolution No. 15,821** certifying an exception to the CalPERS 180 day wait period for employment following retirement and appoint Jennie Kelly as Interim Assistant City Attorney.

(This item did not originate in Committee.)

Steve Naveau, Human Resources Director was available to answer questions. No public comments

were received.

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

N. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Zaragoza adjourned the meeting at 8:27 p.m.

ROSE CHAPARRO

City Clerk

JOHN C. ZARAGOZA

Mayor

MINUTES
OXNARD CITY COUNCIL
Regular Meeting
July 30, 2024

A. **ROLL CALL, POSTING OF AGENDA**

At 4:34 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, Oscar Madrigal, Bert E. Perello, Arthur Valenzuela, Mayor Pro Tem Bryan A. MacDonald, and Mayor John C. Zaragoza were present. Councilmember Gabriel (Gabe) Teran was absent.

Councilmember Basua joined the meeting at 4:48 p.m.

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council.

CONSIDERATION OF TELECONFERENCE PARTICIPATION PURSUANT TO ASSEMBLY BILL 2449.

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

C. **CLOSED SESSION (4:30 PM)**

1. CONFERENCE WITH LABOR NEGOTIATORS (Government Code section 54957.6)
Agency designated representative: Bryan MacDonald, Mayor Pro Tem.
Unrepresented employee: City Attorney
Legislative Body: City Council
2. CONFERENCE WITH LABOR NEGOTIATORS (Government Code section 54957.6)
Agency designated representative: Bryan MacDonald, Mayor Pro Tem.
Unrepresented employee: City Manager
Legislative Body: City Council
3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Government Code section 54956.9(d)(2))
Based on existing facts and circumstances, there is significant exposure to litigation against the City in one potential case.
Legislative Body: City Council
4. 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

5. CONFERENCE WITH REAL PROPERTY NEGOTIATORS – (Government Code section 54956.8)
Property: 161 Hueneme Road, Oxnard, CA (APN 222-0-011-305)
Agency Negotiator: Emilio Ramirez, Housing Director
Negotiating Party: Eddie Antoian
Under Negotiation: Price and terms of payment
Legislative Body: City Council
6. CONFERENCE WITH REAL PROPERTY NEGOTIATORS – (Government Code section 54956.8)
Property: 258 West Pleasant Valley Road, Oxnard, CA (APN 222-0-101-070)
Agency Negotiator: Emilio Ramirez, Housing Director
Negotiating Party: Sarah Ortiz
Under Negotiation: Price and terms of payment
Legislative Body: City Council

At 4:37 p.m., the City Council recessed into a closed session. At 5:14 p.m., the City Council reconvened in an open session in the Council Chambers. Stephen Fischer, City Attorney reported that regarding Closed Session Item C.4, the City Council by a vote of 5 to 0 with Councilmember Teran absent and Councilwoman Basua not participating, directed the City Attorney to take the necessary steps for the City of Oxnard to “opt in” and participate in the proposed nationwide settlement agreement to resolve legal claims against Kroger Company related to alleged misconduct related to opioids. Detailed information about the proposed settlement can be found at the website for the settlement: nationalopioidsettlement.com.

Mayor Zaragoza and City Attorney Fischer noted that the Council would reconvene the closed session after the open session business was completed.

At 7:48 p.m., the City Council recessed into a second closed session. At 8:10 p.m., the City Council reconvened in an open session in the Council Chambers. City Attorney Fischer announced that no reportable actions resulted from the second closed session for items C.1, C.2, C.5 and C.6. No public comments were received.

D. APPOINTMENT ITEMS (5:00 PM)

1. Presentation by the Youth Coalition of Oxnard on Cannabis Dispensary & Smoke Shop Advertisement Targeting Oxnard Youth.

The Youth Coalition of Oxnard presented their project to Council regarding the cannabis dispensaries and smoke shops advertisements targeting Oxnard Youth. Members of the coalition present were Miguel Salcido, Catia Tran, Ashley Pineda, David Zavala, Giselle Juarez, Crystal Aguilera, Michael Segawa, and Robert Gomez. Sharai Silva was also acknowledged for her contribution to the project but was not present.

2. Presentation by California State University Channel Islands President Yao on the State of the

University.

Richard Yao, Ph.D., President of the California State University Channel Islands (CSUCI) provided Council presented to Council and provided an update on the university's achievements and activities.

E. OPENING CEREMONIES (6:00 PM)

Mayor Zaragoza led the pledge of allegiance.

F. CEREMONIAL ITEMS

1. Presentation of **Resolution No. 15,822** Commending Barbara Wulf for over Twenty-Seven Years of Outstanding Service to the City of Oxnard.

Mayor Zaragoza read **Resolution No. 15,822** and presented it to Barbara Wulf, who followed with a few words. Omar Castro, Water Division Manager congratulated Ms. Wulf and thanked her for the years of dedicated service to the City of Oxnard.

It was moved by Mayor Zaragoza, seconded by Councilmember Basua, to approve the recommended action. VOTE: Basua, MacDonald, Madrigal, Valenzuela, and Zaragoza voted in favor; motion passed 5-0. Councilmember Perello was absent during this vote. Councilmember Teran was absent at this meeting.

G. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Maria Navarro, Pat Brown (New businesses and affordable housing), Gary Blum, Oxnard Downtown Association (Successful Salsa Festival Grant Program), Arline Carter (homeless concerns), Greg Runyon (Thank you Mayor Zaragoza), Brenda Holmes (Voting Rights), Brian Krinsley (Voting Rights), Kathy Morgan (Voting Rights), Albert Diaz, and Pamela Hellenbrand (Zoning).

H. REPORT OF CITY MANAGER/EXECUTIVE DIRECTOR/SECRETARY

1. Public Works Department

SUBJECT: Ratify the Declaration of Terminating the Emergency Order and Ratify Agreement 32500074 with LDP Associates, Inc. for Replacement of the City's Data Center Cooling System. (10 minutes)

RECOMMENDATION: That the City Council:

1. Ratify the City Manager's declaration of the termination of the emergency order to dispense with public bidding requirements pursuant to Public Contract Code section 22050 for the replacement of the Data Center Cooling System;
2. Ratify an Agreement with LDP Associates, Inc. in the amount of \$274,239 with a Project contingency amount of \$27,424 (10%) with LDP Associates, Inc. for a total not to exceed value

of \$301,663; and

3. Approve a Project allocation amount of \$13,712 (5%) for engineering and project management for the Project.

(This item did not originate in Committee because it is a continuation of an item previously approved by the City Council on June 4, 2024.)

Michael Wolfe, Public Works Director was available to answer questions. No public comments were received.

It was moved by Councilmember Madrigal, seconded by Mayor Pro Tem MacDonald, to approve the recommended action. VOTE: Basua, MacDonald, Madrigal, Valenzuela, and Zaragoza voted in favor; motion passed 5-0. Councilmember Perello and Councilmember Teran were absent during this vote.

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

The members of the Council provided brief announcements regarding their various activities.

J. REVIEW OF INFORMATION/CONSENT AGENDA

Items L-1 through L-9 were reviewed and discussed among the Council and staff.

K. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

Public written comments were received from Lawrence Stein (L.4) and Brian Krinsley (L.6).

L. INFORMATION/CONSENT AGENDA

1. Finance Department

SUBJECT: Monthly Report and Accounting of All Receipts, Disbursements and Fund Balances for the Month of May 2024.

RECOMMENDATION: Staff recommends that the City Council receive and file this report and accounting of all receipts, disbursements and fund balances for the month of May 2024.

(This item did not originate in Committee.)

2. Police Department

SUBJECT: First Amendment to Agreement 32400297 with Petroleum Telcom, Inc.

RECOMMENDATION: That the City Council approve and authorize the execution of the First Amendment to the Trade Services Agreement #32400297 with Petroleum Telcom, Inc. dba Telcom, Inc. for mobile radio installation services, increasing the amount not to exceed

from \$900,000 to \$1,150,000.

(This item did not originate in Committee.)

3. Public Works Department

SUBJECT: Agreement 32500028 with Carollo Engineering, Inc. for On-Call Consulting Services for Water and Recycled Water Treatment Process Support.

RECOMMENDATION: That the City Council authorize the Mayor to execute an Agreement with Carollo Engineering, Inc. for a total amount not to exceed \$200,000 for an initial one-year term from July 31, 2024, to July 30, 2025, with the option to extend for two (2) consecutive one (1) year period extensions, that shall not exceed a total of three (3) years for a final term ending July 30, 2027, for On-Call Consulting Services for Water and Recycled Water Treatment Process Support.

(Public Works and Transportation Committee approved 3-0 on July 9, 2024.)

4. Public Works Department

SUBJECT: Second Amendment to Agreement 9648-22-CM with Pacific Coast Elevator Corporation, dba Amtech Elevator Services, for Elevator Inspections, Maintenance, and Repairs.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a Second Amendment to the Agreement with Pacific Coast Elevator Corporation, dba Amtech Elevator Services, to increase the current not to exceed amount from \$200,000 to \$500,000 and extend the term to August 31, 2025, for elevator inspections, maintenance, and repairs.

(Public Works and Transportation Committee approved 3-0 on July 9, 2024.)

5. Public Works Department

SUBJECT: Public Project Agreement 32500024 with Oilfield Electric Company for On-Call Electrical Maintenance and Minor Repair Services, Specification No. PW 24-100.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute an Agreement with Oilfield Electric Company for a total amount not to exceed \$1,860,000 for a three (3) year term for On-Call Electrical Maintenance and Minor Repair Services, Specification No. PW 24-100.

(Public Works and Transportation Committee approved 3-0 on July 9, 2024.)

6. Community Development Department

SUBJECT: Response to Grand Jury Report on the City of Oxnard Permitting Process, "Building Better Together."

RECOMMENDATION: That the City Council authorize the Mayor to respond, on behalf of the City Council, to the Grand Jury's "Building Better Together" report dated June 5, 2024.

(This item did not originate in Committee.)

7. City Attorney Department

SUBJECT: Adoption **Ordinance No. 3048** - Establishing a Tobacco Retailer Cap.

RECOMMENDATION: That the City Council adopt **Ordinance No. 3048** titled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING SECTION 11-377 OF THE OXNARD CITY CODE BY ESTABLISHING A CAP ON THE NUMBER OF TOBACCO RETAILER PERMITS THAT MAY BE ISSUED BY THE CITY WITH CERTAIN EXCEPTIONS.

(Community Services, Public Safety, Housing & Development Committee approved 3-0 on May 19, 2024.)

8. City Attorney Department

SUBJECT: Adoption of an Omnibus City Code Update - **Ordinance No. 3049**.

RECOMMENDATION: That the City Council adopt **Ordinance No. 3049** titled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING VARIOUS SECTIONS OF THE OXNARD CITY CODE TO REGULATE ELECTION SIGNS, MODIFY SUBDIVISION MAP ACT SIGNATURE REQUIREMENTS, AMEND SHORT TERM RENTAL NOTICE REQUIREMENTS, AND STRENGTHEN RENT STABILIZATION AND JUST CAUSE EVICTION REGULATIONS.

(This item did not originate in Committee.)

9. Finance Department

SUBJECT: City's Quarterly Investment Report for the period ending June 30, 2024.

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

(This item did not originate in Committee.)

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Valenzuela, to approve the Information/Consent items as presented. VOTE: Basua, MacDonald, Madrigal, Perello, Valenzuela, and Zaragoza voted in favor; motion passed 6-0. Councilmember Teran was absent.

M. PUBLIC HEARINGS1. Housing Department

SUBJECT: Amendment to City's Five-Year (2019–2023) Permanent Local Housing Allocation Plan.

RECOMMENDATION: That the City Council:

1. Conduct a public hearing to receive comments relating to a proposed amendment to

- the City of Oxnard Five-Year Permanent Local Housing Allocation Plan; and
2. Adopt amended **Resolution No. 15,823** amending the City of Oxnard Five-Year Permanent Local Housing Allocation Plan.

(This item did not originate in Committee)

The City Clerk announced the affidavit of publication and stated that no written communications were received.

Emilio Ramirez, Housing Director and Michael Wolfe, Public Works Director answered questions. Housing Director Ramirez asked Council to amend the recommended action, as follows:

That the City Council approve amending the PLHA plan which reflects the language of the presented staff report allocating funds away from a development use and toward the operation of the Homeless Navigation Center on K Street and the buildout of the new Navigation Center on B Street.

Resolution No. 15,823 was amended and reviewed by City Attorney Fischer to implement the changes approved by Council.

Mayor Zaragoza opened the public testimony portion of the public hearing. Public comments were received from Lawrence Stein.

Without objection, the Council approved closing the public testimony portion of the public hearing.

It was moved by Councilmember Perello, seconded by Councilmember Madrigal, to approve the recommended actions as amended. VOTE: Basua, MacDonald, Madrigal, Perello, Valenzuela, and Zaragoza voted in favor; motion passed 6-0. Councilmember Teran was absent.

N. REPORTS

1. Public Works Department

SUBJECT: Construction Contract Increase for Pleasant Valley Restroom Project.

RECOMMENDATION: That the City Council approve and authorize an additional project contingency in the amount of \$2,911.56 to Agreement A-8485 with NoHo Constructors for a new not-to-exceed contract value of \$242,161.56.

(This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.)

Morgan Kessler, City Engineer was available to answer questions. No public comments were received.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Madrigal, to approve the recommended action. VOTE: Basua, MacDonald, Madrigal, Perello, Valenzuela, and Zaragoza voted

in favor; motion passed 6-0. Councilmember Teran was absent.

2. Public Works Department

SUBJECT: Sewer Main Transfer of Ownership Agreement A-8560.

RECOMMENDATION: That the City Council authorize the City Manager to execute an Agreement and any associated documents transferring the ownership of the out-of-service Sewer Main from the City of Oxnard to the City of Port Hueneme.

(Public Works and Transportation Committee approved 3-0 on July 9, 2024.)

Timothy Beaman, Assistant Public Works Director was available to answer questions. Public comments were received from Lawrence Stein.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Madrigal, to approve the recommended action. VOTE: MacDonald, Madrigal, Perello, Valenzuela, and Zaragoza voted in favor; motion passed 5-0-1. Councilmember Basua recused due to her employment with the City of Port Hueneme. Councilmember Teran was absent.

3. Public Works Department

SUBJECT: Agreement 32500043 with Carollo Engineering, Inc. for Engineering Services for Aquifer Storage and Recovery Pilot Well PW 24-107.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute an Agreement with Carollo Engineering, Inc. for a total amount not to exceed \$859,069.50 from August 1, 2024 to January 31, 2026 for Engineering Services for Aquifer Storage and Recovery Pilot Well.

(This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.)

Michael Wolfe, Public Works Director was available to answer questions. Public comments were received from Lawrence Stein.

It was moved by Councilmember Perello, seconded by Councilmember Madrigal, to approve the recommended action. VOTE: Basua, Madrigal, Perello, Valenzuela, and Zaragoza voted in favor; motion passed 5-0-1. Mayor Pro Tem MacDonald recused due to owning property in the project area. Councilmember Teran was absent.

4. Information Technology Department

SUBJECT: Second Amendment to Agreement 32400125 with Hireclout for IT Consulting and Recruiting Services.

RECOMMENDATION: That City Council approve and authorize the Mayor to execute a Second Amendment to Professional Services Agreement 32400125 with Hireclout, Inc. to increase the value of the agreement from \$850,000 to \$1,500,000 through June 30, 2025, for

information technology consulting and recruitment services.

(Finance & Governance Committee approved 3-0 on July 9, 2024.)

Robert Ruben, Chief Information Officer was available to answer questions. Public comments were received from Lawrence Stein. Written comments were received.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Valenzuela, to approve the recommended action. VOTE: Basua, MacDonald, Madrigal, Perello, Valenzuela, and Zaragoza voted in favor; motion passed 6-0. Councilmember Teran was absent.

O. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Zaragoza adjourned the meeting at 8:10 p.m.

ROSE CHAPARRO

City Clerk

JOHN C. ZARAGOZA

Mayor



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

DATE: September 17, 2024

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: First Amendment for Agreement 32400250 with NBS Government Finance Group for Special District Administrative, Professional, and Technical Services.

RECOMMENDATION

That the City Council approve and authorize the Mayor to execute the First Amendment to an Agreement with NBS Government Finance Group in the amount of \$387,718 for a new not to exceed contract amount of \$1,462,952 for ongoing administrative, professional, and technical services for the Special Districts Division.

(This item did not originate in committee because it is a continuation of an item previously approved by the City Council.)

BACKGROUND

The Special Districts Division of the Public Works Department is responsible for the maintenance, operation, and administration of the City's 50 Special Districts, including bonded and non-bonded Community Facilities Districts ("CFDs"), Landscape Maintenance Districts ("LMDs"), Waterways Maintenance Assessment Districts ("WADs"), and a Maintenance Assessment District ("MAD-4"). Each of these Special Districts have specific individual authorized services and improvements, including, but not limited to: park landscapes, open spaces, parkways, medians, other public improvements, and recreation and park amenities such as picnic shelters, restrooms, arbors, and fountains. Properties within each District are assessed in an annual parcel charge for the purposes of maintaining the improvements and other authorized services that includes consulting (e.g. the preparation of required documents such as the annual Engineer's Report) within their District.

NBS Government Finance Group ("NBS") specializes in the administration of California special financing districts. Since 2017, the City has contracted with NBS to provide administrative support to the Special Districts Division for budget preparation, assessment computation and rate analysis, submission of the annual Engineer's Report, levy submittal, and several additional projects that included on-call services.

The Purchasing Division released a Request for Proposals ("RFP") PW24-02 for Special Districts Administrative Professional and Technical Services on August 16, 2023 with a proposal due date of September 11, 2023. The RFP received one proposal from NBS, who was the City's current consultant.

In January 2024, Agreement 32400250 was executed for a three year term with two additional one year options for a total Agreement term of up to five years. The initial not to exceed Agreement amount was \$1,028,484 for the full five year term. The services provided by NBS include administrative support to the Special Districts Division for budget preparation, assessment computation and rate analysis, submission of the annual Engineer's Report, levy submittal, and on-call services.

DISCUSSION

Staff met with NBS regarding necessary changes for specific language within the Agreement. This includes invoicing for each report individually, specifying that on-call services will be invoiced quarterly, and requiring the invoices to include a description of the services rendered. Staff is also recommending that this First Amendment to Agreement 32400250 incorporates changes that easily identifies one-time charges for services rendered. This includes the anticipated costs for the formation of a CFD for the Teal Club Development, the reformation of CFD 9 for the Northshore Development at Mandalay Bay, and other potential district reformations or adjustments for the Waterways Assessment Districts, Maintenance Assessment District, or Landscape Maintenance Districts. These services were included in the original agreement, but they were not adequately included within the original not-to-exceed amount. In order to account for the potential future costs attributable to these services, staff is recommending an increase of \$191,567 for the on-call consulting services with a revised total on-call expense of \$446,775.

NBS will only be compensated for services approved prior to their provision. This First Amendment for Agreement 32400250 will not change the original approved term of three years with the option for two additional one year extensions.

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 total cost of this Agreement including the First Amendment for \$387,718, shall not exceed \$1,462,952 for the full five year term. This increase is substantiated with supporting documentation showing revised totals to include CFD 9 services and formation/reformation of district pricing.

The estimated spending plan for the remainder of Fiscal Year 2024-25 is \$280,152. Sufficient funds are included in the Adopted FY 2024-25 Operating Budget and subsequent fiscal years will be requested through the annual budget process and included in the proposed assessment of the applicable Districts. Expenses are charged to the specific Districts that receive the services and there is no impact to the General Fund beyond the required General Fund Contribution for the Landscape Maintenance Districts.

COMMITTEE OUTCOME

This item did not originate in committee because it is a continuation of an item previously approved by the City Council.

Prepared by: Anthony Miller, Interim Special Districts Manager, Steve Howlett, Assistant Public Works Director

ATTACHMENTS

1. First Amendment 32400250 NBS Government Finance Groupn FINAL
2. 32400250 NBS Government Finance Group

FIRST AMENDMENT TO CONSULTANT/PROFESSIONAL SERVICES AGREEMENT

This First Amendment (“First Amendment”) to the Consultant/Professional Services Agreement (“Agreement”) is made and entered into in the County of Ventura, State of California, this _____ day of _____, 20____, by and between the City of Oxnard, a municipal corporation (“City”), and NBS Government Finance Group (“Consultant”). This First Amendment amends the Agreement entered into on January 01, 2024, by City and Consultant.

City and Consultant agree as follows:

1. The agreement amount in Section 4 of the Agreement is hereby amended to “\$1,462,952.”
2. The reference to the Scope of Services everywhere it is listed in the Agreement is hereby amended to the Scope of Services A-1. The Exhibit Scope of Services is hereby disincorporated; instead, the Scope of Services A-1, exhibit is attached hereto and incorporated herein by this reference.
3. The reference to the Exhibit B Schedule of Compensation everywhere it is listed in the Agreement is hereby amended to add also the Exhibit B-1 Schedule of Compensation. Exhibit B-1 Schedule of Compensation is attached hereto and incorporated herein by this reference.
4. As so amended, the Agreement remains in full force and effect.

[Signatures on next page]

IN WITNESS WHEREOF, the parties hereto have executed the Amendment on the date first written above.

CITY OF OXNARD

NBS GOVERNMENT FINANCE GROUP

☒ John C. Zaragoza, Mayor¹ Date
☐ Jennifer Yates, Purchasing Agent²

 Greg Davidson,
 Vice President Date

 Michael Rentner,
 President & Secretary³ Date

ATTEST:

 Rose Chaparro, City Clerk Date
 (only if Mayor signs)

APPROVED AS TO FORM:

 Stephen M. Fischer, City
 Attorney (always required) Date

¹ The City Council must authorize and the Mayor must execute any agreement over \$200,000.

² The Purchasing Agent may execute any authorized agreement up to \$200,000.

³ 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.

EXHIBIT A-1

CONSULTANT/PROFESSIONAL SERVICE AGREEMENT (CITY of Oxnard and NBS Government Finance Group)

SCOPE OF SERVICES

Administration Services for the City's Maintenance Assessment Districts (LMD/MAD)

1. **Database Development.** Consultant will update the database with current County Assessor's information including property owner names, property owner addresses and any other available data that will augment the existing database.
2. **Budget Preparation.** Consultant will meet with City staff to review each district's budget for the coming fiscal year. This budget will be based on historical costs, actual and/or projected changes in costs and/or improvements to be maintained. Cost categories may include but are not limited to capital improvements, maintenance costs, incidental costs (engineering, legal, district administration) and reserve funds.
3. **Assessment Computation and Rate Analysis.** Consultant will compute the assessment for each parcel within each district according to its method of assessment. Consultant will provide an assessment summary which will include a comparison of current year rates versus prior year rates, separate by zone and land use, if applicable, and fund balance information.
4. **Engineer's Report Preparation.** Consultant will prepare and provide to City staff the annual Engineer's Report for each district. Each such Engineer's Report will consist of:
 - a) Background of the district.
 - b) A detailed and technically supported Method of Assessment.
 - c) A description of the improvements and services funded by the district.
 - d) A cost estimate for the improvements and services being funded.
 - e) Copy or reference to the original district diagram.
 - f) A table showing assessed rates by zone and land use.
 - g) An assessment roll listing assessments by parcel or reference a complete roll on file with the City.
5. **Meet with City Staff.** Consultant will meet with City staff to review each Engineer's Report for modifications and approval.
6. **Noticing and Resolution Coordination.** Consultant will coordinate activities to ensure that required tasks are completed within the scheduled time frame. Consultant will assist the City with preparation of any notice of assessments, public hearings, or other meetings requiring publication. Consultant will assist the City with preparation of the staff report, all legal notices and the associated resolutions described below:

- a) Resolution describing improvements, initiating proceeding and ordering the Consultant's engineer to prepare and file a report for the City.
- b) Resolution preliminarily approving the Engineer's Report
- c) Resolution of intention declaring the intention of the City Council to levy and collect assessments and setting a date for the public hearing.
- d) Resolution authorizing the placement of assessments on the secured property tax bills.

7. Meeting Attendance. Consultant will attend up to a total of two (2) public meetings per fiscal year such as workshops and City Council meetings (in addition to and not including the town hall meetings in B(1) of this Exhibit A-1), as requested by the City.

8. Levy Submittal. Consultant will submit the levy to the Ventura County Auditor-Controller in the required format. Assessments rejected by the Ventura County Auditor-Controller will be researched and resubmitted for collection on the Ventura County Tax Roll. Any parcels that are not submitted to Ventura County for collection will be invoiced for payment directly to the City.

9. Final Engineer's Report. Consultant will update and deliver to City staff each annual Engineer's Report.

10. Toll-Free Phone Number. Consultant shall provide a toll-free phone number for use by the City, other interested parties and all property owners during regular business hours, Monday-Friday 8:00 a.m. to 5:00 p.m. Consultant will be available to answer questions regarding each district and the ongoing collection of assessments. Bilingual staff is available to assist Spanish-speaking property owners.

On-Call Assistance to City Staff with Special Requests Related to the Administration of the Special Financing Districts But Not In Scope of Services

11. On-Call Assistance. Consultant will be available to answer questions and assist City staff during regular business hours, Monday-Friday 8:00 a.m. to 5:00 p.m. on special requests involving the administration of the Special Financing Districts, as requested. On-call assistance is intended to cover time, material, and all other costs for tasks related to the administration of the Special Financing Districts (1915, CFD, LMD/MAD, and others) and not already included in the scope of services of this Agreement. On-Call assistance may include, but not be limited to:

- a) Assistance with direct staff allocations.
- b) Assistance with indirect cost allocations.
- c) Assistance with Proposition 218 compliance on an ongoing basis.
- d) Assistance with maintenance contract specifications and bidding.
- e) Assistance with the resolution of inquiries by property owners and the public.

1915 Act Assessment District Administration Services

12. Kick-Off Meeting, Project Schedule. Consultant to meet with City staff, legal counsel and other interested parties to:

- Establish lines of communication
- Clarify the specific project goals and criteria that will meet the City's preference
- Identify and resolve any special circumstances that may be involved in the administration of the districts
- Develop project schedules to meet legal requirements and provide for effective interaction of all involved parties
- Establish meeting dates consistent with schedule to achieve project milestones

13. Data Collection. Consultant will gather and review data relevant to the administration of the district. Data will be obtained from various sources, including City records, Assessor's parcel maps, and County Assessor information and establish a database for the assessment district.

14. Policy Review. Consultant will review policies and procedures that have been established by the City for compliance with the governing documents and law. These policies will be incorporated into our service to the City.

15. Cost Recovery. Consultant will identify all costs associated with the administration of the Assessment District and recover those costs through the levy process as outlined in §8682 and §8682.1 of the California Streets and Highways Code. These costs may include, but not be limited to Registrar/Transfer/Paying Agent fees, Arbitrage Rebate calculation fees, bank fees, and expenses of the City and its consultants related to the administration of the district.

16. Fund Analysis. Consultant will determine the balance requirements and acquire the current cash balances for the district. We will make recommendations to ensure that the flow of funds and fund balances are in compliance with bond documents. Cash flow analysis will also be performed to determine any levy shortfall or surplus.

17. Annual Assessment Levy. Consultant will calculate the annual assessment levy for each parcel in the district and submit the amount for each parcel to the County in the format and medium (i.e. tape, diskette) required by the County Auditor-Controller.

18. Resubmission of Rejects. Consultant will research the status of any parcels rejected by the County Auditor-Controller, and resubmit corrected data for collection on the County Tax Roll. Any parcels that are not accepted by the County for collection will be invoiced directly, with payment directed to the City.

19. Maintain Assessment District Data. Consultant will annually track all parcel changes to ensure that all changes are documented. Historical parcel change and assessment apportionment data will be maintained by NBS.

20. Annual Report. Consultant will provide a comprehensive Annual Report that will show a detailed listing of the amounts submitted to the County or directly billed for collection, details of delinquent assessments, fund analysis, paid off parcels and release of liens, all bond call activity, and assessed valuation information.

21. Delinquency Monitoring. Consultant will provide the City with a comprehensive list of delinquencies after each installment becomes due. This report will show delinquency percentage as well as a detailed list of each delinquent parcel.

22. Prepayment Calculation/Amortization Schedule. Consultant will provide assessment prepayment calculations and amortization schedules to interested parties. The requester will pay the cost of this service; however, there will be no charge to the City or property owners.

23. Bond Calls. Consultant will prepare the spread of principal to be called within maturities for all bond calls and coordinate the call with the Paying Agent/Trustee.

24. Release of Liens. Consultant will prepare all documents required to release the liens of parcels that have prepaid the assessment.

25. Notice of Special Assessment. Consultant will provide a "Notice of Special Assessment" disclosure notice to requesting parties as required by §53754 of the Government Code of the State of California. The fee of any Notice of Special Assessment shall be paid by the party requesting the disclosure notice.

26. Toll-Free Phone Number. Consultant will provide a toll-free phone number for use by the City, other interested parties and all property owners. Our staff will be available to answer questions regarding the formation and ongoing collection of assessments for the district. Bilingual staff is available for Spanish-speaking property owners.

27. County Assessor Reporting. Consultant will work with the County Assessor to aid in complying with the requirements of Revenue & Taxation Code 163. This includes providing data such as parcel number, original assessment and current principal balance to the County Assessor.

Community Facilities District Administration

28. Data Collection. Consultant will gather and review data pertinent to the administration of the Community Facilities District. Data will be obtained from various sources such as assessor's parcel maps, building permits and county assessor information as determined to be necessary based on the requirements of the Rate and Method of Apportionment. Consultant will maintain and periodically update a database of all parcels within the districts and relevant parcel information.

29. Administrative Cost Recovery. Consultant will identify all costs associated with the administration of the Community Facilities District and recover those costs through the levy process as outlined in §53317(e) and §53340 of the Government Code of the State of California. Such costs may include, but are not to be limited to: bank fees, legal fees, county tax collection fees, and all costs and expenses of the public agency and its consultants related to district administration.

30. Cash Flow Analysis. Consultant will determine the cash flow requirement, acquire current fund balances and make recommendations to keep the flow of funds and fund balances in

compliance with the bond documents. Fund transfers might include the transfer of available surplus funds to be used as levy credits or the transfer of reserve funds to the redemption fund upon the prepayment of special taxes. Cash flow analysis will also be performed to determine any levy shortfall or surplus collections.

31. Special Tax Requirement. Consultant will calculate the annual Special Tax Requirement that will include all necessary components as outlined in the Rate and Method of Apportionment, such as principal and interest due, administrative expenses, collection for direct financing of services or facilities, and a fund credit or replenishment as determined from analysis of the district funds.

32. Levy Calculation. Consultant will calculate the annual special tax levy for each parcel within the Community Facilities District following the guidelines established in the Rate and Method of Apportionment.

33. Meeting Attendance. Consultant will attend district related Council/Board meetings related to district administration, as requested by the City.

34. Parcel Tax Reporting. Consultant will prepare a report with information relating to the imposition of each locally assessed parcel tax required by the addition of Government Code (GC) section 12463.2 (chapter 781, statutes of 2014.)

35. Levy Submittal. Consultant will submit the levy to the County Auditor Controller in the required format and medium (i.e. e-mail, diskette). Special Taxes rejected by the County Auditor Controller will be researched and resubmitted for collection on the County Tax Roll. Any parcels that are not submitted to the County for collection will be invoiced directly to the parcel owner, with payment submitted to the public agency.

36. Special Tax Levy Report. Consultant will provide an annual Special Tax Levy Report. This report will include a parcel listing with levy amounts and other parcel information, the details of the annual Special Tax Requirement, current delinquency information, fund analysis, administrative expenses to be recovered, and status of the project and current issues affecting the districts.

37. Delinquency Monitoring. Consultant will provide a comprehensive list of delinquencies after each special tax installment becomes due. The delinquency report will provide the district's overall delinquency percentage as well as a detailed list of each delinquent parcel, with the name and address of the delinquent parcel owner, the delinquent amount and penalties.

38. Prepayment Calculations. Consultant will provide special tax prepayment calculations to interested parties. The party requesting the calculation shall pay the fee of any prepayment calculation.

39. Bond Calls. Consultant will prepare the spread of principal to be called within maturities for all bond calls and coordinate the call with the Paying Agent/Trustee.

40. Release of Liens. Consultant will prepare all documents required to release the liens of parcels that have prepaid the special tax.

41. CDIAC Reporting. Consultant will perform all necessary reporting to the California Debt and Investment Advisory Commission as required by §53359.5(b) and §53359.5(c) of the Government Code of the State of California.

42. Notice of Special Tax Disclosure. Consultant will provide Notice of Special Tax Disclosure notices to requesting parties as required by §53340.2 and §53341.5 of the Government Code of the State of California. The fee of any Notice of Special Tax shall be billed to the party requesting the disclosure form.

43. Toll-Free Phone Number. Consultant will provide a toll-free phone number for use by the City, other interested parties and all property owners. Our staff will be available to answer questions regarding the districts and ongoing collection of the special tax. Bilingual staff is available for Spanish-speaking property owners.

Continuing Disclosure (Per Occurrence)

In accordance with the Continuing Disclosure Certificate of the Bonds, Consultant will support the annual disclosure filing requirements of the SEC Continuing Disclosure Rule 15c2-12, for the Bonds existing at the time of this agreement and Bonds the Consultant has previously provided such services for. Specifically, Consultant will perform the following:

44. Document Review. Consultant will review pertinent documents of the Bonds, including the Official Statement and Continuing Disclosure Certificate. We will identify material such as the Comprehensive Annual Financial Report and/or other operating data that the City has agreed to provide in the Continuing Disclosure Certificate.

45. Data Collection. Consultant will collect the annual financial information and operating data that the City has agreed to provide to the Electronic Municipal Market Access system, or EMMA.

46. Report Preparation. Consultant will prepare the Annual Disclosure Report as required in the Disclosure Certificate.

47. Annual Dissemination. Consultant will disseminate the Annual Disclosure Report including City Financials to EMMA and any SID, and post to our website to allow public access free of charge.

48. Significant Events. Consultant will prepare and disseminate a “Notice of Significant Events”, as listed on the Continuing Disclosure Certificate, to EMMA, as required in the certificate. Action will commence upon notification by the City of the occurrence of any of the events.

49. City’s Responsibilities. The City shall furnish Consultant with any pertinent information that is available to the City and applicable to the services. The City shall designate a person to act with authority on its behalf in respect to the services. The City shall notify Consultant of the

occurrence of any events listed in the Continuing Disclosure Certificate. The City shall promptly respond to Consultant's requests for reviews and approvals of its work, and to its requests for decisions related to the services. City understands and agrees that Consultant is entitled to rely on all information, data and documents (collectively, "Information") supplied to Consultant by City or any of its agents, Agreements or proxies or obtained by Consultant from other usual and customary sources including other government sources or proxies as being accurate and correct and Consultant will have no obligation to confirm that such Information is correct and that Consultant will have no liability to City or any third party if such Information is not correct.

Delinquency Management (Per Occurrence)

Consultant will develop a comprehensive delinquency management program which includes a discussion and interpretation of the issuer's foreclosure covenant together with a review of the existing policies and procedures of the City. This service can be provided as part of overall annual administration or as a stand-alone service. When deemed as the appropriate course of action, NBS will perform the following.

50. Delinquency Reports. Consultant will provide the City with an updated list of delinquencies prior to sending any of the below letters. This report will also detail each district's percentage of delinquencies, as well as a detailed list of each delinquent parcel.

51. Reminder Letter. At the City's direction, Consultant will send a reminder letter to the property owner of each delinquent parcel for the December 10th installment. The purpose of the letter is to inform and educate the property owner of their obligation to pay assessments.

52. Demand Letter. At the City's direction, Consultant will send a demand letter to the property owner of each delinquent parcel for the April 10th installment. This letter will be mailed to any property owner who remains delinquent for both installments or who is delinquent for April 10th only. The purpose of this letter is to further educate the property owner and advise them of a potential foreclosure.

53. Lienholder Letter. At the City's direction, Consultant will send a demand letter to the lienholders of loan-defaulted parcels where a Notice of Default has been filed, notifying them of the special tax / assessment delinquency and the loss of their lien position when judicial foreclosure occurs. The purpose of this letter is to educate the lienholders and to spur quick payment of delinquencies in order to protect their interest in the property.

54. Lienholder Research. At the City's direction, Consultant will perform detailed search of public records to identify lienholders on non-loan-defaulted parcels. The purpose of this is to allow further communication from the City to educate the lienholders and to spur quick payment of delinquencies in order to protect their interest in the property.

55. Foreclosure Letter. This type of letter is typically sent after the installments for a parcel have been removed from the tax roll. The letter delineates what amount must be paid directly to the City to forestall the turnover of documents to the foreclosure attorney.

56. Tax Roll Removal and Notice. Consultant will provide the information required to remove parcels from the tax roll and coordinate with the County Auditor Controller to verify the

removal. This step is in preparation of turning the parcels over for foreclosure. Once removed from the tax roll, each property owner will receive one final foreclosure letter indicating the amount due and payment instructions. NBS will file the Notice of Intent to Remove Delinquent Installments and remove such Notice upon payment of the delinquency.

57. Payment Plans. At the City's discretion, Consultant will offer payment plans to property owners in lieu of turning parcels over to the City's foreclosure counsel.

58. Subsequent Foreclosure Services. Consultant will prepare and deliver all information to the City's foreclosure counsel. Consultant will also continue to supply the City's counsel with additional information throughout the foreclosure process. Consultant will continue to respond to property owner and City staff phone calls regarding the status of all cases, and will coordinate and audit status reports on a bi-monthly basis from the City's foreclosure counsel.

59. Toll-Free Phone Number. Consultant will provide a toll-free phone number for use by the City, other interested parties and all property owners. Consultant's staff will be available to answer questions regarding the formation and ongoing collection of assessments/special taxes for the districts. Bilingual staff is available for Spanish-speaking property owners.

Apportionments of 1915 Act Assessment Lien (Per Occurrence)

Parts 10 and 10.5 of the Streets and Highways Code detail the methodology and procedure that the City must follow in apportioning the assessment lien on parcels that are reconfigured and/or subdivided. With our experience in district formation and the development of methods of assessment, we are able to ensure that apportionments are properly performed.

Assuming proceeding under the preferred procedure of Part 10.5, Consultant will perform the following:

60. Application Forms. Consultant will provide apportionment application forms and instructions to the City's Engineering representative for inclusion as a condition of approval for subdivision within an assessment district.

61. Segregation. Consultant will apportion the special assessment according to the method of spread as described in the engineer's report.

62. Notice of Apportionment. Consultant will prepare a notice of apportionment and send it via certified mail to the issuing underwriter, as required.

63. Assessment Diagram. Consultant will prepare an amended assessment diagram and notice. The diagram and notice will be filed and recorded with the County Recorder.

64. Amortization Schedule. Consultant will prepare an amortization schedule for each newly created assessment type.

65. Apportionment Report. Consultant will prepare and submit to the City an Apportionment Report showing the finalized apportionment and the amended assessment diagram.

In the event proceedings are undertaken under Part 10, the following additional items are required:

66. Resolutions. Consultant will prepare the required resolutions to order the amended assessment, the amended assessment diagram, notices to the property owner, and fix the amount of costs to perform the apportionment.

67. Public Meetings. Consultant will be available to attend any public meetings required to complete the apportionment.

EXHIBIT B-1**CONSULTANT/PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and NBS Government Finance Group)****SCHEDULE OF COMPENSATION****Special Financing District Annual Administration****COMMUNITY FACILITIES DISTRICT (CFD) ADMINISTRATION FEES**

The following table summarizes our annual fees for the base CFD Administration services:

District Name	Annual Base Fee
CFD 2000-3 (Oxnard Boulevard / Highway 101)	\$6,950
CFD No. 1 (Westport at Mandalay Bay)	\$6,950
CFD No. 2 (Westport at Mandalay Bay)	\$6,950
CFD No. 3 (Seabridge)	\$6,950
CFD No. 4 (Seabridge)	\$6,950
CFD No. 5 (Riverpark)	\$6,950
CFD No. 8 (Sakioka Farms)	\$6,950
CFD No. 9 (Northshore)	\$6,950
TOTAL	\$55,600

1915 ACT ASSESSMENT DISTRICT (AD) ADMINISTRATION FEES

The following table summarizes our annual fees for the for the base AD Administration services:

District Name	Annual Base Fee
AD 2000-1 (Oxnard Boulevard / Highway 101)	\$4,950
AD 2001-1 (Series 2012 Refunding)	\$4,950
TOTAL	\$9,900

1915 ACT AND COMMUNITY FACILITIES DISTRICT ADMINISTRATION SERVICES

Community Facilities Districts (Base Fee) \$55,600

1915 Act Assessment Districts (Base Fee) \$9,900

Estimated Expenses are capped at a total of \$4,500 for the Community Facilities District Administrative Fees and 1915 Act Assessment Administrative Fees.

Total Base Fees plus Estimated Expenses \$70,000.

LANDSCAPE MAINTENANCE DISTRICTS (LMD) ADMINISTRATION FEES

The following table summarizes our annual fees for the for the base LMD Administration services:

District Name	Annual Base Fee
LMD No. 3 (River Ridge)	\$1,750.00
LMD No. 10 (Country Club Estates)	\$1,250.00
LMD No. 11 (St. Tropez)	\$1,250.00
LMD No. 12 (Standard Pacific)	\$1,250.00
LMD No. 13 (Le Village)	\$1,250.00
LMD No. 14 (California Cove)	\$1,250.00
LMD No. 16 (California Lighthouse)	\$1,250.00
LMD No. 23 (Greystone)	\$1,250.00
LMD No. 24 (Vineyards)	\$1,250.00
LMD No. 25 (Pointe)	\$1,250.00
LMD No. 27 (Rose Island)	\$1,250.00
LMD No. 28 (Harborside)	\$1,750.00
LMD No. 30 (Haas Automation)	\$1,250.00
LMD No. 31 (Rancho De La Rosa)	\$1,250.00
LMD No. 32 (Oak Park)	\$1,250.00
LMD No. 33 (El Paso)	\$1,250.00
LMD No. 34 (Sunrise Pointe & Sunset Cove)	\$1,250.00
LMD No. 36 (Villa Santa Cruz & Villa Carmel)	\$1,750.00
LMD No. 37 (Pacific Breeze)	\$1,250.00
LMD No. 38 (Aldea Del Mar)	\$1,250.00
LMD No. 39 (El Sueno Promesa & DR Horton/Seawinds)	\$1,250.00
LMD No. 40 (Cantada)	\$1,250.00
LMD No. 41 (Pacific Cove)	\$1,250.00
LMD No. 42 (Cantabria & Coronado)	\$1,250.00
LMD No. 43 (Greenbelt)	\$1,250.00
LMD No. 46 (Daily Ranch)	\$1,250.00
LMD No. 47 (Sycamore Place)	\$1,250.00
LMD No. 49 (Cameron Ranch)	\$1,250.00
LMD No. 50 (Pleasant Valley Senior Housing)	\$1,250.00
LMD No. 51 (Pfeiler)	\$1,250.00
LMD No. 52 (Wingfield)	\$1,250.00
LMD No. 53 (Huff Court)	\$1,250.00
LMD No. 54 (Meadow Crest Villas)	\$1,250.00
LMD No. 55 (Wingfield West)	\$1,250.00
LMD No. 58 (Westwind)	\$1,250.00
LMD No. 60 (Artisan)	\$1,250.00
MAD No. 4 (Mandalay Beach)	\$1,750.00
Waterways (Zones 1-Mandalay Bay & 2-Harbour Island)	\$1,750.00
TOTAL	\$50,000.00

Districts or Zones with Less than 300 Parcels (Base Fee) \$1,250 Each
 Districts or Zones with 300 Parcels or More (Base Fee) \$1,750 Each
 Estimated Expenses are capped at a total of \$3,500 for the Landscape Maintenance Districts.

Total Fees including Estimated Expenses \$53,500.

Estimated expenses reflect an allocation of \$2,000 for the signature and stamp of the annual consolidated engineer's report by a civil engineer (one occurrence).

ON-CALL ASSISTANCE TO CITY STAFF WITH SPECIAL REQUESTS RELATED TO THE ADMINISTRATION OF THE SPECIAL FINANCING DISTRICTS BUT NOT IN SCOPE OF SERVICES (UPON CITY'S REQUEST, HOURLY RATE SCHEDULE)

Hourly per Schedule Below (Initial Authorization for the Fiscal Year) \$27,000*

Estimated Expenses are capped at a total of \$1,500.

Total Fees plus Estimated Expenses \$28,500.

**City may authorize additional hours subject to additional compensation under our hourly rate schedule.*

CONTINUING DISCLOSURE

We understand that the City has bond issues currently subject to continuing disclosure preparation and dissemination. NBS will provide the services for the bonds existing at the date of this agreement for the fees as listed below. Additional issues may be added at similar fees.

Additional Services Necessary for the Ongoing Administration of the 1915 Act and Community Facilities Districts

Issuer Continuing Disclosure (Per Occurrence)*

AD 2000-1 Report Fee	\$2,400
AD 2001-1 Report Fee**	\$1,850
CFD No. 1 Report Fee**	\$1,850
CFD No. 2000-3 Report Fee**	\$1,850
CFD No. 9 Northshore Reformation District Report Fee	\$2,400

*Estimated Expenses are included in the CFD & 1915 Act sections above.

**Reports are combined under the 2022 Revenue Refunding Bonds.

Developer's Continuing Disclosure (Annually, Per Report Filed)

AD 2000-1 Report Fee*	\$450
Significant Event Fee*	Hourly Rate or \$250 per event

*Estimated Expenses are included in the CFD & 1915 Act sections above.

Dissemination Services for Continuing Disclosure (Annually, Per Report Filed)*

Report Dissemination (per recipient)	\$25
Significant Event Dissemination (per recipient)	\$25

*Estimated Expenses are included in the CFD & 1915 Act sections above.

DELINQUENCY MANAGEMENT

Reminder Letters (1)	\$15
Demand Letters (1)	\$30

Lienholder Letters (1, 2)	\$40
Lienholder Research (Notice of Default Not Filed)	Hourly
Foreclosure Letters	\$50
Payment Plan Administration	\$300
Tax Roll Removal (3, 4)	\$75
Removal of the Notice of Intent to Remove Delinquent Installments (4).....	\$25
Subsequent Foreclosure Fees (4)	\$100

All fees are based on a per-parcel/per-district basis, except as noted below.

1. This fee will be recovered as part of the next levy.
2. Letter is sent to lienholders where public Notice of Default has been filed. Fee reduced to \$20 when sent jointly with a Foreclosure Letter to the same parcel.
3. This fee includes filing of the “Notice of Intent to Remove Delinquent Installments” but does not include County fees for removal from the tax roll.
4. This fee is per parcel/per district/per year from the initiation of the foreclosure.

APPORTIONMENTS OF 1915 ACT ASSESSMENT LIEN (PER OCCURRENCE)

Apportionments will be performed upon request and paid for by the requesting party at consultant’s fee structure shown below. Consultant will apportion the assessment according to the original method of spread, prepare the amended assessment diagram, and record the notice of apportionment and amended diagram per Parts 10 and 10.5 of the Streets and Highways Code.

Apportionment Fee (Four parcels or less)	\$950
Apportionment Fee (Five or more parcels)	\$1,800 (plus \$35 per parcel)
Recording Fee (each)	\$40
Resolutions	\$300
Meeting Attendance	Hourly Rate, plus travel costs

SPECIAL FINANCING DISTRICT FORMATION, RESTRUCTURING AND BOND ISSUANCE

SFD Formation	\$19,500–45,000 per district
SFD Restructuring	\$9,500– 38,500 per district
Bond Issuance Disclosure	\$18,500–26,500 per bond issue
Estimated expenses	\$1,500–7,500 per district/bond issue

In the event that a new Special Financing District is to be formed, work performed under this section will be accompanied first by a detailed proposal outlining specific tasks and costs totaling no more than the range of costs shown above.

Annual Fee Increases

Cost of living increases will be applied at a fixed rate of 3% annually starting January 2025 and annually thereafter.

Additional Optional Services – Hourly Rates

The following table shows our current hourly rates. Optional services authorized by the City but not included in the scope of services will be billed at this rate or the then applicable hourly rate. This may include attendance at additional meetings, notice and ballots, etc.

Title	Hourly Rate
Director	\$275
Associate Director / Engineer	\$250
Senior Consultant / Manager	\$225
Consultant	\$200
Financial Analyst	\$175
Clerical / Support	\$135

Terms

Base fees administration services will be invoiced at the beginning of each fiscal year. Continuing Disclosure expenses will be invoiced one-time annually, upon completion/filing. Fees for all other services will be invoiced quarterly. Any charges for Additional Optional Services must be itemized and include a brief description of services rendered and date of service. Expenses must be itemized and included in the next regular invoice. Itemization shall include a brief description of services rendered, which district was serviced and the date of service.

Expenses

Customary out-of-pocket expenses will be billed to the City at the actual cost to Consultant. These expenses may include, but are not limited to, the assessment engineer's signature and stamp, travel, mailing fulfillment, postage, supplies, telephone, reproduction, meals, and various third-party charges for data, maps, and recording fees. Any requested reimbursement over \$100 requires pre-approval by the City. Please send all such requests to Anthony Miller, Special Districts Manager, at anthony.miller@oxnard.org or his designee.

**IRAN CONTRACTING ACT CERTIFICATION
(TO BE EXECUTED AND SUBMITTED WITH THE AGREEMENT)
Public Contract Code Sections 2202-2208**

Pursuant to Public Contract Code 2204.(a) A public entity shall require a person that is submits a bid or proposal to,or otherwise proposes to enter into or renew a contract with, a public entity with respect to a contract for goods or services of one million dollars (\$1,000,000) or more to certify, at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Section 2202.5 or as a person described in subdivision 9b) of Section 2202.5, as applicable.

To comply with this requirement, please insert your company/entity and Federal ID number (if available) and complete one of the options below. Please note, California law established penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made, contract termination and three-year ineligibility to bid on contract in accordance with Public Contract Code section 2205.

OPTION No.1- CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/entity identified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS in accordance with subdivision (b) of Public Contract Code 2203.

Company Name/Financial Institution (printed):

Federal ID Number (or n/a):

By (Authorized Signature):

Printed Name & Title of Person Signing:

Date Executed

Executed in the County of _____ in the State of _____

OPTION No.2 - EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below and attach documentation demonstrating the exemption approval.

Company Name/Financial Institution (printed):

Federal ID Number (or n/a):

By (Authorized Signature):

Printed Name & Title of Person Signing:

Date Executed

Executed in the County of _____ in the State of _____

**CONSULTANT/PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF OXNARD AND NBS GOVERNMENT FINANCE GROUP**

By This Consultant/Professional Services Agreement ("Agreement"), the CITY of Oxnard ("CITY") agrees to engage the services of NBS Government Finance Group ("CONSULTANT"), and CONSULTANT agrees to perform the services for CITY as herein described, for the compensation, during the term, and otherwise subject to the covenants and conditions herein set forth. CITY and CONSULTANT may be individually referred to as "Party" or collectively as the "Parties."

1. SUMMARY DESCRIPTION OF SERVICES. To provide Special Districts administrative professional and technical services.

2. PARTIES.

CITY of Oxnard ("CITY"), a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030

NBS Government Finance Group ("CONSULTANT"), a corporation/LLC/LLP of the State of California, located at 32605 Temecula Parkway Suite 100, Temecula, CA 92108.

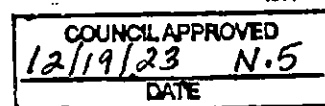
3. TERM OF AGREEMENT: From (Date): January 1, 2024 To (Date): December 31, 2027.

3.1 Time is of the essence in this Agreement.

3.2 The CITY shall have the option for (2) two consecutive (1) one-year extensions, in accordance with the scope of work and general terms and conditions of the Consultant/ Professional Services Agreement. Any price increases or decreases shall be negotiated at time of contract extension.

3.3 Any Optional Extension (initial term, plus any option to extend) shall not exceed a total of five (5) years. The CITY in its sole discretion may exercise the optional extension upon 60 days written notice to the CONSULTANT in accordance with Section 11 of this Agreement. CONSULTANT shall issue its written consent to the CITY's exercise of the option extension within 10 days of receipt of notice from the CITY. All Notices shall comply with Section 20 of this Agreement.

3.4 All services required of CONSULTANT under this Agreement shall be completed on or before the end of the term of the Agreement.



4. AGREEMENT AMOUNT NOT TO EXCEED: \$1,028,484

5. AGREEMENT EXHIBITS.

The following documents memorialized below are the only exhibits to this Agreement and are incorporated by reference as though fully set forth herein. In the event of a conflict between the Exhibits and this Agreement, the Agreement controls.

Exhibit A: Scope of Services
Exhibit B: Schedule of Compensation
Exhibit C: Insurance Requirements: City Insurance Exhibit INS-A
Exhibit D: Iran Contracting Certification

6. DESIGNATED REPRESENTATIVES.

The Designated Representatives listed below shall be authorized to act on behalf of the named Party, be responsible for negotiations and contractual matters, and coordinate with each other to perform the services under this Agreement. Additionally, CONSULTANT's services shall be performed or immediately supervised by the CONSULTANT's Representative:

CITY Designated Representative:	CONSULTANT Designated Representative:
Name: Eric Storrie	Name: Adina McCargo
Title: Special Districts Manager	Title: Director and Project Manager
Phone: (805) 385-7578	Phone: (800) 676-7516
Email: eric.storrie@oxnard.org	Email: amccargo@nbsgov.com
Mailing Address (if differs from above):	Mailing Address (if differs from above):
1060 Pacific Avenue, Bldg 1	
Oxnard, CA 93030	

7. CONTRACTUAL PREREQUISITES.

7.1 This Agreement must first be executed by the CONSULTANT, after which the Agreement shall be approved as to form by the City Attorney, then executed by the Mayor, or an authorized person on behalf of the CITY, and if executed by the Mayor shall also be executed by the City Clerk.

7.2 CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on CITY until the AGREEMENT is fully executed and approved by CITY.

7.3 A request for modification of the terms, prior to execution of the Agreement, must be made in writing and presented to the Designated Representative of the CITY prior to the time this Agreement is executed.

7.4 All proof of a City tax certificate, insurance, and W-9 forms is required prior to execution of this Agreement.

7.5 CONSULTANT shall not perform any work under this Agreement until a proof of insurance has been provided to the City as required under Section 24 of this Agreement.

8. CONSULTANT'S SERVICES.

8.1 CONSULTANT shall perform the tasks, obligations, and services set forth in the "Scope of Services," attached to and incorporated into this Agreement as "Exhibit A." Once this Agreement is executed, the Scope of Services may only be modified by written Amendment pursuant to Section 12 of this Agreement.

8.2 The Services shall be coordinated with the designated City Project Manager set forth in Exhibit A subject to the direction of the City Manager or Department Director. CONSULTANT hereby designates its Project Manager as set forth in "Exhibit A" as the person responsible for the Services who shall coordinate with City's Project Manager in executing the scope of services under this Agreement.

9. COMPENSATION.

CITY shall pay CONSULTANT for the services performed pursuant to the terms of this Agreement in the time and manner set forth in the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." CITY shall pay CONSULTANT an amount not to exceed the amount is listed in Section 4 of this Agreement. Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 12 of this Agreement, and may be subject to approval by the City Council.

9.1 Price Adjustments. Unless otherwise stated, prices are maximum for the term of the Contract. Price adjustments, if allowed under this Contract, must be requested in writing and accompanied by the required information to substantiate the request for price adjustment, as set forth in the Contract. Any allowable request for price adjustment must be delivered to the CITY at least 30 days before the adjusted prices become effective. No price adjustment allowable under this Contract will be granted retroactively. The CITY must also be given the benefit of any decline in prices. If any price increase is granted by the CITY, the increase shall not be greater than 3% from the prior year.

10. PAYMENT & INVOICES.

The CITY shall pay all undisputed portions of any applicable invoice within thirty (30) days after receipt of an invoice. In the event the CITY disputes one or more items in an invoice, the CITY shall, within thirty (30) days after receipt of such invoice, notify the CONSULTANT of the item(s) being disputed and the reason(s) therefore. The CITY may withhold payment for such disputed items until resolution of the dispute.

10.1 Payment Request. 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. Invoices may be emailed to: sdinvoices@oxnard.org.

10.2 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.

10.3 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 subcontracted consultants.

10.4 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.

11. OPTION TO EXTEND AGREEMENT.

When in the CITY's best interest, this Agreement may only be extended, if the City in its discretion exercises the option to extend pursuant to Section 3.2 and 3.3 of the Agreement. The initial term, plus any option to extend, shall not exceed a total of five (5) years. **If no option to extend the Agreement appears in sections 3.2, then this Agreement shall not be extended.**

12. MODIFICATION OF AGREEMENT.

This Agreement may be amended, modified, or otherwise altered, or its provisions waived, only upon mutual consent of the Parties by written amendment, and as authorized by the Oxnard City Code, Sections 4-59 and 4-60.

13. TERMINATION OF AGREEMENT.

CITY may terminate this Agreement at any time, with or without cause and without penalty, upon fifteen (15) calendar days' prior written notice pursuant to Section 31 of this Agreement. Such termination shall be effective on the date specified in the notice, or if no date is specified, then fifteen (15) calendar days from the date of the notice. CITY shall be liable to CONSULTANT only for work done by CONSULTANT up to and including the date of termination of this Agreement unless the termination is for cause, in which event CONSULTANT need be compensated only to the extent required by law. CONSULTANT may terminate this Agreement at any time during the term of the Agreement by giving the CITY sixty (60) calendar days' prior written notice.

14. 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. 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 the CONSULTANT shall perform for the CITY. The CITY retains the right to provide general instructions to and observe the CONSULTANT in the performance of all services done on behalf of the CITY.

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.

15. LAWFUL PERFORMANCE.

CONSULTANT shall abide by all Federal, State, and Local Laws and Regulations as may be related to the performance of duties under this Agreement. CONSULTANT, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

16. SAFETY REQUIREMENTS.

CONSULTANT shall not perform any services for the CITY when the CONSULTANT is impaired by alcohol or a controlled substance. When there is reasonable cause to believe that any person has violated this provision, that person shall be immediately removed from the premises and be subject to any applicable civil and/or criminal penalties under the CITY's Code and/or under state law. All work performed under this Agreement shall be performed in such a manner as to provide safety to the public. The CITY reserves the right to issue restraining or cease and desist orders to CONSULTANT when unsafe or harmful acts are observed or reported relative to the performance of the work under this Agreement. The acceptance of CONSULTANT's work by CITY shall not operate as a release of the CONSULTANT from such standard of care and workmanship.

17. OWNERSHIP OF CONSULTANT'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE.

CITY shall be the owner of any and all technical documents and records, including, computations, plans, correspondence, and/or other pertinent data and information, both hard copy and electronic, gathered or prepared by CONSULTANT in performance of this Agreement and shall be entitled to immediate possession of the same upon completion of the work under this Agreement, or at any earlier or later time when the same may be requested by CITY.

17.1. Records and Inspections. The CONSULTANT shall maintain full and accurate records, with respect to all services and matters covered under this Agreement. The CITY shall have free access at all reasonable times to such records, both hard copy and electronic, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings, and activities.

17.2. Deliverables. CONSULTANT shall deliver to the CITY the studies, plans, specifications, or other documents as are identified in the Scope of Services; and CONSULTANT shall, upon completion of all work or termination of this Agreement, submit to the CITY all information developed in the course of the CONSULTANT's services. CONSULTANT shall, in such time and in such form as the CITY may require, furnish reports concerning the status of services required under this Agreement. CONSULTANT shall, upon request by CITY and upon completion or termination of this Agreement, deliver to the CITY all material furnished to CONSULTANT by the CITY.

17.3. Ownership – Generally. All inventions, discoveries, enhancements, changes, or improvements of computer programs developed pursuant to this Agreement shall be the property of the CITY, and all patents or copyrights shall be assigned to the CITY, unless otherwise agreed. CONSULTANT agrees that CITY may make modifications to computer software furnished by CONSULTANT

without infringing CONSULTANT's copyright or any license granted to CITY, unless otherwise agreed.

17.4. Ownership of Documents. Every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the CONSULTANT pursuant to or in connection with this Agreement shall be the exclusive property of the CITY.

17.5. Confidentiality. Information that is exempt from disclosure to the public is confidential. This includes information relating to the past, present, or future affairs of the CITY or information belonging to a third party whose information is in the CITY's possession or control under obligations of confidentiality. CONSULTANT may be granted access to information that is exempt from disclosure to the public (Government Code Section 7920.505) and may contain "trade secrets" (see Government Code Section 7924.510(f)) when it is necessary for CONSULTANT to perform its obligations pursuant to this Agreement. If CONSULTANT is granted such access to confidential information, CONSULTANT shall not be considered to be a member of the public as that term is used in Government Code Section 7920.515.

17.6. Disclosure of Information. CONSULTANT shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects assigned to CONSULTANT by the CITY or other information to which the CONSULTANT has had access during the term of this Agreement without the prior written approval of the CITY's Designated Representative during the term of this Agreement and for a period of two (2) years after the termination of this Agreement.

17.7. No Warranty. 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.

18. ASSIGNMENT.

This Agreement is for the professional services of CONSULTANT. Any attempt by CONSULTANT to assign the benefits or burdens of this Agreement without the prior written approval of CITY shall be prohibited and shall be null and void. CONSULTANT's services pursuant to this Agreement shall be provided by the CONSULTANT's Designated Representative or directly under his/her supervision, and CONSULTANT shall not assign another to supervise the CONSULTANT's performance of this Agreement without the prior written approval of CITY, by and through the CITY's Designated Representative.

19. NOTICE OF BREACH AND OPPORTUNITY TO CURE.

Neither Party will be in breach of this Agreement where the breach is capable of being cured, or until written notice of the breach is received from the non-breaching Party. The Party charged with breach will have fifteen (15) calendar days from the date of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other Party within fifteen (15) days from the date on which the breaching Party received notice of breach, the non-breaching Party may terminate this Agreement. Notice shall be given in the manner set forth in section 22.

20. NOTICE.

All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by first-class mail. Notice sent by mail shall be addressed to each Party's Designated Representative as set forth above in Section 6. When addressed in accordance with this Section, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

21. COVENANTS AND CONDITIONS.

Each term and each provision of this Agreement to be performed by CONSULTANT shall be construed to be both a covenant and a condition.

22. WAIVER.

CITY's review or acceptance of, or payment for, work product prepared by CONSULTANT under this Agreement will not be construed to operate as a waiver of any rights CITY may have under this Agreement or of any cause of action arising from CONSULTANT's performance. A waiver by CITY of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

23. INDEMNIFICATION, HOLD HARMLESS & DEFENSE.

23.1 As a separate and independent covenant from CONSULTANT's obligations under this section, CONSULTANT shall to the fullest extent permitted by law, immediately defend, indemnify, and hold harmless CITY, its legislative and advisory bodies, and the CITY's officials, directors, officers, employees, and agents (the "Indemnitees") from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with CONSULTANT's performance of this Agreement or CONSULTANT'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. CONSULTANT'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 any of the Indemnitees.

23.2 The duty to defend is a separate and distinct obligation from CONSULTANT's duty to indemnify. CONSULTANT shall be obligated to defend 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, whether or not liability is established. An allegation or determination of negligence or willful misconduct by any of the Indemnitees shall not relieve CONSULTANT from its separate and distinct obligation to defend the Indemnitees. 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 CONSULTANT asserts that liability is caused in whole or in part by the negligence or willful misconduct of the Indemnitees. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of any of the Indemnitees, CONSULTANT may submit a claim to CITY for reimbursement of reasonable attorneys' fees and defense costs.

23.3 The provisions of this Subsection 23.3 apply only in the event that CONSULTANT is a design professional within the meaning of California Civil Code section 2782.8 ("Design Professional"). The term Design Professional, as defined in said section, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in accordance with the applicable provisions of the California Business and Professions Code.

23.3.1 Notwithstanding the provisions of Subsections 23.1 and 23.2 above, to the extent that the services to be provided under this Agreement are those of a Design Professional, CONSULTANT's duty to indemnify, hold harmless, and defend the Indemnitees shall be limited to the extent that any claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, its officers, agents, employees or subconsultants in the performance of the services described in this Agreement.

23.3.2 In no event shall the costs of defense charged to CONSULTANT exceed the CONSULTANT's proportionate percentage of fault, except as otherwise set forth in said Civil Code section 2782.8, the provisions of which are incorporated into this Agreement by this reference. Nothing in this Subsection 23.3 shall be construed to require CONSULTANT to provide indemnification for claims caused by the active

negligence or willful misconduct of the Indemnitees.

23.4 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. CONSULTANT waives any right of contribution against CITY or any of CITY's officers, employees, agents, or volunteers arising out of such failure to inspect, review, monitor, or supervise the work performed by CONSULTANT pursuant to this Agreement. The provisions of this Section shall not be restricted by and do not affect the provisions of this Agreement relating to Section 24. The CONSULTANT's obligations under this Section of the Agreement shall survive the termination of the Agreement.

23.5 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.

24. INSURANCE.

CONSULTANT shall obtain and maintain during the performance of any services under this Agreement the insurance coverages listed within "Exhibit C", which is attached hereto and incorporated herein by this reference, unless the Risk Manager waives, in writing, the requirement that CONSULTANT obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. CONSULTANT shall, before performance of any services pursuant to this Agreement, file with the Risk Manager evidence of insurance coverage as specified in "Exhibit C". 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 shall be considered a material breach of this Agreement.

25. LIVING WAGE REQUIREMENTS.

During the term of this Agreement, CONSULTANT understands and agrees that if Living Wages are applicable, subject to the 2002 Oxnard City Council Living Wage Policy, attached as "Exhibit D" to this Agreement, CONSULTANT will pay and/or provide

the wages and/or benefits required therein to all of its employees engaged in whole or in part in performing the services provided for by this Agreement. The duty to pay the correct wage is the responsibility of the CONSULTANT.

26. [RESERVED].

27. [RESERVED].

28. CONFLICT OF INTEREST.

CONSULTANT covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of CONSULTANT's services under this Agreement. CONSULTANT further covenants that in the performance of services under this Agreement, no officer, employee or agent of CONSULTANT having such interest shall be employed by it. In the event the CITY determines that CONSULTANT must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, CONSULTANT shall file such Form 700 with the CITY Clerk's Office pursuant to the written instructions provided by the CITY Clerk. Acquisition or maintenance of a conflicting interest by CONSULTANT may result in termination of this Agreement by the CITY.

29. IRAN CONTRACTING ACT.

In accordance with the Iran Contract Act of 2010 (Public Contract Code sections 2200-2208) the City requires that any CONSULTANT that submits a proposal or otherwise proposes to enter into or renew a contract with the City with respect to goods or services of one million dollars (\$1,000,000) or more, must certify, that the CONSULTANT is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable.

A CONSULTANT is ineligible to enter into any contract with the CITY for goods or services of one million dollars (\$1,000,000) or more if the CONSULTANT engages in investment activities in Iran. CONSULTANT must certify that it is not on the list of ineligible vendors prohibited from doing business with the State of California and shall complete the Iran Contract Act Certification attached as Exhibit D.

30. DISPUTES.

Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this Agreement, shall be decided by the CITY's Designated Representative, who shall reduce this decision to writing and mail a copy to the CONSULTANT. The decision of the CITY's Designated Representative shall be final and conclusive unless CONSULTANT requests mediation within ten (10) calendar days.

Pending final decision of a dispute, the CONSULTANT shall proceed diligently with the performance of the Agreement and in accordance with the decision of the CITY's Designated Representative.

31. DISPUTE RESOLUTION.

Should an unresolved dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within a reasonable time not to exceed forty five (45) days of a request. The mediator shall be agreed to by the mediating Parties. In the absence of an agreement on a mediator, the Parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfold" process. The cost of mediation shall be borne equally by both Parties. Neither Party shall be deemed the prevailing Party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until agreement is reached by the Parties but not more than sixty (60) calendar days, unless the maximum time is extended in writing by both Parties.

32. 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; or for other purposes relating to the Agreement. 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 or until an audit has been completed and accepted by CITY, whichever occurs later. CONSULTANT shall maintain all such records in CITY or to promptly reimburse CITY for all reasonable costs incurred in conducting the audit at a location other than in CITY, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. CONSULTANT shall include a copy of this Section 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.

33. ADVERTISING AND PUBLICITY.

CONSULTANT shall not use the name of or refer to CITY directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the CITY Manager. This Section shall survive the termination of this Agreement.

34. 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.

35. FORCE MAJEURE.

Neither the CONSULTANT nor the CITY shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to, war or insurrection, walkouts by the Party's own employees, fires, natural calamities, riots, or demands or requirements of governmental agencies other than the CITY.

36. GOVERNING LAW.

The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, County of Ventura.

37. SEVERABILITY.

If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect and be enforceable.

38. INTEGRATED AGREEMENT.

This Agreement and the attached exhibits referenced herein to this Agreement represent the entire understanding between the Parties. No verbal agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the Parties to this Agreement and any subsequent successors and assigns.

39. NO THIRD-PARTY BENEFICIARY.

This Agreement shall not be construed to be an agreement for the benefit of any third-party or parties, and no third party or parties shall have any claim or right of action under this Agreement.

40. AUTHORITY TO EXECUTE.

Each Party hereto expressly warrants and represents that through its Designated Representative it has the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental entity, and warrants and represents that the Designated Representative has the authority to bind each Party to the performance of its obligations hereunder.

41. EXECUTION – COUNTERPARTS.

This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, but they shall not be effective nor enforceable unless and until it is executed with the handwritten signature of an authorized representative of each of the relevant Parties. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other Party to this Agreement is in the physical possession of the Party seeking enforcement thereof.

42. INCONSISTENT OR CONFLICTING TERMS.

In the event of any contradictions or inconsistencies between any attached documents or exhibits incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control. Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the CITY are not binding upon the CITY's Designated Representative unless specifically agreed to in writing, and initiated by CITY's Designated Representative, as to each additional contractual term or condition.

43. CAPTIONS AND HEADINGS.

The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content, scope, or intent of the provisions described under the respective caption or heading.

44. ACKNOWLEDGEMENT.

By signing below, CONSULTANT acknowledges that it has reviewed the CITY's CONSULTANT/Professional Services Agreement terms and conditions and insurance requirements and that CONSULTANT hereby agrees to full compliance.

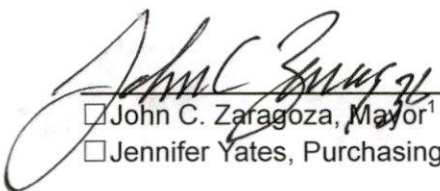
[Signatures on next page]

Agreement No. 32400250

In witness whereof, the Parties have entered into this Agreement effective on the date as written in section 3 and upon signature of all Parties.

CITY OF OXNARD

NBS GOVERNMENT FINANCE GROUP

 12-19-23
☐ John C. Zaragoza, Mayor¹ Date
☐ Jennifer Yates, Purchasing Manager²

 11/17/23
Greg Davidson, Vice President Date
 11/17/23
Michael Rentner,³ Date
President & Secretary

ATTEST:

 12/20/23
Rose Chaparro, CITY Clerk Date
(only if Mayor authorizes)

APPROVED AS TO FORM:

 12/13/2023
Stephen M. Fischer, CITY Date
Attorney (always required)

¹ The City Council must authorize and the Mayor must execute any agreement over \$200,000.

² The Purchasing Agent may execute any authorized agreement up to \$200,000.

³ 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.

EXHIBIT A

CONSULTANT/PROFESSIONAL SERVICE AGREEMENT (CITY of Oxnard and NBS Government Finance Group)

SCOPE OF SERVICES

A. Administration Services for the City's Maintenance Assessment Districts (LMD/MAD)

1. **Database Development.** Consultant will update the database with current County Assessor's information including property owner names, property owner addresses and any other available data that will augment the existing database.
2. **Budget Preparation.** Consultant will meet with City staff to review each district's budget for the coming fiscal year. This budget will be based on historical costs, actual and/or projected changes in costs and/or improvements to be maintained. Cost categories may include but are not limited to capital improvements, maintenance costs, incidental costs (engineering, legal, district administration) and reserve funds.
3. **Assessment Computation and Rate Analysis.** Consultant will compute the assessment for each parcel within each district according to its method of assessment. Consultant will provide an assessment summary which will include a comparison of current year rates versus prior year rates, separate by zone and land use, if applicable, and fund balance information.
4. **Engineer's Report Preparation.** Consultant will prepare and provide to City staff the annual Engineer's Report for each district. Each such Engineer's Report will consist of:
 - a. Background of the district.
 - b. A detailed and technically supported Method of Assessment.
 - c. A description of the improvements and services funded by the district.
 - d. A cost estimate for the improvements and services being funded.
 - e. Copy or reference to the original district diagram.
 - f. A table showing assessed rates by zone and land use.
 - g. An assessment roll listing assessments by parcel or reference a complete roll on file with the City.
5. **Meet with City Staff.** Consultant will meet with City staff to review each Engineer's Report for modifications and approval.
6. **Noticing and Resolution Coordination.** Consultant will coordinate activities to ensure that required tasks are completed within the scheduled time frame. Consultant will assist the City with preparation of any notice of assessments, public hearings, or other meetings requiring publication. Consultant will assist the City with preparation of the staff report, all legal notices and the associated resolutions described below:
 - a. Resolution describing improvements, initiating proceeding and ordering the Consultant's engineer to prepare and file a report for the City.

- b. Resolution preliminarily approving the Engineer's Report
- c. Resolution of intention declaring the intention of the City Council to levy and collect assessments and setting a date for the public hearing.
- d. Resolution authorizing the placement of assessments on the secured property tax bills.

7. Meeting Attendance. Consultant will attend up to a total of two (2) public meetings per fiscal year such as workshops and City Council meetings (in addition to and not including the town hall meetings in B(1) of this Exhibit A-2), as requested by the City.

8. Levy Submittal. Consultant will submit the levy to the Ventura County Auditor Controller in the required format. Assessments rejected by the Ventura County Auditor-Controller will be researched and resubmitted for collection on the Ventura County Tax Roll. Any parcels that are not submitted to Ventura County for collection will be invoiced for payment directly to the City.

9. Final Engineer's Report. Consultant will update and deliver to City staff each annual Engineer's Report.

10. Toll-Free Phone Number. Consultant shall provide a toll-free phone number for use by the City, other interested parties and all property owners during regular business hours, Monday-Friday 8:00 a.m. to 5:00 p.m. Consultant will be available to answer questions regarding each district and the ongoing collection of assessments. Bilingual staff is available to assist Spanish-speaking property owners.

B. On-Call Assistance to City Staff with Special Requests Related to the Administration of the Special Financing Districts But Not In Scope of Services

11. On-Call Assistance. Consultant will be available to answer questions and assist City staff during regular business hours, Monday-Friday 8:00 a.m. to 5:00 p.m. on special requests involving the administration of the Special Financing Districts, as requested. On-call assistance is intended to cover time, material, and all other costs for tasks related to the administration of the Special Financing Districts (1915, CFD, LMD/MAD, and others) and not already included in the scope of services of this Agreement. On-Call assistance may include, but not be limited to:

- a. Assistance with direct staff allocations.
- b. Assistance with indirect cost allocations.
- c. Assistance with Proposition 218 compliance on an ongoing basis.
- d. Assistance with maintenance contract specifications and bidding.
- e. Assistance with the resolution of inquiries by property owners and the public.

C. 1915 Act Assessment District Administration Services

12. Kick-Off Meeting, Project Schedule. Consultant to meet with City staff, legal counsel and other interested parties to:

- Establish lines of communication
- Clarify the specific project goals and criteria that will meet the City's preference
- Identify and resolve any special circumstances that may be involved in the administration of the districts

- Develop project schedules to meet legal requirements and provide for effective interaction of all involved parties
- Establish meeting dates consistent with schedule to achieve project milestones

- 13. Data Collection.** Consultant will gather and review data relevant to the administration of the district. Data will be obtained from various sources, including City records, Assessor's parcel maps, and County Assessor information and establish a database for the assessment district.
- 14. Policy Review.** Consultant will review policies and procedures that have been established by the City for compliance with the governing documents and law. These policies will be incorporated into our service to the City.
- 15. Cost Recovery.** Consultant will identify all costs associated with the administration of the Assessment District and recover those costs through the levy process as outlined in §8682 and §8682.1 of the California Streets and Highways Code. These costs may include, but not be limited to Registrar/Transfer/Paying Agent fees, Arbitrage Rebate calculation fees, bank fees, and expenses of the City and its consultants related to the administration of the district.
- 16. Fund Analysis.** Consultant will determine the balance requirements and acquire the current cash balances for the district. We will make recommendations to ensure that the flow of funds and fund balances are in compliance with bond documents. Cash flow analysis will also be performed to determine any levy shortfall or surplus.
- 17. Annual Assessment Levy.** Consultant will calculate the annual assessment levy for each parcel in the district and submit the amount for each parcel to the County in the format and medium (i.e. tape, diskette) required by the County Auditor-Controller.
- 18. Resubmission of Rejects.** Consultant will research the status of any parcels rejected by the County Auditor-Controller, and resubmit corrected data for collection on the County Tax Roll. Any parcels that are not accepted by the County for collection will be invoiced directly, with payment directed to the City.
- 19. Maintain Assessment District Data.** Consultant will annually track all parcel changes to ensure that all changes are documented. Historical parcel change and assessment apportionment data will be maintained by NBS.
- 20. Annual Report.** Consultant will provide a comprehensive Annual Report that will show a detailed listing of the amounts submitted to the County or directly billed for collection, details of delinquent assessments, fund analysis, paid off parcels and release of liens, all bond call activity, and assessed valuation information.
- 21. Delinquency Monitoring.** Consultant will provide the City with a comprehensive list of delinquencies after each installment becomes due. This report will show delinquency percentage as well as a detailed list of each delinquent parcel.
- 22. Prepayment Calculation/Amortization Schedule.** Consultant will provide assessment prepayment calculations and amortization schedules to interested parties. The requester

will pay the cost of this service; however, there will be no charge to the City or property owners.

- 23. Bond Calls.** Consultant will prepare the spread of principal to be called within maturities for all bond calls and coordinate the call with the Paying Agent/Trustee.
- 24. Release of Liens.** Consultant will prepare all documents required to release the liens of parcels that have prepaid the assessment.
- 25. Notice of Special Assessment.** Consultant will provide a "Notice of Special Assessment" disclosure notice to requesting parties as required by §53754 of the Government Code of the State of California. The fee of any Notice of Special Assessment shall be paid by the party requesting the disclosure notice.
- 26. Toll-Free Phone Number.** Consultant will provide a toll-free phone number for use by the City, other interested parties and all property owners. Our staff will be available to answer questions regarding the formation and ongoing collection of assessments for the district. Bilingual staff is available for Spanish-speaking property owners.
- 27. County Assessor Reporting.** Consultant will work with the County Assessor to aid in complying with the requirements of Revenue & Taxation Code 163. This includes providing data such as parcel number, original assessment and current principal balance to the County Assessor.

Community Facilities District Administration

- 28. Data Collection.** Consultant will gather and review data pertinent to the administration of the Community Facilities District. Data will be obtained from various sources such as assessor's parcel maps, building permits and county assessor information as determined to be necessary based on the requirements of the Rate and Method of Apportionment. Consultant will maintain and periodically update a database of all parcels within the districts and relevant parcel information.
- 29. Administrative Cost Recovery.** Consultant will identify all costs associated with the administration of the Community Facilities District and recover those costs through the levy process as outlined in §53317(e) and §53340 of the Government Code of the State of California. Such costs may include, but are not to be limited to: bank fees, legal fees, county tax collection fees, and all costs and expenses of the public agency and its consultants related to district administration.
- 30. Cash Flow Analysis.** Consultant will determine the cash flow requirement, acquire current fund balances and make recommendations to keep the flow of funds and fund balances in compliance with the bond documents. Fund transfers might include the transfer of available surplus funds to be used as levy credits or the transfer of reserve funds to the redemption fund upon the prepayment of special taxes. Cash flow analysis will also be performed to determine any levy shortfall or surplus collections.
- 31. Special Tax Requirement.** Consultant will calculate the annual Special Tax Requirement that will include all necessary components as outlined in the Rate and Method of

Apportionment, such as principal and interest due, administrative expenses, collection for direct financing of services or facilities, and a fund credit or replenishment as determined from analysis of the district funds.

- 32. Levy Calculation.** Consultant will calculate the annual special tax levy for each parcel within the Community Facilities District following the guidelines established in the Rate and Method of Apportionment.
- 33. Meeting Attendance.** Consultant will attend district related Council/Board meetings related to district administration, as requested by the City.
- 34. Parcel Tax Reporting.** Consultant will prepare a report with information relating to the imposition of each locally assessed parcel tax required by the addition of Government Code (GC) section 12463.2 (chapter 781, statutes of 2014.)
- 35. Levy Submittal.** Consultant will submit the levy to the County Auditor Controller in the required format and medium (i.e. e-mail, diskette). Special Taxes rejected by the County Auditor Controller will be researched and resubmitted for collection on the County Tax Roll. Any parcels that are not submitted to the County for collection will be invoiced directly to the parcel owner, with payment submitted to the public agency.
- 36. Special Tax Levy Report.** Consultant will provide an annual Special Tax Levy Report. This report will include a parcel listing with levy amounts and other parcel information, the details of the annual Special Tax Requirement, current delinquency information, fund analysis, administrative expenses to be recovered, and status of the project and current issues affecting the districts.
- 37. Delinquency Monitoring.** Consultant will provide a comprehensive list of delinquencies after each special tax installment becomes due. The delinquency report will provide the district's overall delinquency percentage as well as a detailed list of each delinquent parcel, with the name and address of the delinquent parcel owner, the delinquent amount and penalties.
- 38. Prepayment Calculations.** Consultant will provide special tax prepayment calculations to interested parties. The party requesting the calculation shall pay the fee of any prepayment calculation.
- 39. Bond Calls.** Consultant will prepare the spread of principal to be called within maturities for all bond calls and coordinate the call with the Paying Agent/Trustee.
- 40. Release of Liens.** Consultant will prepare all documents required to release the liens of parcels that have prepaid the special tax.
- 41. CDIAC Reporting.** Consultant will perform all necessary reporting to the California Debt and Investment Advisory Commission as required by §53359.5(b) and §53359.5(c) of the Government Code of the State of California.
- 42. Notice of Special Tax Disclosure.** Consultant will provide Notice of Special Tax Disclosure notices to requesting parties as required by §53340.2 and §53341.5 of the

Government Code of the State of California. The fee of any Notice of Special Tax shall be billed to the party requesting the disclosure form.

- 43. Toll-Free Phone Number.** Consultant will provide a toll-free phone number for use by the City, other interested parties and all property owners. Our staff will be available to answer questions regarding the districts and ongoing collection of the special tax. Bilingual staff is available for Spanish-speaking property owners.

Continuing Disclosure (Per Occurrence)

In accordance with the Continuing Disclosure Certificate of the Bonds, Consultant will support the annual disclosure filing requirements of the SEC Continuing Disclosure Rule 15c2-12, for the Bonds existing at the time of this agreement and Bonds the Consultant has previously provided such services for. Specifically, Consultant will perform the following:

- 44. Document Review.** Consultant will review pertinent documents of the Bonds, including the Official Statement and Continuing Disclosure Certificate. We will identify material such as the Comprehensive Annual Financial Report and/or other operating data that the City has agreed to provide in the Continuing Disclosure Certificate.
- 45. Data Collection.** Consultant will collect the annual financial information and operating data that the City has agreed to provide to the Electronic Municipal Market Access system, or EMMA.
- 46. Report Preparation.** Consultant will prepare the Annual Disclosure Report as required in the Disclosure Certificate.
- 47. Annual Dissemination.** Consultant will disseminate the Annual Disclosure Report including City Financials to EMMA and any SID, and post to our website to allow public access free of charge.
- 48. Significant Events.** Consultant will prepare and disseminate a "Notice of Significant Events", as listed on the Continuing Disclosure Certificate, to EMMA, as required in the certificate. Action will commence upon notification by the City of the occurrence of any of the events.
- 49. City's Responsibilities.** The City shall furnish Consultant with any pertinent information that is available to the City and applicable to the services. The City shall designate a person to act with authority on its behalf in respect to the services. The City shall notify Consultant of the occurrence of any events listed in the Continuing Disclosure Certificate. The City shall promptly respond to Consultant's requests for reviews and approvals of its work, and to its requests for decisions related to the services. City understands and agrees that Consultant is entitled to rely on all information, data and documents (collectively, "Information") supplied to Consultant by City or any of its agents, Agreements or proxies or obtained by Consultant from other usual and customary sources including other government sources or proxies as being accurate and correct and Consultant will have no obligation to confirm that such Information is correct and that Consultant will have no liability to City or any third party if such Information is not correct.

Delinquency Management (Per Occurrence)

Consultant will develop a comprehensive delinquency management program which includes a discussion and interpretation of the issuer's foreclosure covenant together with a review of the existing policies and procedures of the City. This service can be provided as part of overall annual administration or as a stand-alone service. When deemed as the appropriate course of action, NBS will perform the following.

- 50. Delinquency Reports.** Consultant will provide the City with an updated list of delinquencies prior to sending any of the below letters. This report will also detail each district's percentage of delinquencies, as well as a detailed list of each delinquent parcel.
- 51. Reminder Letter.** At the City's direction, Consultant will send a reminder letter to the property owner of each delinquent parcel for the December 10th installment. The purpose of the letter is to inform and educate the property owner of their obligation to pay assessments.
- 52. Demand Letter.** At the City's direction, Consultant will send a demand letter to the property owner of each delinquent parcel for the April 10th installment. This letter will be mailed to any property owner who remains delinquent for both installments or who is delinquent for April 10th only. The purpose of this letter is to further educate the property owner and advise them of a potential foreclosure.
- 53. Lienholder Letter.** At the City's direction, Consultant will send a demand letter to the lienholders of loan-defaulted parcels where a Notice of Default has been filed, notifying them of the special tax / assessment delinquency and the loss of their lien position when judicial foreclosure occurs. The purpose of this letter is to educate the lienholders and to spur quick payment of delinquencies in order to protect their interest in the property.
- 54. Lienholder Research.** At the City's direction, Consultant will perform detailed search of public records to identify lienholders on non-loan-defaulted parcels. The purpose of this is to allow further communication from the City to educate the lienholders and to spur quick payment of delinquencies in order to protect their interest in the property.
- 55. Foreclosure Letter.** This type of letter is typically sent after the installments for a parcel have been removed from the tax roll. The letter delineates what amount must be paid directly to the City to forestall the turnover of documents to the foreclosure attorney.
- 56. Tax Roll Removal and Notice.** Consultant will provide the information required to remove parcels from the tax roll and coordinate with the County Auditor Controller to verify the removal. This step is in preparation of turning the parcels over for foreclosure. Once removed from the tax roll, each property owner will receive one final foreclosure letter indicating the amount due and payment instructions. NBS will file the Notice of Intent to Remove Delinquent Installments and remove such Notice upon payment of the delinquency.
- 57. Payment Plans.** At the City's discretion, Consultant will offer payment plans to property owners in lieu of turning parcels over to the City's foreclosure counsel.

- 58. Subsequent Foreclosure Services.** Consultant will prepare and deliver all information to the City's foreclosure counsel. Consultant will also continue to supply the City's counsel with additional information throughout the foreclosure process. Consultant will continue to respond to property owner and City staff phone calls regarding the status of all cases, and will coordinate and audit status reports on a bi-monthly basis from the City's foreclosure counsel.
- 59. Toll-Free Phone Number.** Consultant will provide a toll-free phone number for use by the City, other interested parties and all property owners. Consultant's staff will be available to answer questions regarding the formation and ongoing collection of assessments/special taxes for the districts. Bilingual staff is available for Spanish-speaking property owners.

Apportionments of 1915 Act Assessment Lien (Per Occurrence)

Parts 10 and 10.5 of the Streets and Highways Code detail the methodology and procedure that the City must follow in apportioning the assessment lien on parcels that are reconfigured and/or subdivided. With our experience in district formation and the development of methods of assessment, we are able to ensure that apportionments are properly performed.

Assuming proceeding under the preferred procedure of Part 10.5, Consultant will perform the following:

- 60. Application Forms.** Consultant will provide apportionment application forms and instructions to the City's Engineering representative for inclusion as a condition of approval for subdivision within an assessment district.
- 61. Segregation.** Consultant will apportion the special assessment according to the method of spread as described in the engineer's report.
- 62. Notice of Apportionment.** Consultant will prepare a notice of apportionment and send it via certified mail to the issuing underwriter, as required.
- 63. Assessment Diagram.** Consultant will prepare an amended assessment diagram and notice. The diagram and notice will be filed and recorded with the County Recorder.
- 64. Amortization Schedule.** Consultant will prepare an amortization schedule for each newly created assessment type.
- 65. Apportionment Report.** Consultant will prepare and submit to the City an Apportionment Report showing the finalized apportionment and the amended assessment diagram.

In the event proceedings are undertaken under Part 10, the following additional items are required:

- 66. Resolutions.** Consultant will prepare the required resolutions to order the amended assessment, the amended assessment diagram, notices to the property owner, and fix the amount of costs to perform the apportionment.

67. Public Meetings. Consultant will be available to attend any public meetings required to complete the apportionment.

EXHIBIT B

CONSULTANT/PROFESSIONAL SERVICE AGREEMENT (CITY of Oxnard and NBS Government Finance Group)

SCHEDULE OF COMPENSATION

Special Financing District Annual Administration

COMMUNITY FACILITIES DISTRICT (CFD) ADMINISTRATION FEES

The following table summarizes our annual fees for the for the base CFD Administration services:

District Name	Annual Base Fee
CFD 2000-3 (Oxnard Boulevard / Highway 101)	\$6,950
CFD No. 1 (Westport at Mandalay Bay)	\$6,950
CFD No. 2 (Westport at Mandalay Bay)	\$6,950
CFD No. 3 (Seabridge)	\$6,950
CFD No. 4 (Seabridge)	\$6,950
CFD No. 5 (Riverpark)	\$6,950
CFD No. 8 (Sakioka Farms)	\$6,950
TOTAL	\$48,650

1915 ACT ASSESSMENT DISTRICT (AD) ADMINISTRATION FEES

The following table summarizes our annual fees for the for the base AD Administration services:

District Name	Annual Base Fee
AD 2000-1 (Oxnard Boulevard / Highway 101)	\$4,950
AD 2001-1 (Series 2012 Refunding)	\$4,950
TOTAL	\$9,900

1915 ACT AND COMMUNITY FACILITIES DISTRICT ADMINISTRATION SERVICES

Community Facilities Districts (Base Fee) \$41,700

1915 Act Assessment Districts (Base Fee) \$9,900

Estimated Expenses are capped at a total of \$4,500 for the Community Facilities District Administrative Fees and 1915 Act Assessment Administrative Fees.

Total Base Fees plus Estimated Expenses \$56,100.

LANDSCAPE MAINTENANCE DISTRICTS (LMD) ADMINISTRATION FEES

The following table summarizes our annual fees for the for the base LMD Administration services:

District Name	Annual Base Fee
LMD No. 3 (River Ridge)	\$1,750.00
LMD No. 10 (Country Club Estates)	\$1,250.00

LMD No. 11 (St. Tropez)	\$1,250.00
LMD No. 12 (Standard Pacific)	\$1,250.00
LMD No. 13 (Le Village)	\$1,250.00
LMD No. 14 (California Cove)	\$1,250.00
LMD No. 16 (California Lighthouse)	\$1,250.00
LMD No. 23 (Greystone)	\$1,250.00
LMD No. 24 (Vineyards)	\$1,250.00
LMD No. 25 (Pointe)	\$1,250.00
LMD No. 27 (Rose Island)	\$1,250.00
LMD No. 28 (Harborside)	\$1,250.00
LMD No. 30 (Haas Automation)	\$1,250.00
LMD No. 31 (Rancho De La Rosa)	\$1,250.00
LMD No. 32 (Oak Park)	\$1,250.00
LMD No. 33 (El Paso)	\$1,250.00
LMD No. 34 (Sunrise Pointe & Sunset Cove)	\$1,250.00
LMD No. 36 (Villa Santa Cruz & Villa Carmel)	\$1,250.00
LMD No. 37 (Pacific Breeze)	\$1,250.00
LMD No. 38 (Aldea Del Mar)	\$1,250.00
LMD No. 39 (El Sueno Promesa & DR Horton/Seawinds)	\$1,250.00
LMD No. 40 (Cantada)	\$1,250.00
LMD No. 41 (Pacific Cove)	\$1,250.00
LMD No. 42 (Cantabria & Coronado)	\$1,250.00
LMD No. 43 (Greenbelt)	\$1,250.00
LMD No. 46 (Daily Ranch)	\$1,250.00
LMD No. 47 (Sycamore Place)	\$1,250.00
LMD No. 49 (Cameron Ranch)	\$1,250.00
LMD No. 50 (Pleasant Valley Senior Housing)	\$1,250.00
LMD No. 51 (Pfeiler)	\$1,250.00
LMD No. 52 (Wingfield)	\$1,250.00
LMD No. 53 (Huff Court)	\$1,250.00
LMD No. 54 (Meadow Crest Villas)	\$1,250.00
LMD No. 55 (Wingfield West)	\$1,250.00
LMD No. 58 (Westwind)	\$1,250.00
LMD No. 60 (Artisan)	\$1,250.00
MAD No. 4 (Mandalay Beach)	\$1,750.00
Waterways (Zones 1-Mandalay Bay & 2-Harbour Island)	\$1,750.00
TOTAL	\$50,000.00

Districts or Zones with Less than 300 Parcels (Base Fee) \$1,250 Each

Districts or Zones with 300 Parcels or More (Base Fee) \$1,750 Each

Estimated Expenses are capped at a total of \$3,500 for the Landscape Maintenance Districts.

Total Fees including Estimated Expenses \$53,500.

Estimated expenses reflect an allocation of \$2,000 for the signature and stamp of the annual consolidated engineer's report by a civil engineer (one occurrence).

ON-CALL ASSISTANCE TO CITY STAFF WITH SPECIAL REQUESTS RELATED TO THE ADMINISTRATION OF THE SPECIAL FINANCING DISTRICTS BUT NOT IN SCOPE OF SERVICES (UPON CITY'S REQUEST, HOURLY RATE SCHEDULE)

Hourly per Schedule Below (Initial Authorization for the Fiscal Year) \$27,000*

Estimated Expenses are capped at a total of \$1,500.

Total Fees plus Estimated Expenses \$28,500.

**City may authorize additional hours subject to additional compensation under our hourly rate schedule.*

CONTINUING DISCLOSURE

We understand that the City has bond issues currently subject to continuing disclosure preparation and dissemination. NBS will provide the services for the bonds existing at the date of this agreement for the fees as listed below. Additional issues may be added at similar fees.

Additional Services Necessary for the Ongoing Administration of the 1915 Act and Community Facilities Districts

Issuer Continuing Disclosure (Per Occurrence)*

AD 2000-1 Report Fee	\$2,400
AD 2001-1 Report Fee	\$1,850
CFD No. 1 Report Fee	\$1,850
CFD No. 2000-3 Report Fee	\$1,850

Estimated Expenses are included in the CFD & 1915 Act sections above.

Reports are combined under the 2012 Revenue Bonds (Series A & B).

Developer's Continuing Disclosure (Per Occurrence)

AD 2000-1 Report Fee*	\$450
Significant Event Fee*	Hourly Rate or \$250 per event

Estimated Expenses are included in the CFD & 1915 Act sections above.

Dissemination Services for Continuing Disclosure (Per Occurrence)*

Report Dissemination (per recipient)	\$25
Significant Event Dissemination (per recipient)	\$25

Estimated Expenses are included in the CFD & 1915 Act sections above.

DELINQUENCY MANAGEMENT

Reminder Letters (1)	\$15
Demand Letters (1)	\$30
Lienholder Letters (1, 2)	\$40
Lienholder Research (Notice of Default Not Filed)	Hourly
Foreclosure Letters	\$50
Payment Plan Administration	\$300

Tax Roll Removal (3, 4)	\$75
Removal of the Notice of Intent to Remove Delinquent Installments (4).....	\$25
Subsequent Foreclosure Fees (4)	\$100

All fees are based on a per-parcel/per-district basis, except as noted below.

1. This fee will be recovered as part of the next levy.
2. Letter is sent to lienholders where public Notice of Default has been filed. Fee reduced to \$20 when sent jointly with a Foreclosure Letter to the same parcel.
3. This fee includes filing of the "Notice of Intent to Remove Delinquent Installments" but does not include County fees for removal from the tax roll.
4. This fee is per parcel/per district/per year from the initiation of the foreclosure.

APPORTIONMENTS OF 1915 ACT ASSESSMENT LIEN (PER OCCURRENCE)

Apportionments will be performed upon request and paid for by the requesting party at consultant's fee structure shown below. Consultant will apportion the assessment according to the original method of spread, prepare the amended assessment diagram, and record the notice of apportionment and amended diagram per Parts 10 and 10.5 of the Streets and Highways Code.

Apportionment Fee (Four parcels or less)	\$950
Apportionment Fee (Five or more parcels)	\$1,800 (plus \$35 per parcel)
Recording Fee (each)	\$40
Resolutions	\$300
Meeting Attendance.....	Hourly Rate, plus travel costs

SFD Formation/Restructuring/Bond Issuance

SPECIAL FINANCING DISTRICT FORMATION, RESTRUCTURING AND BOND ISSUANCE

SFD Formation	\$19,500–45,000 per district
SFD Restructuring	\$9,500– 38,500 per district
Bond Issuance Disclosure	\$18,500–22,500 per bond issue
Estimated expenses	\$1,500–7,500 per district/bond issue

Annual Fee Increases

Cost of living increases will be applied at a fixed rate of 3% annually starting January 2025 and annually thereafter.

Additional Optional Services – Hourly Rates

The following table shows our current hourly rates. Optional services authorized by the City but not included in the scope of services will be billed at this rate or the then applicable hourly rate. This may include attendance at additional meetings, notice and ballots, etc.

Title	Hourly Rate
Director	\$275
Associate Director / Engineer	\$250
Senior Consultant / Manager	\$225

Agreement No. 32400250

Consultant	\$200
Financial Analyst	\$175
Clerical / Support	\$135

Terms

All services will be invoiced monthly.

Expenses

Customary out-of-pocket expenses will be billed to the City at the actual cost to Consultant. These expenses may include, but are not limited to, the assessment engineer's signature and stamp, travel, mailing fulfillment, postage, supplies, telephone, reproduction, meals, and various third-party charges for data, maps, and recording fees. Any requested reimbursement over \$100 requires pre-approval by the City. Please send all such requests to Eric Storrie, Special Districts Manager, at eric.storrie@oxnard.org or his designee.

EXHIBIT C

**CONSULTANT/PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and NBS Government Finance Group)**

INSURANCE REQUIREMENTS

Prior to contract approval, CONSULTANT/CONSULTANT/SELLER/BIDDER (hereafter referred to as "CONSULTANT") must procure, agree to maintain and supply evidence of insurance at the levels listed and in accordance with the other provisions listed in this document.

Agreement No. 32400250

**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 policy 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. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

3. With the exception of Professional Liability, 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.

11/23

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.

INS-A.doc



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.3

DATE: September 17, 2024

TO: City Council

FROM: Jason Benites, Police Chief, (805) 385-7624, jason.benites@oxnardpd.org

SUBJECT: Southern California High Tech Task Force (SCHTTF) Agreement # 32500147 to provide professional services to the Police Department.

RECOMMENDATION

That the City Council approve and authorize the Mayor to execute a two-year service agreement (agreement #32500147) with the County of Ventura and the Ventura County Sheriff's Office for services with the Southern California High Technology Task Force (SCHTTF) in an amount not to exceed \$250,000.

BACKGROUND

The Southern California High Tech Task Force (SCHTTF) was created in 2001 to address the increase in high technology crimes in Ventura County. This includes crimes where technology is used as an instrument to commit a crime, assist in the commission of a crime, or conduct forensic analysis of computer equipment to search for evidence associated with a criminal act. The SCHTTF is responsible for the forensic examination of all types of digital evidence, including cell phones, computers, tablets, video records, and other forms of developing computer-based equipment. The use of the SCHTTF is the most effective way to address computer-based crimes, as well as assist in investigating traditional crimes such as fraud, property crimes, sex assaults, and homicides.

All Ventura County law enforcement agencies entered into an MOU and agreed to participate in the SCHTTF funding. Per the MOU, each city in Ventura County will contribute a percentage of the cost for three (3) Office System Coordinator III positions (forensic examiners) based on the population of their respective jurisdiction. As of June 3, 2024, the population estimate for Oxnard was 197,536, which is approximately 24% of Ventura County's total population, which is 823,863. The following tables show the salary and benefit amounts for three (3) Office System Coordinator III positions and the approximate population amounts for Ventura County cities and the unincorporated areas.

Office System Coordinator Salary and Benefits

Office Systems Coordinator III	\$162,701
Office Systems Coordinator III	\$141,918
Office Systems Coordinator III	\$168,556
Total Estimate of Salaries and Benefits	\$473,175

The Office System Coordinator IIIs are employed by the Ventura County Sheriff's Office and address task force responsibilities. The differences in pay rates in the table above are due to the length of employment and salary increases for each Office System Coordinator III.

Estimated Ventura County Population as of June 3, 2024

City	Population	% of County Population	Contribution for 3 OSC III positions
Camarillo	69,014	8.38%	\$39,652
Fillmore	17,061	2.07%	\$9,795
Moorpark	35,114	4.26%	\$20,157
Ojai	7,533	0.91%	\$4,306
Oxnard	197,536	23.95%	\$113,467
Port Hueneme	20,916	2.54%	\$12,019
Santa Paula	31,355	3.81%	\$18,028
Simi Valley	124,029	15.05%	\$71,213
Thousand Oaks	122,643	14.89%	\$70,456
Ventura	107,569	13.06%	\$61,797
Unincorporated	91,093	11.05%	52,285
Total	823,863	100.00%	\$473,175

The HTTF service agreement is a two-year agreement with the following estimated cost for each Fiscal Year:

- FY 2024-2025 - \$113,467
- FY 2025-2026 - \$113,467
- The total estimated cost for the two-year service agreement is \$226,934
- The amount requested for the service agreement is \$125,000 for FY 24-25 and \$125,000 for FY 25-26, and not to exceed \$250,000 for the life of the service agreement.
- The additional amount requested is to cover any unexpected costs or potential employee benefit increases during the life of the service agreement.

The Oxnard Police Department lacks trained or experienced staff members capable of performing lengthy forensic data analysis or complicated forensic searches of computers or electronic equipment. The SCHTTF employs forensic examiners with high accreditation standards and ongoing certification training. Also, the SCHTTF has many software and hardware items explicitly used for forensic searches and analysis. The cost to maintain forensic computer equipment, renew forensic software licenses, and continue certification/training requirements for forensic examiners can exceed \$150,000 annually.

Oxnard police detectives submit approximately 60-100 items to the SCHTTF for forensic examination each year. The following are examples of recent criminal cases where the SCHTTF played an integral role in locating evidence that led to the arrest or prosecution of violent and predatory criminals.

Forensic examiners at the SCHTTF assisted detectives in locating evidence in a suspect's cell phone associated with a child sex abuse case. The suspect was arrested and is currently pending trial.

Detectives submitted electronic devices, including a vehicle's in-dash computer, to the SCHTTF for examination in two recent homicide investigations. Forensic examiners located evidence that assisted detectives in positively identifying the suspects, which led to their arrest in both cases.

During a fraud investigation, forensic examiners were able to locate evidence in a laptop computer that led detectives and prosecutors to file felony charges against a suspect who had committed a spree of fraudulent credit card crimes in Los Angeles and Oxnard.

Conducting forensic examinations of computers and electronic equipment is a necessity for law enforcement now more than ever. Criminals are highly sophisticated in how they commit crimes using modern technology and are incredibly skilled at hiding evidence from law enforcement. It's essential that law enforcement, especially the Oxnard Police Department, stay ahead of ever-changing computer or electronic technology to keep our community safe by preventing crimes, solving crimes, and successfully prosecuting criminals.

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

The SCHTTF service agreement is a two-year agreement with a value not to exceed \$250,000. The amount requested is \$125,000 for FY 24-25 and \$125,000 for FY 25-26. Sufficient funding of year one is available in the Police Department's FY 24-25 General Fund Adopted operating budget. Funding for FY 25-26 will be requested in the recommended budget.

For Finance Use Only: General Fund (Org. 1012121 Obj. 53200)

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Rocky Marquez, Police Commander

ATTACHMENTS

1. SCHTTF Slide Presentation
2. SCHTTF Agreement 24-26_unsigned

Southern California High Tech Task Force (SCHTTF) Service Agreement

City Council
September 17, 2024

Rocky Marquez, Commander
Police Department

RECOMMENDATION

- That City Council approve and authorize the Mayor to execute a two-year service agreement with the County of Ventura and the Ventura County Sheriff's Office for services with the Southern California High Tech Task Force (SCHTTF) in an amount not to exceed \$250,000.00

BACKGROUND

- The Southern California High Tech Task Force (SCHTTF) was created in 2001 to address the increase in high technology crimes in Ventura County.
- The SCHTTF is managed and operated by the Ventura County District Attorney's Office and the Ventura County Sheriff's Office.
- All Ventura County Law Enforcement Agencies entered into an MOU and agreed to participate in funding of the SCHTTF.
- The SCHTTF provides Ventura County law enforcement agencies with investigative and cyber forensic support.

BACKGROUND

- High-technology crimes refers to crimes where computers or electronics are used as an instrument to commit crimes, or evidence of crimes is contained within a computer.
- Examples of high-technology crimes include:
 - Human trafficking
 - Internet crimes against children
 - Money laundering and fraud cases
 - Dark web investigations

BACKGROUND

- SCHTTF also assist with other types of crimes:
 - Sexual assaults
 - Property crimes
 - Homicides
 - Robberies
 - Serious and fatal traffic collisions
- The SCHTTF conducts forensic examinations of computers and electronic devices, searching for evidence associated with criminal cases.

SCHTTF SALARY AND BENEFITS

- The Office System Coordinator IIIs (forensic examiners) are employed by the Ventura County Sheriff's Office and address the task force responsibilities.
- Each city in Ventura County will pay a percentage of the cost for three (3) Office System Coordinator III positions based on the population of their respective jurisdiction.

Office System Coordinator Salary and Benefits

Office Systems Coordinator III	\$162,701
Office Systems Coordinator III	\$141,918
Office Systems Coordinator III	\$168,556
Total Estimate of Salaries and Benefits	\$473,175

*The difference in pay rate is due to the length of employment for each Office System Coordinator.

2024 POPULATION ESTIMATES AND COST

Estimated Ventura County Population as of June 3, 2024

City	Population	% of County Population	Contribution for 3 OSC III positions
Camarillo	69,014	8.38%	\$39,652
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Ventura	107,569	13.06%	\$61,797
Unincorporated	91,093	11.05%	52,285
Total	823,863	100.00%	\$473,175

SCHTTF VALUE TO PUBLIC SAFETY

Oxnard police detectives submit approximately 60-100 items to the SCHTTF for forensic examination each year.

- Forensic examiners at the SCHTTF assisted detectives in locating evidence in a suspect's cell phone associated with a child sex abuse case. The suspect was arrested and is currently pending trial.
- Detectives submitted electronic devices, including a vehicle's in-dash computer, to the SCHTTF for examination in two recent homicide investigations. Forensic examiners located evidence that assisted detectives in positively identifying the suspects, which led to their arrest in both cases.
- During a fraud investigation, forensic examiners were able to locate evidence in a laptop computer that led detectives and prosecutors to file felony charges against a suspect that committed a spree of fraudulent credit card crimes in Los Angeles and Oxnard.

FISCAL IMPACT

- The SCHTTF service agreement is a two-year agreement with the following cost for each fiscal year:
 - FY 2024-2025 - \$113,467.00
 - FY 2025-2026 - \$113,467.00
 - Total Estimated two-year cost - \$226,934.00
 - The requested funding amount of \$250,000 for two-years (\$125,000 each FY) is to cover unexpected costs and employee benefit increases
 - There is sufficient FY 24-25 funding budgeted for this agreement in General Fund – Professional Services. Funding for FY 25-26 will be requested in the recommended budget.



QUESTIONS?

**CONSULTANT/PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF OXNARD AND County of Ventura**

By This CONSULTANT/Professional Services Agreement (“Agreement”), the CITY of Oxnard (“CITY”) agrees to engage the Services of the County of Ventura through the Southern California High Technology Task Force- Ventura County Sherriff’s Office (“Consultant”), and CONSULTANT agrees to perform the Services for CITY as herein described, for the compensation, during the term, and otherwise subject to the covenants and conditions herein set forth. CITY and CONSULTANT may be individually referred to as “Party” or collectively as the “Parties.”

NOW THEREFORE, IN CONSIDERATION OF THE COVENANTS, CONDITIONS, AND PROMISES CONTAINED HEREIN AND FOR SUCH OTHER GOOD AND VALUABLE CONSIDERATION, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:

1. [Intentionally Omitted].

2. SUMMARY DESCRIPTION OF SERVICES. Consultant shall provide to City services to assist with the investigation of high technology crimes. The services are listed in “Exhibit A”. Consultant shall provide the Services during the term of this Agreement, as set forth below, 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.

3. PARTIES.

CITY of Oxnard (“CITY”), a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030

County of Ventura through the Southern California High Technology Task Force – Ventura County Sheriff’s Office (“CONSULTANT”), a corporation/LLC/LLP of the State of California, located at 3701 Las Posas Road, Camarillo, CA. 93010

4. TERM OF AGREEMENT: From (Date): July 1, 2024 To (Date): June 30, 2026

4.1 This term of this Agreement shall be for an Initial Term of Two (2) Years, commencing on July 1, 2024 (the “Commencement Date”) and expiring on June 30, 2026 (the “Termination Date”) (the “Term”), unless terminated earlier pursuant to Section 14 of this Agreement. From and after the Termination Date, and upon subsequent Agreement

Agreement No. ____ 32500147 ____

by the Parties, this Agreement may continue on a month-to-month basis until terminated pursuant to Section 14 below.

4.2 This Agreement does not have any options to extend.

4.3 [Intentionally Omitted]

4.4 All Services required of CONSULTANT under this Agreement shall be completed on or before the end of the term of the Agreement.

5. AGREEMENT AMOUNT NOT TO EXCEED: \$ 250,000.00.

6. AGREEMENT EXHIBITS.

The following documents memorialized below are the only exhibits to this Agreement and are incorporated by reference as though fully set forth herein. In the event of a conflict between the Exhibits and this Agreement, the Agreement controls.

Exhibit A: Scope of Services
Exhibit B: Schedule of Compensation
Exhibit C: Insurance Requirements: CITY Insurance Exhibit INS-__

7. DESIGNATED REPRESENTATIVES.

The Designated Representatives listed below shall be authorized to act on behalf of the named Party, be responsible for negotiations and contractual matters, and coordinate with each other to perform the Services under this Agreement. Additionally, CONSULTANT's Services shall be performed or immediately supervised by the CONSULTANT's Representative:

CITY Designated Representative:	CONSULTANT Designated Representative:
Name: Denise Morehouse	Name: Jeff S. Miller
Title: Assistant Police Chief	Title: Commander
Phone: 805-385-7626	Phone: 805-383-8784
Email: denise.morehouse@oxnardpd.org	Email: jeffs.miller@ventura.org
Mailing Address (if differs from above):	Mailing Address (if differs from above):
251 S. C Street	
Oxnard, CA. 93030	

8. CONTRACTUAL PREREQUISITES.

8.1 This Agreement must first be executed by the CONSULTANT, after which the Agreement shall be approved as to form by the CITY Attorney, then executed by the Mayor, or an authorized person on behalf of the CITY, and if executed by the Mayor shall also be executed by the CITY Clerk.

8.2 CONSULTANT is advised that any recommendation for Agreement award is not binding on CITY until the Agreement is fully executed and approved by CITY.

8.3 A request for modification of the terms, prior to execution of the Agreement, must be made in writing and presented to the Designated Representative of the CITY prior to the time this Agreement is executed.

8.4 All proof of a CITY tax certificate, insurance, and W-9 forms is required prior to execution of this Agreement.

8.5 CONSULTANT shall not perform any work under this Agreement until a proof of insurance has been provided to the CITY as required under Section 24 of this Agreement.

9. CONSULTANT'S SERVICES.

9.1 CONSULTANT shall perform the tasks, obligations, and Services set forth in the "Scope of Services," attached to and incorporated into this Agreement as "Exhibit A." Once this Agreement is executed, the Scope of Services may only be modified by written Amendment pursuant to Section 13 of this Agreement.

9.2 The Services shall be coordinated with the designated CITY Project Manager set forth in Exhibit A subject to the direction of the CITY Manager or Department Director. CONSULTANT hereby designates its Project Manager as set forth in "Exhibit A" as the person responsible for the Services who shall coordinate with CITY's Project Manager in executing the Scope of Services under this Agreement.

10. COMPENSATION.

CITY shall pay CONSULTANT for the Services performed pursuant to the terms of this Agreement in the time and manner set forth in the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." CITY shall pay CONSULTANT an amount not to exceed the amount is listed in Section 5 of this Agreement. Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 13 of this Agreement, and may be subject to approval by the CITY Council.

11. PAYMENT & INVOICES.

The CITY shall pay all undisputed portions of any applicable invoice within thirty (30) days after receipt of an invoice. In the event the CITY disputes one or more items in an invoice, the CITY shall, within thirty (30) days after receipt of such invoice, notify the CONSULTANT of the item(s) being disputed and the reason(s) therefore. The CITY may withhold payment for such disputed items until resolution of the dispute.

11.1 Payment Request. 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. Invoices may be emailed to: invoices@oxnard.org.

11.2 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.

11.3 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 subcontracted CONSULTANTS.

11.4 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.

12. [Reserved]

13. MODIFICATION OF AGREEMENT.

This Agreement may be amended, modified, or otherwise altered, or its provisions waived, only upon mutual consent of the Parties by written amendment, and as authorized by the Oxnard CITY Code, Sections 4-59 and 4-60.

14. TERMINATION OF AGREEMENT.

CITY may terminate this Agreement at any time, with or without cause and without penalty, upon fifteen (15) calendar days' prior written notice pursuant to Section 22 of this Agreement. Such termination shall be effective on the date specified in the notice, or if no date is specified, then fifteen (15) calendar days from the date of the notice. CITY shall be liable to CONSULTANT only for work done by CONSULTANT up to and including the date of termination of this Agreement unless the termination is for cause, in which event CONSULTANT need be compensated only to the extent required

by law. CONSULTANT may terminate this Agreement at any time during the term of the Agreement by giving the CITY sixty (60) calendar days' prior written notice.

15. [RESERVED]

16. 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. 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 the CONSULTANT shall perform for the CITY. The CITY retains the right to provide general instructions to and observe the CONSULTANT in the performance of all Services done on behalf of the CITY.

CONSULTANT and its employees, subCONSULTANTS, 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, subCONSULTANTS, or employees are in any manner agents, subCONSULTANTS, or employees of CITY.

17. LAWFUL PERFORMANCE.

CONSULTANT shall abide by all federal, state, and local laws and regulations as may be related to the performance of duties under this Agreement. CONSULTANT, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of Services under this Agreement.

18. SAFETY REQUIREMENTS.

CONSULTANT shall not perform any Services for the CITY when the CONSULTANT is impaired by alcohol or a controlled substance. When there is reasonable cause to believe that any person has violated this provision, that person shall be immediately removed from the premises and be subject to any applicable civil and/or

criminal penalties under the CITY's Code and/or under state law. All work performed under this Agreement shall be performed in such a manner as to provide safety to the public. The CITY reserves the right to issue restraining or cease and desist orders to CONSULTANT when unsafe or harmful acts are observed or reported relative to the performance of the work under this Agreement. The acceptance of CONSULTANT's work by CITY shall not operate as a release of the CONSULTANT from such standard of care and workmanship.

19. STANDARD OF PERFORMANCE; WARRANTY.

19.1 CONSULTANT agrees to perform all Services required by this Agreement in a professional and competent manner, in accordance with the degree of skill and diligence which is normally employed by reputable professionals performing similar Services under similar conditions in the same or similar locality. Such Services shall also be performed in a manner which is reasonably satisfactory to CITY PROJECT MANAGER, or designee (hereinafter the "Project Manager"), provided that discretion in determining what is satisfactory shall not alter the foregoing standard of care.

19.2 In accordance with the standard of care set forth in the first sentence of Section 19.1, the CONSULTANT agrees that it:

- (1) Has thoroughly reviewed and considered the Services and work to be performed;
- (2) Has reviewed the issues regarding the Scope of Services to be provided;
- (3) Has carefully considered how the Services and related work should be performed; and
- (4) Fully understands the facilities, difficulties and restrictions associated with performance of the Services required by this Agreement.

20. OWNERSHIP OF CONSULTANT'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE.

CITY shall be the owner of any and all technical documents and records, including, computations, plans, correspondence, and/or other pertinent data and information, both hard copy and electronic, gathered or prepared by CONSULTANT in performance of this Agreement and shall be entitled to immediate possession of the same upon completion of the work under this Agreement, or at any earlier or later time when the same may be requested by CITY.

20.1. Records and Inspections. The CONSULTANT shall maintain full and accurate records, with respect to all Services and matters covered under this Agreement. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles. The CITY shall have free access at all reasonable times to such records, both hard copy and electronic, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings, and activities.

20.2. Deliverables. CONSULTANT shall deliver to the CITY the studies, plans, specifications, or other documents as are identified in the Scope of Services; and CONSULTANT shall, upon completion of all work or termination of this Agreement, submit to the CITY all information developed in the course of the CONSULTANT's Services. CONSULTANT shall, in such time and in such form as the CITY may require, furnish reports concerning the status of Services required under this Agreement. CONSULTANT shall, upon request by CITY and upon completion or termination of this Agreement, deliver to the CITY all material furnished to CONSULTANT by the CITY.

20.3. Ownership – Generally. All inventions, discoveries, enhancements, changes, or improvements of computer programs developed pursuant to this Agreement shall be the property of the CITY, and all patents or copyrights shall be assigned to the CITY, unless otherwise agreed. CONSULTANT agrees that CITY may make modifications to computer software furnished by CONSULTANT without infringing CONSULTANT's copyright or any license granted to CITY, unless otherwise agreed.

20.4. Ownership of Documents. Every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the CONSULTANT pursuant to or in connection with this Agreement shall be the exclusive property of the CITY.

20.5. Confidentiality. Information that is exempt from disclosure to the public is confidential. This includes information relating to the past, present, or future affairs of the CITY or information belonging to a third party whose information is in the CITY's possession or control under obligations of confidentiality. CONSULTANT may be granted access to information that is exempt from disclosure to the public (Government Code Section 7920.505) and may contain "trade secrets" (see Government Code Section 7924.510(f)) when it is necessary for CONSULTANT to perform its obligations pursuant to this Agreement. If CONSULTANT is granted such access to confidential information, CONSULTANT shall not be considered to be a member of the public as that term is used in Government Code Section 7920.515.

20.6. Disclosure of Information. CONSULTANT shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects assigned to CONSULTANT by the CITY or other information to which the CONSULTANT has had access during the term of this Agreement without the prior written approval of the CITY's Designated Representative during the term of this Agreement and for a period of two (2) years after the termination of this Agreement.

20.7. No Warranty. 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.

21. NOTICE OF BREACH AND OPPORTUNITY TO CURE.

Neither Party will be in breach of this Agreement where the breach is capable of being cured, or until written notice of the breach is received from the non-breaching Party. The Party charged with breach will have fifteen (15) calendar days from the date of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other Party within fifteen (15) days from the date on which the breaching Party received notice of breach, the non-breaching Party may terminate this Agreement. Notice shall be given in the manner set forth in section 22.

22. NOTICE.

All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by first-class mail. Notice sent by mail shall be addressed to each Party's Designated Representative as set forth above in Section 7. When addressed in accordance with this Section, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

23. INDEMNIFICATION, HOLD HARMLESS & DEFENSE.

23.1 Except as set forth in Subsection 23.3 of this Section 23, and to the fullest extent permitted by law, CONSULTANT shall immediately defend, indemnify, and hold harmless the CITY, its officers, employees, representatives, (but not including the CITY's construction contractors or other CONSULTANTS) and agents (the "CITY Indemnitees"), from and against those actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and reasonable attorneys' fees, for any personal injuries, deaths, or property damage, including property owned by the CITY (collectively "Claims") which may arise out of CONSULTANT'S negligence or willful misconduct in the performance of the Services described in this Agreement, unless such Claims are proven to be caused by the negligence or willful misconduct of the CITY Indemnitees.

23.2 The duty to defend is a separate and distinct obligation from CONSULTANT'S duty to indemnify. CONSULTANT shall be obligated to defend 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, whether or not liability is established. If it is finally adjudicated that liability was caused by the negligence

or willful misconduct of any of the Indemnitees, CONSULTANT may submit a claim to CITY for reimbursement of reasonable attorneys' fees and defense costs.

23.3 The provisions of this Subsection 23.3 apply only in the event that CONSULTANT is a design professional within the meaning of California Civil Code section 2782.8 ("Design Professional"). The term Design Professional, as defined in said section, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such Services in accordance with the applicable provisions of the California Business and Professions Code.

23.3.1 Notwithstanding the provisions of Subsection 23.1 and 2 above, to the extent that the Services to be provided under this Agreement are those of a Design Professional, CONSULTANT's duty to indemnify, hold harmless, and defend the CITY Indemnitees shall be limited to the extent that any Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, its officers, agents, employees or subconsultants in the performance of the Services described in this Agreement.

23.3.2 In no event shall the costs of defense charged to CONSULTANT exceed the CONSULTANT's proportionate percentage of fault, except as otherwise set forth in said Civil Code section 2782.8, the provisions of which are incorporated into this Agreement by this reference. Nothing in this Subsection shall be construed to require CONSULTANT to provide indemnification for Claims caused by the active negligence or willful misconduct of the CITY Indemnitees, or any other party for whom CONSULTANT is not legally liable.

23.4 The CITY does not and shall not waive any rights that it may have against CONSULTANT under this Section, because of the acceptance by the CITY, or the deposit with the CITY, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions of Section 23, inclusive shall apply regardless of whether said insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost, or expense described herein.

23.5 The obligation to indemnify and defend, as set forth in this Section 23, is binding on the successors, assigns, or heirs of CONSULTANT and shall survive the expiration or any early termination of this Agreement.

23.6 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.

24. INSURANCE.

CONSULTANT shall obtain and maintain during the performance of any Services under this Agreement the insurance coverages listed within “Exhibit C”, which is attached hereto and incorporated herein by this reference, unless the Risk Manager waives, in writing, the requirement that CONSULTANT obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. CONSULTANT shall, before performance of any Services pursuant to this Agreement, file with the Risk Manager evidence of insurance coverage as specified in “Exhibit C”. 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 shall be considered a material breach of this Agreement.

25. LIVING WAGE REQUIREMENTS.

During the term of this Agreement, CONSULTANT understands and agrees that if Living Wages are applicable, subject to the 2002 Oxnard CITY Council Living Wage Policy, attached as “Exhibit E” to this Agreement, CONSULTANT will pay and/or provide the wages and/or benefits required therein to all of its employees engaged in whole or in part in performing the Services provided for by this Agreement. The duty to pay the correct wage is the responsibility of the CONSULTANT.

26. PREVAILING WAGE REQUIREMENTS.

26.1. Application. The payment of State prevailing wages as designated for Ventura County shall apply to public works projects. However, this section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work; or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work. Prevailing wages are required to be paid to all workers, including subcontracted employees. For further information regarding Prevailing Wage Requirements please refer to Exhibit “F” attached to this Agreement.

26.2. Compliance with California Department of Industrial Relations (DIR). To determine if this Agreement is subject to compliance monitoring and enforcement, go to:
<https://www.dir.ca.gov/Public-Works/PublicWorksSB854FAQ.html>

26.3. Contract Splitting. It is unlawful to split, or separate into small portions, work orders, projects, purchases, or public works projects for the purpose of

evading these prevailing wage requirements.

26.4. Use of Prevailing Wages vs. Living Wages. In the event that there is a difference between the amount of wages to be paid under the City of Oxnard's local Living Wage requirements and the requirements of this provision, the wage rate that is the higher of the two shall be applicable to this Agreement. The duty to pay the correct wage is the responsibility of the CONSULTANT.

27. [RESERVED]

28. CONFLICT OF INTEREST.

CONSULTANT covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of CONSULTANT's Services under this Agreement. CONSULTANT further covenants that in the performance of Services under this Agreement, no officer, employee or agent of CONSULTANT having such interest shall be employed by it. In the event the CITY determines that CONSULTANT must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, CONSULTANT shall file such Form 700 with the City Clerk's Office pursuant to the written instructions provided by the City Clerk. Acquisition or maintenance of a conflicting interest by CONSULTANT may result in termination of this Agreement by the CITY.

29. SUBCONTRACTING.

If CONSULTANT requires the assistance of a subcontractor to render any Services under this Agreement, CONSULTANT shall obtain prior written consent from the CITY before a subcontractor performs any service pursuant to this Agreement. All subcontractors shall be identified in the Scope of Work attached to this Agreement as "Exhibit A". CONSULTANT is fully responsible for satisfactory completion of all its subcontractors' work. All subcontractors shall be properly licensed and insured; and bonded, if applicable. CONSULTANT shall be responsible for all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with subcontractors performance pursuant to this Agreement or subcontractors failure to comply with any of its obligations in connection with this Agreement.

30. DISPUTES.

Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this Agreement, shall be decided by the CITY's Designated Representative, who shall reduce this decision to writing and mail a copy to the CONSULTANT. The decision of the CITY's Designated Representative shall be final and conclusive unless CONSULTANT requests mediation within ten (10) calendar days. Pending final decision of a dispute, the CONSULTANT shall proceed diligently with the performance of the Agreement and in accordance with the decision of the CITY's Designated Representative.

31. DISPUTE RESOLUTION.

Should an unresolved dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within a reasonable time not to exceed forty five (45) days of a request. The mediator shall be agreed to by the mediating Parties. In the absence of an Agreement on a mediator, the Parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfold" process. The cost of mediation shall be borne equally by both Parties. Neither Party shall be deemed the prevailing Party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until Agreement is reached by the Parties but not more than sixty (60) calendar days, unless the maximum time is extended in writing by both Parties.

32. ASSIGNMENT.

This Agreement is for the professional Services of CONSULTANT. Any attempt by CONSULTANT to assign the benefits or burdens of this Agreement without the prior written approval of CITY shall be prohibited and shall be null and void. CONSULTANT's Services pursuant to this Agreement shall be provided by the CONSULTANT's Designated Representative or directly under his/her supervision, and CONSULTANT shall not assign another to supervise the CONSULTANT's performance of this Agreement without the prior written approval of CITY, by and through the CITY's Designated Representative.

33. CARE OF WORK

Should CONSULTANT discover any latent or unknown conditions materially differing from those inherent in the Services or as represented by the CITY, CONSULTANT shall immediately inform the CITY of such fact and shall not provide any Services, except at CONSULTANT'S risk, until written instructions are received from the Project Manager.

34. REPORTS

Upon request by the Project Manager or as otherwise required by this Agreement, including but not limited to, the Scope of Services set forth in Exhibit "A", CONSULTANT shall prepare and submit reports to the CITY concerning CONSULTANT's performance of the Services required by this Agreement.

35. 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, or for other purposes relating to the Agreement. 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 or until an audit has been completed and accepted by CITY, whichever occurs later. CONSULTANT shall maintain all such records in CITY or to promptly reimburse CITY for all reasonable costs incurred in conducting the audit at a location other than in CITY, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. CONSULTANT shall include a copy of this Section 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.

36. ADVERTISING AND PUBLICITY

CONSULTANT shall not use the name of or refer to CITY directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

37. 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.

38. COVENANTS AND CONDITIONS.

Each term and each provision of this Agreement to be performed by CONSULTANT shall be construed to be both a covenant and a condition.

39. WAIVER.

CITY's review or acceptance of, or payment for, work product prepared by CONSULTANT under this Agreement will not be construed to operate as a waiver of any rights CITY may have under this Agreement or of any cause of action arising from

CONSULTANT's performance. A waiver by CITY of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

40. FORCE MAJEURE.

Neither the CONSULTANT nor the CITY shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to, war or insurrection, walkouts by the Party's own employees, fires, natural calamities, riots, or demands or requirements of governmental agencies other than the CITY.

41. GOVERNING LAW.

The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, County of Ventura.

42. SEVERABILITY.

If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect and be enforceable.

43. INTEGRATED AGREEMENT.

This Agreement and the attached exhibits referenced herein to this Agreement represent the entire understanding between the Parties. No verbal Agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the Parties to this Agreement and any subsequent successors and assigns.

44. NO THIRD-PARTY BENEFICIARY.

This Agreement shall not be construed to be an Agreement for the benefit of any third-party or parties, and no third party or parties shall have any claim or right of action under this Agreement.

45. AUTHORITY TO EXECUTE.

Each Party hereto expressly warrants and represents that through its Designated Representative it has the authority to execute this Agreement on behalf of its corporation,

partnership, business entity, or governmental entity, and warrants and represents that the Designated Representative has the authority to bind each Party to the performance of its obligations hereunder.

46. EXECUTION – COUNTERPARTS.

This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, but they shall not be effective nor enforceable unless and until it is executed with the handwritten signature or electronic signature of an authorized representative of each of the relevant Parties. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other Party to this Agreement is in the physical possession of the Party seeking enforcement thereof.

47. INCONSISTENT OR CONFLICTING TERMS.

In the event of any contradictions or inconsistencies between any attached documents or exhibits incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control. Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the CITY are not binding upon the CITY's Designated Representative unless specifically agreed to in writing, and initiated by CITY's Designated Representative, as to each additional contractual term or condition.

48. CAPTIONS AND HEADINGS.

The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content, scope, or intent of the provisions described under the respective caption or heading.

49. ACKNOWLEDGEMENT.

By signing below, CONSULTANT acknowledges that it has reviewed the CITY'S Professional Services Agreement terms and conditions and insurance requirements and that CONSULTANT hereby agrees to full compliance.

[Signatures on next page]

Agreement No. ____ 32500147 ____

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective on the date as written in Section 4 and upon signature of all Parties.

CITY OF OXNARD

COUNTY OF VENTURA

☒ John C. Zaragoza, Mayor¹ Date
☐ Jennifer Yates, Purchasing Manager²

James Fryhoff, Sheriff Date

ATTEST:

Rose Chaparro, CITY Clerk Date
(only if Mayor authorizes)

APPROVED AS TO FORM:

Stephen M. Fischer, CITY Date
Attorney (always required)

¹ The City Council must authorize and the Mayor must execute any agreement over \$200,000.

² The Purchasing Agent may execute any authorized agreement up to \$200,000.

EXHIBIT A

CONSULTANT/PROFESSIONAL SERVICE AGREEMENT (CITY of Oxnard and County of Ventura)

SCOPE OF SERVICES

CITY PROJECT MANAGER: Rocky Marquez / 805-385-7620 / rocky.marquez@oxnardpd.org

The City of Oxnard and the County of Ventura through the Southern California High Tech Task Force (SCHTTF) of Ventura County intends to work together towards investigating high technology crimes in the City of Oxnard. This encompasses crimes where high technology is used as an instrument in committing a crime, assisting in the commission of a crime, or constitutes evidence of a criminal act. The SCHTTF is responsible for the forensic examination of all types of digital evidence, including not only computers, but also such technology as cell phones, digital video recorders, and other existing and developing computer-based equipment. The SCHTTF approach is the most effective manner to respond to computer-based crimes, as well as to develop evidence regarding more traditional crimes such as homicides.

The SCHTTF of Ventura County will support this effort through the following actions:

- Coordinate law enforcement high tech investigative activities by utilizing task force members to effectively deal with the growing number of high technology crimes.
- Pool resources and share high technology investigative expertise and provide cost effective law enforcement.
- Decrease high technology investigation response time in order to comply with identified county law enforcement needs.
- Provide a service network to all law enforcement agencies within Ventura County, including the City of Oxnard.
- Assess and facilitate high technology training needs in Ventura County.
- Decrease the potential for economic loss and danger to public safety by increasing the probability of apprehension and prosecution of high technology crimes.

EXHIBIT B

CONSULTANT/PROFESSIONAL SERVICE AGREEMENT (CITY of Oxnard and County of Ventura)

SCHEDULE OF COMPENSATION

METHOD OF PAYMENT

- A. METHOD OF PAYMENT. The term of this Agreement is from July 1, 2024 to June 30, 2026. Payments for all work performed by Consultant pursuant to the terms of this Agreement shall be made on the basis of the salary and benefits set forth below:

Fiscal Year 2024-2026 cost components:

Fiscal Year 2024-2025 cost components	cost
Percentage of salary and benefits	\$125,000.00
Fiscal Year 2025-2026 cost components	cost
Percentage of salary and benefits	\$125,000.00

- B. BILLING. Within thirty (30) business days after the end of each calendar quarter in which the services are performed or expenses are incurred under this Agreement, Consultant shall submit an invoice to the City at the following address:

Oxnard Police Department
Attention: Assistant Police Chief Denise Morehouse
251 South C Street
Oxnard, California 93030

The invoice submitted pursuant to this paragraph shall show the City Purchase Order number and Agreement number, the date on which the services were performed, other authorized expenses incurred in the performance of the services, and such information as City may responsibly require.

- C. TIME OF PAYMENT. Payment to Consultant shall be made only after receipt and approval of an invoice from the Consultant.
- D. MAXIMUM COMPENSATION. Notwithstanding the foregoing, Consultant shall complete all work and tasks described in **Exhibit A** for a total amount of compensation that does not exceed \$250,000.00 for the life of the service agreement (\$125,000.00 for Fiscal Year 2024-2025, and \$125,000.00 for Fiscal Year 2025-2026).

ALLOWABLE COSTS. City shall pay Consultant's actual costs to perform the Services or work within the limits of the individual project cost. It is understood and agreed that these totals are maximum estimates only and that City will only pay for the services actually rendered or expenditures made as authorized by the City.

EXHIBIT C

**CONSULTANT/PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and County of Ventura)**

INSURANCE REQUIREMENTS

Prior to contract approval, CONSULTANT/CONSULTANT/SELLER/BIDDER (hereafter referred to as "CONSULTANT") must procure, agree to maintain and supply evidence of insurance at the levels listed and in accordance with the other provisions listed in this document.

PLEASE COPY AND PASTE APPROPRIATE INSURANCE DOCUMENTS



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.4

DATE: September 17, 2024

TO: City Council

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

SUBJECT: Readopt a Resolution to Accept a State Grant for \$500,000 to Fund Special Districts Division Water Quality Remediation Projects in the Channel Islands Harbor.

RECOMMENDATION

That the City Council:

1. Readopt a Resolution of the City Council of the City of Oxnard Authorizing the City of Oxnard to enter into an Agreement (4600015993) with the State of California Department of Water Resources to receive funds for the Channel Islands Water Quality Remediation Projects and Authorizing the City Manager to Execute the Agreement on behalf of the City;
2. Accept a grant from the California State Department of Water Resources (DWR) in the amount of \$500,000 for the Channel Islands Harbor water quality remediation; and
3. Reauthorize the City Manager to execute the grant agreement and the Finance Director or designee to submit the financial reports, grant claims, and approve the budget appropriations for the use of the grant funds; and the Director of Public Works or designee to submit the non-financial reports.

BACKGROUND

The Special Districts Division of the Public Works Department is responsible for the maintenance, operation, and administration of the City's fifty Special Districts, including bonded and non-bonded Community Facilities Districts (CFDs), Landscape Maintenance Districts, Waterways Maintenance Assessment Districts (WADs), and a Maintenance Assessment District (MAD-4). Each of these Special Districts has specific individual authorized services and improvements, including, but not limited to: park landscapes, open spaces, parkways, medians, other public improvements, and recreation and park amenities such as picnic shelters, restrooms, arbors, and fountains. Properties within each District are assessed through an annual parcel charge for the purposes of maintaining the improvements and other authorized services within their District.

The Channel Islands Harbor is an artificial harbor with abutting commercial and residential developments, including Seabridge CFD, Westport CFD, Mandalay Bay WAD-Zone 1, and Harbour Island WAD-Zone 2. The abutting sections of the harbor would not be present absent these developments occurring. As specified in the Formation Documents, water quality remediation services are authorized for each of the Harbor Districts; however, the City Council has previously authorized the use of American Rescue Plan Act funding for this service.

In June 2018, an algal bloom occurred in the Harbor. The bloom was followed by widespread low levels of dissolved oxygen in the water. This is presumably related to the bacterial decomposition of algae during warm weather conditions. The bloom and subsequent low oxygen event may have been caused by the changes in the Harbor water circulation that occurred after the Mandalay Power Generating Station was decommissioned on March 29, 2018, as mandated by the California State Water Resources Control Board.

Since then, the City, the County of Ventura (County), and residents of the Channel Islands Neighborhood Council have

organized efforts to address water quality issues in the Harbor.

Department Of Water Resources

In September 2022, the Governor’s office approved Assembly Bill 179, amending the 2022 Budget Act, which included the allocation of \$500,000 for the City’s Channel Islands Harbor water quality remediation project through the DWR. State Senator Monique Limón, Assemblymember Steve Bennett, and Assemblymember Jacqui Irwin led the efforts to allocate the funding that was also supported by County Supervisor Carmen Ramirez, the Ventura County Farm Bureau, California State University Channel Islands, the Seabridge and Westport Homeowners Associations, and residents of the Channel Islands Neighborhood Council, and Oxnard city staff.

On May 7, 2024, City Council adopted a resolution and approved a Department of Water Resources (DWR) grant agreement for a Channel Islands Harbor remediation project (Attachment 3). Shortly after submitting the Council-approved agreement to DWR for execution, DWR staff informed City staff that the agreement needed to be revised in several areas, including additional information on the scope of work and budget schedule exhibits. While working closely with DWR staff on the grant agreement, City staff modified these areas. The revised agreement and accompanying resolution are now attached for approval.

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 awarded amount from the State of \$500,000 will be used to cover project costs related to the Channel Islands Harbor water quality remediation, including but not limited to ongoing water quality testing and consulting services, personnel costs, procuring of services and materials, conducting environmental review, obtaining permits or approvals, and conducting project management and costs tracking.

This Agreement requires the submission of an annual progress report to the DWR.

There is no match requirement. Grant revenue of \$500,000 will be recognized and appropriated to the State Grant Fund (210); there is no impact on the General Fund or any Special Assessment District for approving this funding agreement.

COMMITTEE OUTCOME

City Council previously approved this item on May 7, 2024.

Prepared by: Adam Smith, Project Manager

ATTACHMENTS

1. Agreement 4600015993 Oxnard CI Harbor AB102
2. Resolution
3. Staff Report - May 7, 2024
4. Special Districts List
5. Special Districts Map

**FUNDING AGREEMENT BETWEEN THE STATE OF CALIFORNIA
(DEPARTMENT OF WATER RESOURCES) AND
CITY OF OXNARD
AGREEMENT NUMBER 4600015993**

THIS FUNDING AGREEMENT is entered into by and between the Department of Water Resources of the State of California, herein referred to as the "State" and the City of Oxnard, a municipal corporation, in the State of California, duly organized, existing, and acting pursuant to the laws thereof, herein referred to as the "Funding Recipient," which parties do hereby agree as follows:

1. PURPOSE. State shall provide funding from the Budget Act of 2023 (Stats. 2023, ch. 38, § 258) to Funding Recipient to assist in financing the Channel Islands Harbor Water Quality Project (Project).
2. TERM OF FUNDING AGREEMENT. The term of this Funding Agreement begins on the date this Funding Agreement is initially executed by the State, through Final Project Completion Report plus three (3) years unless otherwise terminated or amended as provided in this Agreement.
3. FUNDING AMOUNT. The maximum amount payable by the State under this Agreement shall not exceed \$500,000.
4. DISBURSEMENT OF FUNDS. State will disburse to Funding Recipient the amount approved, subject to the availability of funds through normal State processes. Notwithstanding any other provision of this Funding Agreement, no disbursement shall be required at any time or in any manner which is in violation of, or in conflict with, federal or state laws, rules, or regulations. Any and all money disbursed to Funding Recipient under this Funding Agreement shall be used solely to pay Eligible Project Costs.
5. ELIGIBLE PROJECT COST. Funding Recipient shall apply State funds received only to Eligible Project Costs in accordance with applicable provisions of the law and Exhibit B. Eligible Project Costs include the reasonable costs of studies, engineering, design, land and easement acquisition, legal fees, preparation of environmental documentation, environmental mitigations, monitoring, and project construction. Reimbursable administrative expenses are the necessary costs incidental but directly related to the Project included in this Agreement. Costs that are not eligible for reimbursement or payment include but are not limited to the following items:
 - A. Purchase of equipment not an integral part of the Project.
 - B. Purchase of water supply not an integral part of the Project.
 - C. Replacement of existing funding sources for ongoing programs.
 - D. Purchase of land in excess of the minimum required acreage necessary to operate as an integral part of the Project, as set forth and detailed by engineering and feasibility studies.
 - E. Costs incurred as part of any necessary response and cleanup activities required under the Comprehensive Environmental Response, Compensation, and Liability Act; Resource Conservation and Recovery Act; Hazardous Substances Account Act; or other applicable law.
6. METHOD OF PAYMENT. State will disburse the whole of State funding to Funding Recipient. The Funding Recipient shall submit one or more certified invoices, transmitted via electronic/digital signature system (e.g., DocuSign) or, via U.S. mail or Express mail delivery of a "wet signature." State will notify Funding Recipient, in a timely manner, whenever, upon review of the Invoice(s), State determines that any portion or portions of the costs claimed are not eligible costs or is not supported by documentation or receipts acceptable to State. Funding Recipient shall, within thirty (30) calendar days of the date of receipt of such notice, submit additional documentation to State to cure such deficiency(ies).

Invoices submitted by Funding Recipient shall include the following information:

- A. Costs incurred for work performed in implementing the Project during the period identified in the particular invoice.

- B. Costs incurred for any interests in real property (land or easements) that have been necessarily acquired for the Project during the period identified in the particular invoice for the implementation of the Project.
- C. Invoices shall be submitted on forms provided by State and shall meet the following format requirements:
 - i. Invoices must contain the date of the invoice and the time period covered by the invoice.
 - ii. Invoices must be itemized based on the categories (i.e., tasks) specified in Exhibit B. The amount claimed for salaries/wages/consultant fees must include a calculation formula (i.e., hours or days worked times the hourly or daily rate = the total amount claimed).
 - iii. One set of sufficient evidence (i.e., receipts, copies of checks, time sheets) must be provided for all costs included in the invoice.
 - iv. Each invoice shall clearly delineate those costs incurred during that time period.
 - v. Each invoice shall contain the signature and date via electronic/digital signature system (e.g., DocuSign) of Funding Recipient's Project Representative. The invoice shall be certified and transmitted via electronic/digital signature system (e.g., DocuSign) or, via U.S. mail or Express mail delivery to the State's Project Manager.

All invoices submitted shall be accurate and signed under penalty of law. Any and all costs submitted pursuant to this Agreement shall only be for the tasks set forth herein. The Funding Recipient shall not submit any invoice containing costs that are ineligible or have been reimbursed from other funding sources. Any eligible costs for which the Funding Recipient is seeking State funding pursuant to this Agreement shall not be reimbursed from any other source. Double or multiple billing for time, services, or any other eligible cost is illegal and constitutes fraud. Any suspected occurrences of fraud, forgery, embezzlement, theft, or any other misuse of public funds may result in suspension of disbursements of funds and/or termination of this Agreement requiring the repayment of all funds disbursed hereunder. Additionally, the State may request an audit pursuant to Paragraph D.5 and refer the matter to the Attorney General's Office or the appropriate district attorney's office for criminal prosecution or the imposition of civil liability. (Civ. Code, §§ 1572-1573; Pen. Code, §§ 470, 489-490.)

- 7. DEFAULT PROVISIONS. Funding Recipient will be in default under this Funding Agreement if any of the following occur:
 - A. Substantial breaches of this Funding Agreement, or any supplement or amendment to it, or any other agreement between Funding Recipient and State evidencing or securing Funding Recipient's obligations;
 - B. Making any false warranty, representation, or statement with respect to this Funding Agreement;
 - C. Failure to operate or maintain Project in accordance with this Funding Agreement.
 - D. Failure to make any remittance required by this Funding Agreement, including any remittance recommended as the result of an audit conducted pursuant to Paragraph D.5.
 - E. Failure to submit timely progress reports.
 - F. Failure to routinely invoice State.
 - G. Failure to meet any of the requirements set forth in Paragraph 8, "Continuing Eligibility."

Should an event of default occur, State shall provide a notice of default to the Funding Recipient and shall give Funding Recipient at least ten (10) calendar days to cure the default from the date the notice is sent via first-class mail to the Funding Recipient. If the Funding Recipient fails to cure the default within the time prescribed by the State, State may do any of the following:

- a. Declare the funding be immediately repaid at the time of the default.

- b. Terminate the Funding Agreement.
- c. Take any other action that it deems necessary to protect its interests.

In the event State finds it necessary to enforce this provision of this Funding Agreement in the manner provided by law, Funding Recipient agrees to pay all costs incurred by State including, but not limited to, reasonable attorneys' fees, legal expenses, and costs.

8. **CONTINUING ELIGIBILITY.** Funding Recipient shall meet the following ongoing requirements (as applicable) to remain eligible to receive State funds:
 - A. An urban water supplier that receives state funds pursuant to this Agreement shall maintain compliance with the Urban Water Management Planning Act (UWMP; Water Code, § 10610 et seq.) and Sustainable Water Use and Demand Reduction (Water Code, § 10608 et seq.).
 - B. An agricultural water supplier receiving state funds shall comply with Sustainable Water Use and Demand Reduction requirements outlined in Water Code § 10608, et seq. and have their Agricultural Water Management Plan (AWMP) deemed consistent by DWR.
 - C. A surface water diverter receiving state funds shall maintain compliance with diversion reporting requirements as outlined in Part 5.1 of Division 2 of the Water Code.
 - D. Funding Recipient shall maintain continuing eligibility with the current Sustainable Groundwater Management Act (SGMA, Water Code §10720 et seq.) requirements as they come into effect.
 - E. If Funding Recipient is designated as a monitoring entity under the California Statewide Groundwater Elevation Monitoring (CASGEM) Program, Funding Recipient shall maintain reporting compliance, as required by Water Code §10932 and the CASGEM Program.
 - F. Funding Recipient shall adhere to the protocols developed pursuant to The Open and Transparent Water Data Act (Water. Code, § 12405, et seq.) for data sharing, transparency, documentation, and quality control.
 - G. On March 4, 2022, the Governor issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. The EO may be found at: <https://www.gov.ca.gov/wp-content/uploads/2022/03/3.4.22-Russia-Ukraine-Executive-Order.pdf>. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under State law. The EO directs DWR to terminate funding agreements with, and to refrain from entering any new agreements with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine that the Funding Recipient is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this Agreement. The State shall provide the Funding Recipient advance written notice of such termination, allowing the Funding Recipient at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State.
9. **SUBMISSION OF REPORTS.** The submittal and approval of all reports is a requirement for the successful completion of this Funding Agreement. Reports shall meet generally accepted professional standards for technical reporting and shall be proofread for content, numerical accuracy, spelling, and grammar prior to submittal to State. All reports shall be submitted to the State's Project Manager, and shall be submitted via DWR's "Grants Review and Tracking System" (GRanTS) or via e-mail. If requested, Funding Recipient shall promptly provide any additional information deemed necessary by State for the approval of reports. Reports shall be presented in the formats described in the applicable portion of Exhibit F. The timely submittal of reports is a requirement for initial and continued disbursement of State funds.
 - A. Annual Progress Reports: Funding Recipient shall submit Annual Progress Reports to meet the State's requirement for disbursement of funds. Annual Progress Reports shall be uploaded via GRanTS, and the State's Project Manager notified of upload, or or via e-mail to the State's Project Manager. Annual

Progress Reports shall, at a minimum, provide a brief description of the work performed, Funding Recipients activities, milestones achieved, any accomplishments and any problems encountered in the performance of the work under this Funding Agreement during the reporting period. The first Annual Progress Report should be submitted to the State no later than one year after the execution of the Agreement with future reports then due on successive year increments based on the first Annual Progress Report submittal date, with the exception of the final Annual Progress Report which may also serve as the Project Completion Report and can extend beyond a year-long increment to account for Project closeout information.

- B. Project Completion Report: Funding Recipient shall prepare and submit to State a Project Completion Report, either separately or as part of the final Annual Progress Report. Funding Recipient shall submit the Project Completion Report within ninety (90) calendar days of Project completion. The Project Completion Report shall include, in part, a description of actual work done, any changes or amendments to the Project, and a final schedule showing actual progress versus planned progress, and copies of any final documents or reports generated or utilized during the Project.

10. NOTIFICATION OF STATE. Funding Recipient shall promptly notify State, in writing, of the following items:

- A. Events or proposed changes that could affect the scope, budget, or work performed under this Funding Agreement. Funding Recipient agrees that no substantial change in the scope of the Project will be undertaken until written notice of the proposed change has been provided to State and State has given written approval for such change. Substantial changes generally include changes to the scope of work, schedule or term, and budget.
- B. Discovery of any potential archaeological or historical resource. Should a potential archaeological or historical resource be discovered during construction, the Funding Recipient agrees that all work in the area of the find will cease until a qualified archaeologist has evaluated the situation and made recommendations regarding preservation of the resource, and the State has determined what actions should be taken to protect and preserve the resource. The Funding Recipient agrees to implement appropriate actions as directed by the State.
- C. The initiation of any litigation or the threat of litigation against the Funding Recipient regarding the Project or that may affect the Project in any way.

11. NOTICES. Any notice, demand, request, consent, or approval that either party desires or is required to give to the other party under this Funding Agreement shall be in writing.

- A. Notices may be transmitted by any of the following means:

- i. By delivery in person.
- ii. By certified U.S. mail, return receipt requested, postage prepaid.
- iii. By "overnight" delivery service; provided that next-business-day delivery is requested by the sender.
- iv. By electronic means.

- B. Notices delivered in person will be deemed effective immediately on receipt (or refusal of delivery or receipt). Notices sent by certified mail will be deemed effective given ten (10) calendar days after the date deposited with the U.S. Postal Service. Notices sent by overnight delivery service will be deemed effective one business day after the date deposited with the delivery service. Notices sent electronically will be effective on the date of transmission, which is documented in writing. Notices shall be sent to the below addresses. Either party may, by written notice to the other, designate a different address that shall be substituted for the one below.

12. PROJECT REPRESENTATIVES. The Project Representatives during the term of this Funding Agreement are as follows:

Department of Water Resources

Arthur Hinojosa
Manager, Division of Regional Assistance
P.O. Box 942836
Sacramento, CA 94236-0001
Phone: 916-902-6713
Email: Arthur.Hinojosa@water.ca.gov

City of Oxnard

Alexander Nguyen
City Manager
300 W Third St, 4th Floor
Phone: 805-385-8017
Email: Alexander.Nguyen@oxnard.org

Direct all inquiries to the Project Manager:

Department of Water Resources

Ted Daum
Senior Environmental Scientist
P.O. Box 942836
Sacramento, CA 94236-0001
916-902-7800
Theodore.Daum@water.ca.gov

City of Oxnard

Michael L. Wolfe
Director of Public Works
305 W Third St, East Wing, 3rd Floor
Phone: 805-385-8055
Email: Michael.Wolfe@oxnard.org

Either party may change its Project Representative or Project Manager upon written notice to the other party.

13. STANDARD PROVISIONS AND INTEGRATION. This Funding Agreement is complete and is the final Agreement between the parties. The following Exhibits are attached and made a part of this Funding Agreement by this reference:

Exhibit A – Work Plan

Exhibit B – Budget

Exhibit C – Schedule

Exhibit D – Standard Conditions

Exhibit E – Authorizing Resolution

Exhibit F – Report Formats and Requirements

Exhibit G – State Audit Document Requirements for Funding Recipients

IN WITNESS WHEREOF, the parties hereto have executed this Funding Agreement.

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

CITY OF OXNARD

Arthur Hinojosa
Manager, Division of Regional Assistance
Date_____

Alexander Nguyen
City Manager
Date_____

Approved as to Legal Form and Sufficiency

Approved as to Legal Form and Sufficiency

Robin Brewer, Assistant General Counsel
Office of the General Counsel
Date_____

Stephen Fischer
City Attorney
Date_____

EXHIBIT A WORK PLAN

PROJECT: Channel Islands Harbor Water Quality

IMPLEMENTING AGENCY: City of Oxnard

The Project includes identification of mitigation strategies to address water quality issues in the City of Oxnard Channel Islands Harbor (Harbor). The resulting range of mitigation strategy alternatives will be evaluated and prioritized for their effectiveness, and a plan for implementing the recommended mitigation strategies will be developed which will include presentations at City Council, Ventura County Board of Supervisors, and public outreach meetings.

Budget Category A: Administration

Task A.1: Agreement Administration

The Funding Recipient will respond to DWR's reporting and compliance requirements associated with the agreement administration and will coordinate with the Project managers responsible for implementing the Project. The Funding Recipient will be responsible for compiling invoices for submittal to DWR.

Deliverables

- Annual Invoices and associated backup documentation

Task A.2: Reporting

The Funding Recipient will be responsible for compiling progress reports for submittal to DWR. The Funding Recipient may retain consultants as needed to prepare and submit progress reports and final project completion report, as well as the funding agreement completion report.

Reports will meet generally accepted professional standards for technical reporting and the requirements terms of the contract with DWR outlined in Exhibit F of this Agreement.

Deliverables

- Documentation (e.g., photo) of "Acknowledgment of Credit" per Standard Condition D.2
- Annual Progress Reports
- Final Funding Agreement Completion Report

Budget Category B: Permitting and Environmental Documentation

Identify required environmental and regulatory permits for the Project identified in Task C.1.

Deliverables

- Memorandum identifying CEQA compliance and environmental permits for the Project

Budget Category C: Planning and Design

Task C.1: Identification and Analysis of Mitigation Strategies to Address Water Quality Issues

Potential mitigation strategies may include, but not be limited to, the following:

1. Address Water Circulation in the Harbor
 - a. Pumping option from north end of the Edison Canal to the Pacific Ocean
 - b. Pumping high residence time water to increase circulation
2. Options for Nutrient Source Control
 - a. Filter nutrient and contaminant flow into the Edison Canal
 - b. Mechanical filtration of all (or a portion) storm water flow into the Edison Canal

- c. Bio-swales along the dirt canals (Doris, West 5th Street, and Wooley Drains) that are located upstream of the Edison Canal
 - d. Mechanical filtration of the Oxnard west drain
 - e. Denitrifying bioreactors
 - f. Capture agricultural runoff and re-use in the agriculture fields
- 3. Options for Mechanical Filtration of Urban Stormwater
 - 4. Options for Decommissioned Edison Canal
 - a. Develop engineered wetlands
 - b. Fill canal and reroute drainage to historic ~ 50 acres of wetlands located northwest of Fifth St and Harbor Blvd. (currently managed by State Parks).

A review will be performed of the spatial and temporal datasets publicly available needed to assess the environmental, meteorological, and oceanographic conditions in the Channel Island Harbor. A hydrodynamic and eutrophication model will be used to evaluate the improvement of circulation and water quality in the Harbor.

The potential mitigation strategies will be evaluated and prioritized based on the following criteria:

- 1. Scope definition
- 2. Identification of similar strategies that have been deployed elsewhere and their effectiveness
- 3. Permits required
- 4. Environmental documentation required for implementation
- 5. Estimate of costs
- 6. Anticipated schedule for implementation
- 7. Recommended Lead Agency
- 8. Potential funding sources and grant opportunities

Deliverables

- Preliminary Evaluation of Potential Mitigation Strategies Technical Memorandum
- List of Recommended Mitigation Strategies
- Final Mitigation Strategies Analysis Report

Task C.2: Development of a Mitigation Strategies Implementation Plan

The Funding Recipient shall develop a comparative methodology to compare and evaluate the mitigation strategies and establish a prioritized list for implementation. This Task will culminate in the development of an Implementation Plan. During the development of the Implementation Plan at least one public meeting will be held to solicit community input on the recommended mitigation strategies. Additionally, at least one Oxnard City Council and one County of Ventura Board of Supervisors presentation will be given on the draft Implementation Plan. The Final Implementation Plan must be approved by both the City Council and Board of Supervisors.

Deliverables

- Final Implementation Plan

Budget Category D: Construction

Not Applicable.

EXHIBIT B
BUDGET

PROJECT: Channel Islands Harbor Water Quality

Budget Category	State Funds	Agency Cost	Total Project Cost
A: Administration		\$25,000	\$25,000
B: Permitting and Environmental Documentation	\$0	\$10,000	\$10,000
C: Planning and Design	\$500,000	\$0	\$500,000
D: Construction	N/A	N/A	N/A
Total	\$500,000	\$35,000	\$535,000

EXHIBIT C
SCHEDULE

PROJECT: Channel Islands Harbor Water Quality

DESCRIPTION	START	FINISH
A: Administration	May 7, 2024	August 30, 2026
B: Permitting and Environmental Documentation	November 1, 2024	May 31, 2026
C: Planning and Design	November 1, 2024	May 31, 2026
D: Construction	N/A	N/A

EXHIBIT D

STANDARD CONDITIONS

D.1. ACCOUNTING AND DEPOSIT OF FUNDING DISBURSEMENT:

- A. **Separate Accounting of Funding Disbursements:** Funding Recipient shall account for the money disbursed pursuant to this Funding Agreement separately from all other Funding Recipient funds. Funding Recipient shall maintain audit and accounting procedures that are in accordance with generally accepted accounting principles and practices, consistently applied. Funding Recipient shall keep complete and accurate records of all receipts, disbursements, and any interest earned on expenditures of such funds. Funding Recipient shall require its contractors or subcontractors to maintain books, records, and other documents pertinent to their work in accordance with generally accepted accounting principles and practices. Records are subject to inspection by State at any and all reasonable times.
- B. **Disposition of Money Disbursed:** All money disbursed pursuant to this Funding Agreement shall be deposited in a separate account, administered, and accounted for pursuant to the provisions of applicable law.

D.2. ACKNOWLEDGEMENT OF CREDIT AND SIGNAGE: Funding Recipient shall include appropriate acknowledgement of credit to the State for its support when promoting the Project or using any data and/or information developed under this Funding Agreement. Signage shall be posted in a prominent location at Project site(s) (if applicable) or at the Funding Recipient's headquarters and shall include the Department of Water Resources color logo and the following disclosure statement: "Funding for this project has been provided in full or in part from the California State Budget Act of 2023 and through an agreement with the State Department of Water Resources." The Funding Recipient shall also include in each of its contracts for work under this Agreement a provision that incorporates the requirements stated within this Paragraph.

D.3. AMENDMENT: This Funding Agreement may be amended at any time by mutual agreement of the Parties, except insofar as any proposed amendments are in any way contrary to applicable law. Requests by the Funding Recipient for amendments must be in writing stating the amendment request and the reason for the request.

D.4. AMERICANS WITH DISABILITIES ACT: By signing this Funding Agreement, Funding Recipient assures State that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. § 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

D.5. AUDITS: State reserves the right to conduct an audit at any time between the execution of this Funding Agreement and the completion of the Project, with the costs of such audit borne by State. After completion of the Project, State may require Funding Recipient to conduct a final audit to State's specifications, at Funding Recipient's expense, such audit to be conducted by and a report prepared by an independent Certified Public Accountant. Failure or refusal by Funding Recipient to comply with this provision shall be considered a breach of this Funding Agreement, and State may elect to pursue any remedies provided in Paragraph 7 or take any other action it deems necessary to protect its interests. The Funding Recipient agrees it shall return any audit disallowances to the State.

Pursuant to Government Code section 8546.7, the Funding Recipient shall be subject to the examination and audit by the State for a period of three (3) years after final payment under this Funding Agreement with respect of all matters connected with this Funding Agreement, including but not limited to, the cost of administering this Funding Agreement. All records of Funding Recipient or its contractor or subcontractors shall be preserved for this purpose for at least three (3) years after receipt of the final disbursement under this Agreement.

- D.6. **BUDGET CONTINGENCY:** If the Budget Act of the current year covered under this Funding Agreement does not appropriate sufficient funds for this program, this Funding Agreement shall be of no force and effect. This provision shall be construed as a condition precedent to the obligation of State to make any payments under this Funding Agreement. In this event, State shall have no liability to pay any funds whatsoever to Funding Recipient or to furnish any other considerations under this Funding Agreement and Funding Recipient shall not be obligated to perform any provisions of this Funding Agreement. Nothing in this Funding Agreement shall be construed to provide Funding Recipient with a right of priority for payment over any other Funding Recipient. If funding for any fiscal year after the current year covered by this Funding Agreement is reduced or deleted by the Budget Act, by Executive Order, or by order of the Department of Finance, the State shall have the option to either cancel this Funding Agreement with no liability occurring to the State, or offer a Funding Agreement amendment to Funding Recipient to reflect the reduced amount.
- D.7. **CEQA:** Activities funded under this Funding Agreement, regardless of funding source, must be in compliance with the California Environmental Quality Act (CEQA). (Pub. Resources Code, § 21000 et seq.) Work funded under this Agreement that is subject to a CEQA document shall not proceed until and unless approved by the Department of Water Resources. Such approval is fully discretionary and shall constitute a condition precedent to any work for which it is required. If CEQA compliance by the Funding Recipient is not complete at the time the State signs this Agreement, once State has considered the environmental documents, it may decide to require changes, alterations, or other mitigation to the Project. Should the State decide to not fund the Project, this Agreement shall be terminated in accordance with Paragraph 7.
- D.8. **CHILD SUPPORT COMPLIANCE ACT:** The Funding Recipient acknowledges in accordance with Public Contract Code section 7110, that:
- A. The Funding Recipient recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Family Code section 5200 et seq.; and
 - B. The Funding Recipient, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- D.9. **CLAIMS DISPUTE:** Any claim that the Funding Recipient may have regarding performance of this Agreement including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the DWR Project Representative, within thirty (30) days of the Funding Recipient's knowledge of the claim. State and Funding Recipient shall then attempt to negotiate a resolution of such claim and process an amendment to this Agreement to implement the terms of any such resolution.
- D.10. **COMPETITIVE BIDDING AND PROCUREMENTS:** Funding Recipient's contracts with other entities for the acquisition of goods and services and construction of public works with funds provided by State under this Funding Agreement must be in writing and shall comply with all applicable laws and regulations regarding the securing of competitive bids and undertaking competitive negotiations. If the Funding Recipient does not have a written policy to award contracts through a competitive bidding or sole source process, the Department of General Services' *State Contracting Manual* rules must be followed and are available at: <https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/State-Contracting>.
- D.11. **COMPUTER SOFTWARE:** Funding Recipient certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Funding Agreement for the acquisition, operation, or maintenance of computer software in violation of copyright laws.

- D.12. CONFLICT OF INTEREST: All participants are subject to State and Federal conflict of interest laws. Failure to comply with these laws, including business and financial disclosure provisions, will result in the application being rejected and any subsequent contract being declared void. Other legal action may also be taken. Applicable statutes include, but are not limited to, Government Code section 1090 and Public Contract Code sections 10410 and 10411, for State conflict of interest requirements.
- A. Current State Employees: No State officer or employee shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any State agency, unless the employment, activity, or enterprise is required as a condition of regular State employment. No State officer or employee shall contract on his or her own behalf as an independent contractor with any State agency to provide goods or services.
 - B. Former State Employees: For the two-year period from the date he or she left State employment, no former State officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decision-making process relevant to the contract while employed in any capacity by any State agency. For the twelve-month period from the date he or she left State employment, no former State officer or employee may enter into a contract with any State agency if he or she was employed by that State agency in a policy-making position in the same general subject area as the proposed contract within the twelve-month period prior to his or her leaving State service.
 - C. Employees of the Funding Recipient: Employees of the Funding Recipient shall comply with all applicable provisions of law pertaining to conflicts of interest, including but not limited to any applicable conflict of interest provisions of the California Political Reform Act. (Gov. Code, § 87100 et seq.)
 - D. Employees and Consultants to the Funding Recipient: Individuals working on behalf of a Funding Recipient may be required by the Department to file a Statement of Economic Interests (Fair Political Practices Commission Form 700) if it is determined that an individual is a consultant for Political Reform Act purposes.
- D.13. DELIVERY OF INFORMATION, REPORTS, AND DATA: Funding Recipient agrees to expeditiously provide throughout the term of this Funding Agreement, such reports, data, information, and certifications as may be reasonably required by State.
- D.14. DISPOSITION OF EQUIPMENT: Funding Recipient shall provide to State, not less than 30 calendar days prior to submission of the final invoice, an itemized inventory of equipment purchased with funds provided by State. The inventory shall include all items with a current estimated fair market value of more than \$5,000.00 per item. Within 60 calendar days of receipt of such inventory State shall provide Funding Recipient with a list of the items on the inventory that State will take title to. All other items shall become the property of Funding Recipient. State shall arrange for delivery from Funding Recipient of items that it takes title to. Cost of transportation, if any, shall be borne by State.
- D.15. DRUG-FREE WORKPLACE CERTIFICATION: Certification of Compliance: By signing this Funding Agreement, Funding Recipient, its contractors or subcontractors hereby certify, under penalty of perjury under the laws of State of California, compliance with the requirements of the Drug-Free Workplace Act of 1990 (Gov. Code, § 8350 et seq.) and have or will provide a drug-free workplace by taking the following actions:
- A. Publish a statement notifying employees, contractors, and subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors, or subcontractors for violations, as required by Government Code section 8355.
 - B. Establish a Drug-Free Awareness Program, as required by Government Code section 8355 to inform employees, contractors, or subcontractors about all of the following:

- i. The dangers of drug abuse in the workplace,
- ii. Funding Recipient's policy of maintaining a drug-free workplace,
- iii. Any available counseling, rehabilitation, and employee assistance programs, and
- iv. Penalties that may be imposed upon employees, contractors, and subcontractors for drug abuse violations.

C. Provide, as required by Government Code section 8355, that every employee, contractor, and/or subcontractor who works under this Funding Agreement:

- i. Will receive a copy of Funding Recipient's drug-free policy statement, and
- ii. Will agree to abide by terms of Funding Recipient's condition of employment, contract or subcontract.

D.16. EASEMENTS: Where the Funding Recipient acquires property in fee title or funds improvements to real property already owned in fee by the Funding Recipient or improved using State funds provided through this Funding Agreement, an appropriate easement or other title restriction providing for floodplain preservation and agricultural and/or wildlife habitat conservation for the subject property in perpetuity, approved by the State, shall be conveyed to a regulatory or trustee agency or conservation group acceptable to the State. The easement or other title restriction must be in first position ahead of any recorded mortgage or lien on the property unless this requirement is waived by the State.

Where the Funding Recipient acquires an easement under this Agreement, the Funding Recipient agrees to monitor and enforce the terms of the easement, unless the easement is subsequently transferred to another land management or conservation organization or entity with State permission, at which time monitoring and enforcement responsibilities will transfer to the new easement owner.

Failure to provide an easement acceptable to the State may result in termination of this Agreement.

D.17. FUNDING RECIPIENT'S RESPONSIBILITIES: Funding Recipient and its representatives shall:

- A. Faithfully and expeditiously perform or cause to be performed all project work as described in Exhibit A (Work Plan) and in accordance with Project Exhibit B (Budget) and Exhibit C (Schedule).
- B. Accept and agree to comply with all terms, provisions, conditions, and written commitments of this Funding Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations, and statements made by Funding Recipient in the application, documents, amendments, and communications filed in support of its request for funding.
- C. Comply with all applicable California, federal, and local laws and regulations.
- D. Implement the Project in accordance with applicable provisions of the law.
- E. Fulfill its obligations under the Funding Agreement and be responsible for the performance of the Project.
- F. Obtain any and all permits, licenses, and approvals required for performing any work under this Funding Agreement, including those necessary to perform design, construction, or operation and maintenance of the Project. Funding Recipient shall provide copies of permits and approvals to State.
- G. Be solely responsible for design, construction, and operation and maintenance of the Project within the work plan. Review or approval of plans, specifications, bid documents, or other construction documents by State is solely for the purpose of proper administration of funds by State and shall not be deemed to relieve or restrict responsibilities of Funding Recipient under this Agreement.
- H. Be solely responsible for all work and for persons or entities engaged in work performed pursuant to this Agreement, including, but not limited to, contractors, subcontractors, suppliers, and providers of services. The Funding Recipient shall be responsible for any and all disputes arising out of its

contracts for work on the Project, including but not limited to payment disputes with contractors and subcontractors. The State will not mediate disputes between the Funding Recipient and any other entity concerning responsibility for performance of work.

- D.18. GOVERNING LAW: This Funding Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.
- D.19. INDEMNIFICATION: Funding Recipient shall indemnify and hold and save the State, its officers, agents, and employees, free and harmless from any and all liabilities for any claims and damages (including inverse condemnation) that may arise out of the Project and this Agreement, including, but not limited to any claims or damages arising from planning, design, construction, maintenance and/or operation of levee rehabilitation measures for this Project and any breach of this Agreement. Funding Recipient shall require its contractors or subcontractors to name the State, its officers, agents and employees as additional insureds on their liability insurance for activities undertaken pursuant to this Agreement.
- D.20. INDEPENDENT CAPACITY: Funding Recipient, and the agents and employees of Funding Recipients, in the performance of the Funding Agreement, shall act in an independent capacity and not as officers, employees, or agents of the State.
- D.21. INSPECTION OF BOOKS, RECORDS, AND REPORTS: During regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and to make copies of any books, records, or reports of either party pertaining to this Funding Agreement or matters related hereto. Each of the parties hereto shall maintain and shall make available at all times for such inspection accurate records of all its costs, disbursements, and receipts with respect to its activities under this Funding Agreement. Failure or refusal by Funding Recipient to comply with this provision shall be considered a breach of this Funding Agreement, and State may withhold disbursements to Funding Recipient or take any other action it deems necessary to protect its interests.
- D.22. INSPECTIONS OF PROJECT BY STATE: State shall have the right to inspect the work being performed at any and all reasonable times during the term of the Funding Agreement. This right shall extend to any subcontracts, and Funding Recipient shall include provisions ensuring such access in all its contracts or subcontracts entered into pursuant to its Funding Agreement with State.
- D.23. LABOR CODE COMPLIANCE: The Funding Recipient agrees to be bound by all the provisions of the Labor Code regarding prevailing wages and shall monitor all contracts subject to payment from this Agreement to assure that the prevailing wage provisions of the Labor Code are being met. Current Department of Industrial Relations (DIR) requirements may be found at: <http://www.dir.ca.gov/lcp.asp>. For more information, please refer to DIR's *Public Works Manual* at: <http://www.dir.ca.gov/dlse/PWManualCombined.pdf>. The Funding Recipient affirms that it is aware of the provisions of section 3700 of the Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance, and the Funding Recipient affirms that it will comply with such provisions before commencing the performance of the work under this Agreement and will make its contractors and subcontractors aware of this provision.
- D.24. MODIFICATION OF OVERALL WORK PLAN: At the request of the Funding Recipient, the State may at its sole discretion approve non-material changes to the portions of Exhibits A, B, and C which concern the budget and schedule without formally amending this Funding Agreement. Non-material changes with respect to the budget are changes that only result in reallocation of the budget and will not result in an increase in the amount of the State Funding Agreement. Non-material changes with respect to the Project schedule are changes that will not extend the term of this Funding Agreement. Requests for non-material changes to the budget and schedule must be submitted by the Funding Recipient to the State in writing and are not effective unless and until specifically approved by the State's Program Manager in writing.

- D.25. **NONDISCRIMINATION:** During the performance of this Funding Agreement, Funding Recipient and its contractors or subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex (gender), sexual orientation, race, color, ancestry, religion, creed, national origin (including language use restriction), pregnancy, physical disability (including HIV and AIDS), mental disability, medical condition (cancer/genetic characteristics), age (over 40), marital status, and denial of medical and family care leave or pregnancy disability leave. Funding Recipient and its contractors or subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Funding Recipient and its contractors or subcontractors shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code, § 12990.) and the applicable regulations promulgated there under (Cal. Code Regs., tit. 2, § 11000 et seq.). The applicable regulations of the Fair Employment and Housing are incorporated into this Agreement by reference. Funding Recipient and its contractors or subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- Funding Recipient shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Funding Agreement.
- D.26. **OPINIONS AND DETERMINATIONS:** Where the terms of this Funding Agreement provide for action to be based upon, judgment, approval, review, or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.
- D.27. **PERFORMANCE BOND:** Where contractors are used, the Funding Recipient shall not authorize construction to begin until each contractor has furnished a performance bond in favor of the Funding Recipient in the following amounts: faithful performance (100%) of contract value, and labor and materials (100%) of contract value. This requirement shall not apply to any contract for less than \$25,000.00. Any bond issued pursuant to this paragraph must be issued by a California-admitted surety. (Pub. Contract Code, § 7103; Code Civ. Proc., § 995.311.)
- D.28. **PRIORITY HIRING CONSIDERATIONS:** If this Funding Agreement includes services in excess of \$200,000, the Funding Recipient shall give priority consideration in filling vacancies in positions funded by the Funding Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with Public Contract Code section 10353.
- D.29. **PROHIBITION AGAINST DISPOSAL OF PROJECT WITHOUT STATE PERMISSION:** The Funding Recipient shall not sell, abandon, lease, transfer, exchange, mortgage, hypothecate, or encumber in any manner whatsoever all or any portion of any real or other property necessarily connected or used in conjunction with the Project, or with Funding Recipient's service of water, without prior permission of State. Funding Recipient shall not take any action, including but not limited to actions relating to user fees, charges, and assessments that could adversely affect the ability of Funding Recipient meet its obligations under this Funding Agreement, without prior written permission of State. State may require that the proceeds from the disposition of any real or personal property be remitted to State.
- D.30. **PROJECT ACCESS:** The Funding Recipient shall ensure that the State, the Governor of the State, or any authorized representative of the foregoing, will have safe and suitable access to the Project site at all reasonable times during Project construction and thereafter for the term of this Agreement.
- D.31. **REMAINING BALANCE:** In the event the Funding Recipient does not submit invoices requesting all of the funds encumbered under this Funding Agreement, any remaining funds revert to the State. The State will notify the Funding Recipient stating that the Project file is closed, and any remaining balance will be disencumbered and unavailable for further use under this Funding Agreement.
- D.32. **REMEDIES NOT EXCLUSIVE:** The use by either party of any remedy specified herein for the enforcement of this Funding Agreement is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

- D.33. RIGHTS IN DATA: Funding Recipient agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes and other written or graphic work produced in the performance of this Funding Agreement shall be made available to the State and shall be in the public domain to the extent to which release of such materials is required under the California Public Records Act. (Gov. Code, § 6250 et seq.) Funding Recipient may disclose, disseminate and use in whole or in part, any final form data and information received, collected and developed under this Funding Agreement, subject to appropriate acknowledgement of credit to State for financial support. Funding Recipient shall not utilize the materials for any profit-making venture or sell or grant rights to a third party who intends to do so. The State shall have the right to use any data described in this paragraph for any public purpose.
- D.34. SEVERABILITY: Should any portion of this Funding Agreement be determined to be void or unenforceable, such shall be severed from the whole and the Funding Agreement shall continue as modified.
- D.35. SUSPENSION OF PAYMENTS: This Funding Agreement may be subject to suspension of payments or termination, or both if the State determines that:
- A. Funding Recipient, its contractors, or subcontractors have made a false certification, or
 - B. Funding Recipient, its contractors, or subcontractors violates the certification by failing to carry out the requirements noted in this Funding Agreement.
- D.36. SUCCESSORS AND ASSIGNS: This Funding Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties. No assignment or transfer of this Funding Agreement or any part thereof, rights hereunder, or interest herein by the Funding Recipient shall be valid unless and until it is approved by State and made subject to such reasonable terms and conditions as State may impose.
- D.37. TERMINATION BY FUNDING RECIPIENT: Subject to State approval which may be reasonably withheld, Funding Recipient may terminate this Agreement and be relieved of contractual obligations. In doing so, Funding Recipient must provide a reason(s) for termination. Funding Recipient must submit all progress reports summarizing accomplishments up until termination date and repay all funds disbursed pursuant to this Agreement.
- D.38. TERMINATION FOR CAUSE: Subject to the right to cure under Paragraph 7, the State may terminate this Funding Agreement and be relieved of any payments should Funding Recipient fail to perform the requirements of this Funding Agreement at the time and in the manner herein, provided including but not limited to reasons of default under Paragraph 7.
- D.39. TERMINATION WITHOUT CAUSE: The State may terminate this Agreement without cause on 30 days advance written notice. The Funding Recipient shall be reimbursed for all reasonable expenses incurred up to the date of termination.
- D.40. THIRD PARTY BENEFICIARIES: The parties to this Agreement do not intend to create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, or any duty, covenant, obligation or understanding established herein.
- D.41. TIMELINESS: Time is of the essence in this Funding Agreement.
- D.42. UNION ORGANIZING: Funding Recipient, by signing this Funding Agreement, hereby acknowledges the applicability of Government Code sections 16645 through 16649 to this Funding Agreement. Furthermore, Funding Recipient, by signing this Funding Agreement, hereby certifies that:
- A. No State funds disbursed by this Funding Agreement will be used to assist, promote, or deter union organizing.
 - B. Funding Recipient shall account for State funds disbursed for a specific expenditure by this Funding Agreement to show those funds were allocated to that expenditure.

- C. Funding Recipient shall, where State funds are not designated as described in (B) above, allocate, on a pro rata basis, all disbursements that support the program.
 - D. If Funding Recipient makes expenditures to assist, promote, or deter union organizing, Funding Recipient will maintain records sufficient to show that no State funds were used for those expenditures and that Funding Recipient shall provide those records to the Attorney General upon request.
- D.43. VENUE: The State and the Funding Recipient hereby agree that any action arising out of this Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California, or in the United States District Court in and for the Eastern District of California. The Funding Recipient hereby waives any existing sovereign immunity for the purposes of this Agreement.
- D.44. WAIVER OF RIGHTS: None of the provisions of this Funding Agreement shall be deemed waived unless expressly waived in writing. It is the intention of the parties hereto that from time to time either party may waive any of its rights under this Funding Agreement unless contrary to law. Any waiver by either party of rights arising in connection with the Funding Agreement shall not be deemed to be a waiver with respect to any other rights or matters, and such provisions shall continue in full force and effect.

EXHIBIT E

AUTHORIZING RESOLUTION

To be adopted at the September 17, 2024 Oxnard City Council meeting.

EXHIBIT F

REPORT FORMATS AND REQUIREMENTS

The following reporting formats should be utilized. Please obtain State approval prior to submitting a report in an alternative format.

1. **PROGRESS REPORTS**

Progress reports shall generally use the following format. In general, wherever possible please use bulleted format. This format may be modified as necessary to effectively communicate information.

PROJECT STATUS

Briefly describe the work performed during the time period covered by the report including but not limited to:

PROJECT INFORMATION (as applicable)

- Legal matters
- Engineering Evaluations
- Environmental matters
- Status of permits, easements, rights-of-way, rights of entry and approvals as may be required by other State, federal, and/or local agencies
- Major accomplishments during the reporting period (i.e. tasks completed, milestones met, meetings held or attended, press releases, etc.)
- Issues/concerns that have, will, or could affect the schedule or budget, with a recommendation on how to correct the matter
- Identify key issues that need to be resolved

COST INFORMATION (as applicable)

- Provide a list showing all project costs incurred during the time period covered by the report by the Funding Recipient and each contractor working on the Project and which of these costs are Eligible Project Costs
- A brief discussion on how the actual budget is progressing in comparison to the project budget included in the Work Plan
- A list of any changes approved to the budget in accordance with Funding Agreement and a revised budget, by task, if changed from latest budget in the Work Plan

SCHEDULE INFORMATION (as applicable)

- A schedule showing actual progress verses planned progress
- A brief discussion on how the actual schedule is progressing in comparison to the original or last reported schedule
- A list of any changes approved to the Schedule in accordance with Funding Agreement and a revised schedule, by task, if changed from latest reported schedule

The Final Annual Report shall contain the following Project completion information and shall generally use the following format.

EXECUTIVE SUMMARY – Should include a brief summary of project information and include the following items:

- Brief description of work proposed to be done in the original application
- Description of actual work completed and any deviations from the work plan identified in the Funding Agreement

COSTS AND DISPOSITION OF FUNDS – A list of showing:

- The date each invoice was submitted to State
- The amount of the invoice
- The date the check was received
- The amount of the check (If a check has not been received for the final invoice, then state this in this section.)
- Summary of project cost including the following items:
 - Accounting of the cost of project expenditure
 - Include all internal and external costs not previously disclosed
 - A discussion of factors that positively or negatively affected the project cost and any deviation from the original project cost estimate.

ADDITIONAL INFORMATION – Any relevant additional Information should be included.

EXHIBIT G**STATE AUDIT DOCUMENT REQUIREMENTS FOR FUNDING RECIPIENTS**

The following provides a list of documents typically required by State Auditors and general guidelines for Funding Recipients. List of documents pertains to both State funding and details the documents/records that State Auditors would need to review in the event of this Funding Agreement is audited. Funding Recipients should ensure that such records are maintained for each funded project.

State Audit Document RequirementsInternal Controls

1. Organization chart (e.g., Agency's overall organization chart and organization chart for the State funded Project).
2. Written internal procedures and flowcharts for the following:
 - a) Receipts and deposits
 - b) Disbursements
 - c) State payment requests
 - d) Expenditure tracking of State funds
 - e) Guidelines, policy, and procedures on State funded Program/Project
3. Audit reports of the Funding Recipient internal control structure and/or financial statements within the last two years.
4. Prior audit reports on the State funded Project.

State Funding:

1. Original Funding Agreement, any amendment(s) and budget modification documents.
2. A listing of public funds received from the State.
3. A listing of all other funding sources for the Project.

Contracts:

1. All subcontractor and consultant contracts and related or partners' documents, if applicable.
2. Contracts between the Funding Recipient and other public agencies as related to the State funded Project.

Invoices:

1. Invoices from vendors and subcontractors for expenditures submitted to the State for payments under the Funding Agreement.
2. Documentation linking subcontractor invoices to State payment, requests and related Funding Agreement budget line items.
3. Payment requests submitted to the State for the Funding Agreement.

Cash Documents:

1. Receipts (copies of warrants) showing payments received from the State.
2. Deposit slips (or bank statements) showing deposit of the payments received from the State.
3. Cancelled checks or disbursement documents showing payments made to vendors, subcontractors, consultants, and/or agents under the grants or loans.

4. Bank statements showing the deposit of the receipts.

Accounting Records:

1. Ledgers showing entries for funding receipts and cash disbursements.
2. Ledgers showing receipts and cash disbursement entries of other funding sources.
3. Bridging documents that tie the general ledger to requests for Funding Agreement payment.

Administration Costs:

1. Supporting documents showing the calculation of administration costs.

Personnel:

1. List of all contractors and Agency staff that worked on the State funded Program/Project.
2. Payroll records including timesheets for contractor staff and the Funding Recipient's personnel who provided services charged to the Project

Project Files:

1. All supporting documentation maintained in the Project files.
2. All Funding Agreement related correspondence.

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD AUTHORIZING THE CITY OF OXNARD TO ENTER INTO AN AGREEMENT WITH THE STATE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES TO RECEIVE FUNDS FOR THE CHANNEL ISLANDS HARBOR WATER QUALITY REMEDIATION PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY OF OXNARD

WHEREAS, the July 2023 Assembly Bill 102 designated \$500,000 in funding to the City of Oxnard for its Channel Islands Harbor Water Project, a Water Quality Remediation project (collectively, the “Project”); and

WHEREAS, State Senator Monique Limón, Assemblymember Steve Bennett, and Assemblymember Jacqui Irwin led the efforts to allocate the funding that was also supported by County Supervisor Carmen Ramirez, the Ventura County Farm Bureau, California State University Channel Islands, the Seabridge and Westport Homeowners Associations, residents of the Channel Islands Neighborhood Council, and Oxnard city staff; and

WHEREAS, adoption of this Resolution for funding from the California Department of Water Resources (“CDWR”) for Channel Islands Harbor water quality remediation may be used towards the consulting services for the Water Quality Feasibility Study and Implementation Plan, or toward selected and approved City projects for the Harbor water quality remediation; and

WHEREAS, the responsibility for the administration of the fund, including establishing the necessary procedures for disbursement of the fund to the California Department of Water Resources (“CDWR”); and

WHEREAS, the Water Authority agrees that the funds should be allocated by CDWR to the City of Oxnard; and

WHEREAS, CDWR requires a resolution from the City of Oxnard authorizing the City of Oxnard to enter into an agreement with CDWR to receive funds and to authorize the City Manager to execute the agreement.

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

Authorizes the City of Oxnard to enter into an agreement with the State of California Department of Water Resources to receive \$500,000 in funding for its Channel Islands Water Quality Remediation Project and authorizes the City Manager or designee to execute the agreement and any amendments thereto; and to submit any required documents, invoices, and reports required to obtain State funds.

Resolution No. _____
Funding Agreement No. 4600015993
Acceptance of a State Grant for \$500,000 to Fund Special Districts Division Water Quality
Remediation Project in Channel Islands Harbor
Page 2 of 2

PASSED, APPROVED, and ADOPTED this ____ day of September 2024 by the following
vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

John C. Zaragoza, Mayor

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

ATTEST:

Rose Chaparro, City Clerk

I, Rose Chaparro, City Clerk of the City of Oxnard, certify that the vote shown above is correct
and this Resolution No. _____ was duly adopted at the meeting of the City Council on the date
stated above.



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. N.2

DATE: May 7, 2024

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: Adopt a Resolution to Accept a State Grant for \$500,000 to Fund Special Districts Division Water Quality Remediation Projects in Channel Islands Harbor. (10 minutes)

RECOMMENDATION

That the City Council:

1. Adopt a Resolution of the City Council of the City of Oxnard Authorizing the City of Oxnard to enter into an Agreement (A-8548) with the State of California Department of Water Resources to receive funds for the Channel Islands Water Quality Remediation Projects and Authorizing the City Manager to Execute the Agreement on Behalf of the City of Oxnard;
2. Accept a grant from the California State Department of Water Resources in the amount of \$500,000 for the Channel Islands Harbor water quality remediation; and
3. Authorize the City Manager to execute the grant agreements and modify Exhibits of the agreement as necessary and the Finance Director or designee to submit the financial reports, grant claims, and approve the budget appropriations for the use of the grant funds; and the Director of Public Works or designee to submit the non-financial 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/DVkuev6rZrQ>

BACKGROUND

The Special Districts Division of the Public Works Department is responsible for the maintenance, operation, and administration of the City's 50 Special Districts, including bonded and non-bonded Community Facilities Districts ("CFDs"), Landscape Maintenance Districts ("LMDs"), Waterways Maintenance Assessment Districts ("WADs"), and a Maintenance Assessment District ("MAD-4"). Each of these Special Districts has specific individual authorized services and improvements, including, but not limited to: park landscapes, open spaces, parkways, medians, other public improvements, and recreation and park amenities such as picnic shelters, restrooms, arbors, and fountains. Properties within each District are assessed through an annual parcel charge for the purposes of maintaining the improvements and other authorized services within their District.

The Channel Islands Harbor is an artificial harbor with abutting commercial and residential developments that include Seabridge CFD, Westport CFD, Mandalay Bay WAD-Zone 1, and Harbour Island WAD-Zone 2. The abutting sections of the harbor would not be present absent these developments occurring. As specified in the Formation Documents, water quality remediation services are authorized services for each of the Harbor Districts; however, the City Council has previously authorized the use of American Rescue Plan Act ("ARPA") funding for this service.

In June 2018, an algal bloom occurred in the Harbor. The bloom was followed by widespread low levels of dissolved oxygen in the water. This is presumably related to the bacterial decomposition of algae during warm weather conditions. The bloom and subsequent low oxygen event may have been caused by the changes in the Harbor water circulation that occurred after the Mandalay Power Generating Station was decommissioned on March 29, 2018, as mandated by the California State Water Resources Control Board.

Since then, the City of Oxnard (“City”), the County of Ventura (“County”), and residents of the Channel Islands Neighborhood Council (“CINC”) have organized efforts to address water quality issues in the Harbor.

Water quality data is needed to identify key contaminants and the sources of the contamination within the Harbor. To begin this testing, the Los Angeles Regional Water Quality Control Board (“LARWQCB”) required the development of a Quality Assurance Project Plan (“QAPP”) describing the key stakeholders, sampling methods and locations, sample analysis, parameters for volunteer sample collection, quality assurance, and goals of the project. A critical component of these efforts is volunteers from CINC performing the water sampling that includes mobilization of volunteers, scheduling coordination with contract laboratories, and data collection and reporting.

The Special Districts Division is managing the remediation efforts in Channel Islands Harbor and has contracted with laboratories for toxicity testing, aquatic biological monitoring, and provides project management, field sampling, toxicity testing, freshwater and marine bioassessments, technical consulting, data management, and reporting.

On September 24, 2021, December 7, 2021, and March 29, 2022, the City Council approved funding totaling \$1,300,000 from the American Rescue Plan Act (“ARPA”) to address harbor water quality, including the development of a feasibility study and implementation plan.

On September 19, 2023, the County’s Board of Supervisors approved \$1,300,000 in matching funds for ongoing Harbor water quality remediation efforts, personnel costs, procuring of services and materials, conducting environmental review, obtaining permits or approvals, and conducting project management with cost tracking.

An Agreement for the Channel Island Harbor Water Quality Feasibility Study and Implementation Plan, will be presented to the City Council on May 7, 2024 for consideration. This Feasibility Study and Implementation Plan will provide overall project management, including engagement with the City, County, and stakeholders; review the current data sets, studies, and reports; determine water quality objectives, prepare a gap analysis, and provide a technical report of findings; and identify mitigation strategies, controls, costs, and other long-term factors which will lead to the development of an Implementation Plan.

DISCUSSION

In September 2022, the Governor’s office approved Assembly Bill 179 amending the 2022 Budget Act, which included the allocation of \$500,000 for the City of Oxnard’s Channel Islands Harbor water quality remediation projects. State Senator Monique Limón, Assemblymember Steve Bennett, and Assemblymember Jacqui Irwin led the efforts to allocate the funding that was also supported by County Supervisor Carmen Ramirez, the Ventura County Farm Bureau, California State University Channel Islands, the Seabridge and Westport Homeowners Associations, and residents of the Channel Islands Neighborhood Council, and Oxnard city staff.

The adoption of this Resolution for funding from the California State Department of Water Resources in the amount of \$500,000 for Channel Islands Harbor water quality remediation may be used towards the consulting services for the Water Quality Feasibility Study and Implementation Plan, or toward selected and approved City projects for the Harbor water quality remediation. As such, the Work Plan, and accompanying Exhibits to the Agreement may need to be modified for project-specific information once identified.

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 awarded amount from the State of \$500,000 shall be used to cover project costs related to the Channel Islands Harbor water quality remediation, including but not limited to ongoing water quality testing and consulting services, personnel costs, procuring of services and materials, conducting environmental review, obtaining permits or approvals, and conducting project management and costs tracking.

This Agreement requires submission of an annual progress report to the Department of Water Resources.

There is no match requirement. Grant revenue of \$500,000 will be recognized and appropriated to the State Grant Fund (210); there is no impact to the General Fund or any Special Assessment District for approving this funding agreement.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Steve Howlett, Assistant Public Works Director

ATTACHMENTS

1. Agreement A-8548/State Agreement 46000xxxxx
2. Resolution
3. Special Districts Map
4. Special Districts List
5. Presentation

CITY OF OXNARD – SPECIAL DISTRICTS

LANDSCAPE MAINTENANCE DISTRICT * COMMUNITY FACILITIES DISTRICTS
WATERWAYS ASSESSMENT DISTRICTS * MAINTENANCE ASSESSMENT DISTRICTS

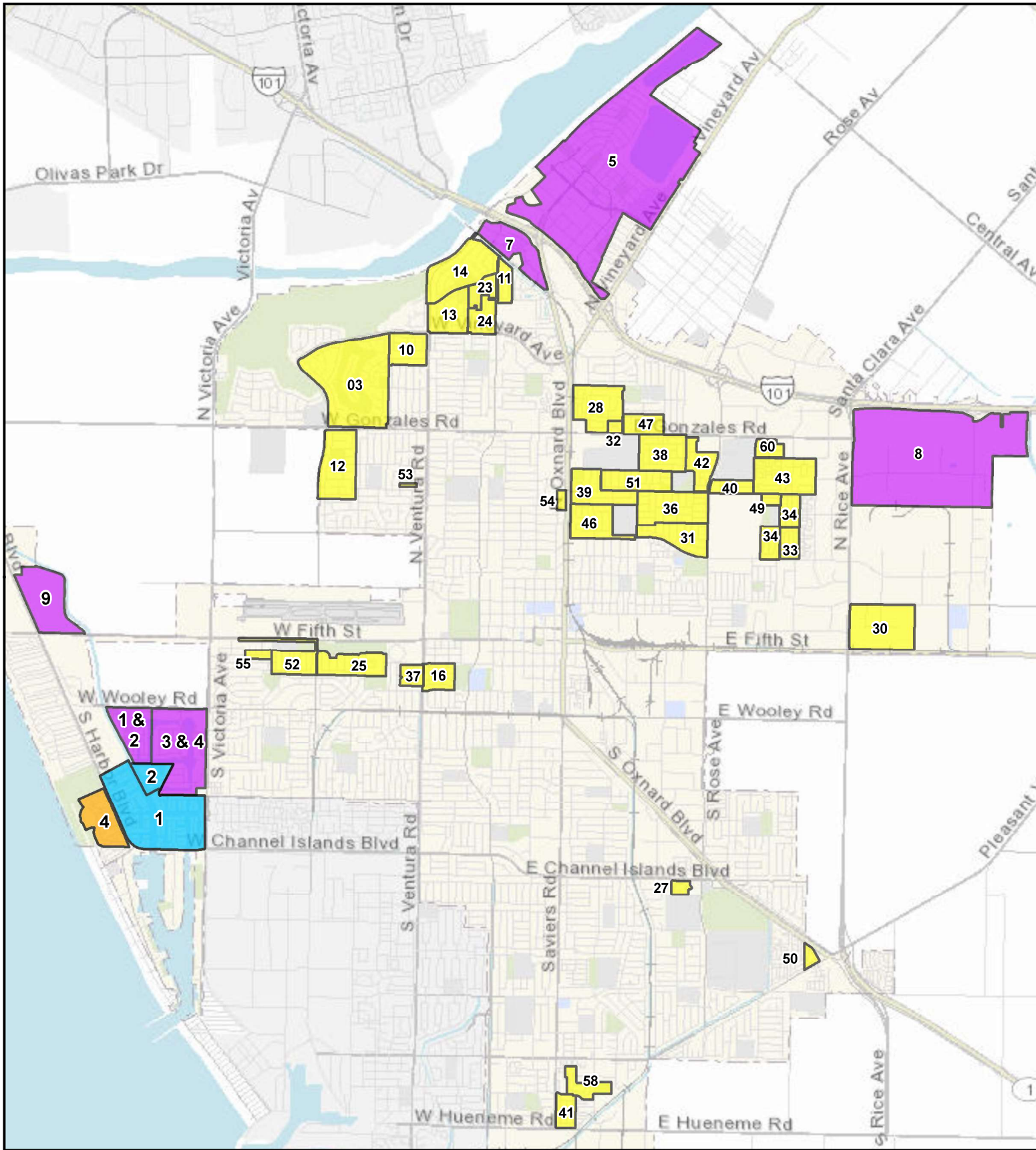
COMMUNITY FACILITIES DISTRICTS	
1 & 2 – Westport at Mandalay Bay	7 – Wagon Wheel
3 & 4 – Seabridge at Mandalay Bay	8 – Sakioka Farms
5 – Riverpark	9 – Northshore at Mandalay Bay

LANDSCAPE MAINTENANCE DISTRICTS	
3 – Riverridge	37 – Pacific Cove
10 – Country Club	38 – Aldea Del Mar
11 – St Tropez	39 – El Sueno Promesa
12 – Standard Pacific	40 – Cantada
13 – Le Village	41 – Pacific Cove
14 – California Cove	42 – Cantabria/Coronado
16 – California Lighthouse	43 – Greenbelt
23 – Greystone	46 – Daily Ranch
24 – Vineyards	47 – Sycamore Place
25 – The Pointe	49 – Cameron Ranch
27 – Rose Island	50 – PV Senior Housing
28 – Harborside	51 – Pfeiler
30 – Haas Automation	52 – Wingfield
31 – Rancho De La Rosa	53 – Huff Court
32 – Oak Park	54 – Meadowcrest
33 – El Paseo	55 – Wingfield West
34 – Sunrise Pt/Sunset Cove	58 – Westwind
36 – Villa Santa Cruz	60 – Artisan

MAINTENANCE ASSESSMENT DISTRICT
4 – Mandalay Beach/Colony

WATERWAYS ASSESSEMENT DISTRICTS	
Zone 1 – Mandalay Bay Zone	2 – Harbour Island

CITY OF OXNARD SPECIAL DISTRICTS



- | | |
|---|--|
| Maintenance Assessment District (District No.) | Community Facilities District (District No.) |
| Waterway Assessment District (Zone No.) | Landscape Maintenance District (District No.) |



CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA

AGENDA ITEM NO. L.5

DATE: September 17, 2024

TO: City Council

FROM: Emilio Ramirez, Housing Director, (805) 385-8094, emilio.ramirez@oxnard.org

SUBJECT: Amendment and Extension of the Agreement with the County of Ventura and local hotel operators in support of the Encampment Resolution Funding Program.

RECOMMENDATION

That the City Council:

1. Approve and authorize the Mayor to execute a First Amendment to Agreement No. 32400434 with the County of Ventura for partnership in delivery of encampment response outreach and case management services via the Ventura County Health Care Agency in the amount of \$145,000 for a total agreement amount not to exceed \$1,308,614.34, and to extend the term of the agreement to April 30, 2025;
2. Authorize the City Manager, or designee, to negotiate and execute agreements with local hotel operators through February 28, 2025 to offer non-congregate shelter.

(This item did not originate in Committee because it is a continuation of an item previously approved by City Council.)

BACKGROUND

On September 19, 2023, the City Council approved receipt, and authorized appropriation, of an Encampment Resolution Funding Program grant from the State of California in the amount of \$4,015,638.88 to respond to the continuing need at homeless encampments located on McWane Boulevard and at Fifth Street east of Harbor Boulevard. On September 19, 2023, the City Council also approved an agreement with LeSar Support Services (Agreement Number 32400182) to provide administrative services to aid the City of Oxnard to ensure compliance with the regulations and completion of reports due to the State of California.

On November 7, 2023, the City Council authorized the Mayor to execute an agreement (Agreement No. 32400434) with the County of Ventura for partnership in delivery of encampment response outreach and case management services in an amount not to exceed \$1,163,614.34. This agreement is set to terminate on October 31, 2024. The Encampment Resolution Funding Program ("The Program") has allowed the City of Oxnard and the County of Ventura to cooperate on an effort to relocate people from the above-mentioned encampments and provide interim non-congregate shelter and case management services with subsequent transition to permanent supportive housing units that are actively under construction throughout the City of Oxnard. On November 7, 2023, the City Council also authorized staff to negotiate and execute agreements with local hotel operators between November 1, 2023 and August 30, 2024. To date we have expended approximately \$3,248,000 of the State grant on The Program.

DISCUSSION

There are a number of permanent supportive housing projects recently completed, under construction, and planned for in Oxnard. The Encampment Resolution Funding Program was relying on the completion of two permanent supporting housing projects in Oxnard, (Central Terrace and Casa de Carmen) to transition individuals out of non-congregate shelters

into these units. Unfortunately the opening of the Casa de Carmen project has been delayed, creating a need to extend The Program to avoid exiting people out of the non-congregate shelter and returning them to unsheltered homelessness.

The Program launched in December 2023, and was anticipated to run about a year, which coincided with the opening of permanent supportive housing units. The Program provides non-congregate shelter, meals, and case management services for 60 individuals who have been relocated from specific encampment sites in Oxnard. The City is currently under agreement with several local hotel operators to provide non-congregate shelter and with the Ventura County Health Care Agency to provide meals and case management for the sheltered clients. Under Agreement No. 32400434, County of Ventura Health Care Agency staff works onsite with clients to develop housing plans, gather chronic homelessness documentation, connect clients to additional supportive services, and present clients for permanent supportive housing through the Ventura County Continuum of Care Coordinated Entry System presentation and matching process. This agreement also provides for a dedicated alcohol and drug treatment staff member for clients, and provision of two meals per day for each client. Health Care Agency staff also works to integrate the project with existing Health Care for the Homeless services and additional support that clients may be eligible for.

As of August 2024, 11 clients in The Program have been matched to a permanent supportive housing unit at Central Terrace. Over the next several months, Health Care Agency staff will continue working with clients to help them gain eligibility for permanent supportive housing placement, with the goal of matching additional clients to permanent supportive housing units within Central Terrace and the Casa de Carmen projects.

Casa de Carmen was originally scheduled to open in February 2024. That development has been delayed primarily due to a lengthy approval process from Southern California Edison (SCE) of the Project's underground utility plan. The SCE underground utility plan has now been approved and work necessary to complete the underground utility work has begun with an expected completion date of November 2024. Once this work is completed the Casa de Carmen development team will be able to resume work on the east elevation of the building and be able to provide the City with an updated completion schedule and date for when tenants may begin moving into the permanent supportive housing units.

To avoid exiting people out of the non-congregate shelter (local hotel rooms) and case management program and returning them to unsheltered homelessness, staff recommends that The Program continue until Casa de Carmen is completed and a tenant move-in date has been identified. At this time, there is only funding available within the State grant to fund the case management element of The Program through April 30, 2025, and the non-congregate shelter element of The Program through February 28, 2025. The extension of The Program through these dates requires extensions to various agreements.

1. Staff is seeking to amend Agreement No. 32400434 to extend the agreement through April 30, 2025, and to add \$145,000 of Encampment Resolution Funding Program grant funds to the agreement. An extension of Agreement No. 32400434 through April 30, 2025 is set to be brought to the Ventura County Board of Supervisors for approval in September 2024. The draft Agreement provides for an administrative extension past April 30, 2025. However, there is currently no funding identified to continue the services April 30, 2025.
2. In addition, staff is seeking Council authority to authorize the City Manager, or designee, to negotiate and enter into agreements or extensions of existing agreements with hotel operators to offer non-congregate shelter through February 28, 2025, subject to review and approval by the City Attorney's office. There are currently enough Encampment Resolution Funding grant funds remaining to enter into these agreements through February 28, 2025.
3. As stated previously, on September 19, 2023, the City Council approved an agreement with LeSar Support Services (Agreement Number 32400182) to provide administrative services to aid the City of Oxnard to ensure compliance with the regulations and completion of reports due to the State of California. The agreement, as approved by the City Council, with LeSar Support Services authorizes Staff to extend the agreement. Staff intends to exercise its option to extend for a period of one-year. No additional grant funds will be needed or encumbered to this agreement with LeSar.

Staff anticipates that the Casa de Carmen development will not be completed by April 30, 2025, and it is expected that staff would again recommend that The Program continue beyond the date in which funding is available. Therefore, if funding can be identified, staff may return to Council prior to February 28, 2025 to request authorization to extend the agreements and appropriate a new funding source in support of The Program.

STRATEGIC PRIORITIES

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.

FINANCIAL IMPACT

There is no financial impact to the General Fund.

The City of Oxnard was awarded an Encampment Resolution Funding grant amount of \$4,015,638.88. To date, \$767,229 remain unencumbered. From the remaining and unencumbered Encampment Resolution Funding Program grant will be allocated as:

1. \$145,000 will be allocated to an extension of Agreement No. 32400434 with Ventura County Health Care Agency to April 30, 2025
2. The remaining \$622,229 will be appropriated to fund new, or extensions to existing, agreements with local hotel operators to offer non-congregate shelter.

These agreements and services will fully expend the Encampment Resolution Funding grant funds.

For Finance Use Only: 210-2108103-53200-G2416

COMMITTEE OUTCOME

This item did not originate in Committee because it is a continuation of an item previously approved by City Council.

Prepared by: Emilio Ramirez, Housing Director

ATTACHMENTS

1. Original Agreement
2. First Amendment to Agreement for Professional Services with Ventura County Health Care Agency

AGREEMENT FOR PROFESSIONAL SERVICES

COVER PAGE

- (1) Agreement Start Date: November 1, 2023
- (2) Consultant: Ventura County Health Care Agency
- (3) Services: Street Outreach and Case Management within Interim Shelter and Provision of Meals for Program Clients
- (4) Schedule of Services: Services shall be provided between November 1, 2023, and October 31, 2024, inclusive.
- (5) Agreement Ending Date: October 31, 2024
- (6) Total Agreement Amount: \$1,163,614.34
- (7) City's Project Manager: Emilio Ramirez, Housing Director
- (8) Consultant's Project Manager: Jessica Petrillo, CalAIM Program Manager
- (9) Insurance Coverage: INS-A
- (10) Addresses for Notice:

FOR CONSULTANT:

Ventura County Health Care Agency
800 South Victoria Ave., L 4615, Ventura CA 93009
Attn: Jessica Petrillo

FOR CITY:

435 South "D" Street
Oxnard CA 93030
Attn: Emilio Ramirez

- (11) Contact Emails:

CONSULTANT'S PROJECT MANAGER

jessica.petrillo@ventura.org

CITY'S PROJECT MANAGER:

emilio.ramirez@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
- ☐ Insurance Exhibit (INS-)

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.

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.

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.

a. 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.

e. 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 18704 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 relief 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.

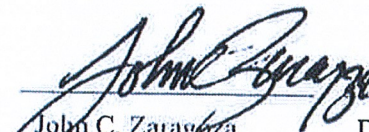
37. Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

[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


John C. Zaragoza
Mayor

Date

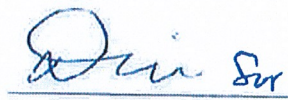

Barry L. Zimmerman
Health Care Agency Director

Date


Theresa Cho, MD
CEO, Ambulatory Care

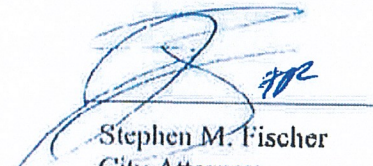
Date

ATTEST


Rose Chaparro
City Clerk

Date

APPROVED AS TO FORM


Stephen M. Fischer
City Attorney

Date

SCOPE OF SERVICES EXHIBIT

Name of Agency: Ventura County Health Care Agency / Ambulatory Care

Location Address: 800 South Victoria Avenue, Ventura, CA 93004

Project Name: ERF-2-R Encampment Response Project

Consultant will provide street outreach and case management services and will ensure provision of meals to clients from the homeless encampments known as “5th and Harbor” and “McWane”.

The specific areas in which the Consultant will provide services are:

Street Outreach: Consultant will

1. Provide street outreach staff including Community Health Workers and an Alcohol and Drug Treatment Specialist who will locate, identify, and build relationships with encampment inhabitants for the purpose of providing immediate support, intervention, and connections with homeless assistance programs.
2. Create a by-name list of encampment inhabitants along with identified needs for each person.
3. Invite encampment inhabitants to the encampment response program, and if the person agrees, formalize service agreements.
4. Work with each client to get ‘document ready’ for housing including completing assessments and referrals through the Coordinated Entry System.
5. Facilitate connection of encampment inhabitants to the interim shelter and housing options, including connection to the interim shelter component of this project.

Case Management within Interim Shelter: Consultant will

1. Provide Community Health Workers (CHW) who will provide case management services with clients who have moved from the specified encampments and have moved into the interim shelter component of this program (provided by the City of Oxnard).
2. Ensure that each client is assigned a CHW who will work with the client to create a pathway to permanent housing, including permanent supportive housing units at “Casa de Carmen” and “Central Terrace” that have been prioritized for this project.
3. Assist clients to create a housing plan, including obtaining necessary documentation to move forward in the client’s housing connection process. Each client will have a completed VAT assessment and be entered into the Coordinated Entry System (CES).
4. Facilitate linkages to community providers for substance abuse, primary and mental health care, and all other services needed to assist clients in reaching housing stabilization.

Consultant will also maintain records in accordance with the Homeless Management Information System (HMIS), including recording case notes, and provide all required reporting including quarterly reports with fiscal and programmatic data reflecting the progress of this project.

Provision of Meals: Consultant will

1. Ensure the provision of meals to clients for the duration of their enrollment in the interim shelter and case management components of this program.

BUDGET AND REPORTING EXHIBIT

Name of Agency: Ventura County Health Care Agency/ Ambulatory Care

Location Address: 800 South Victoria Avenue, Ventura, CA 93004

Project Name: ERF-2-R Encampment Response Project

Budget Narrative:

Operating costs for the Street Outreach and Shelter Case Management and Provision of Meals for the Encampment Resolution Funding (ERF-2-R) Project.

Budgeted Line Items:

Total Budgeted Amount Not to Exceed \$1,163,614.34

For the purpose of this agreement, the not-to-exceed budgeted amount for this 12-month agreement shall be \$1,163,614.34, consisting of the following elements:

Budget Category	Authorized Budget
Program Personnel (salary and benefits)	\$559,781.04
Provision of Meals for Program Clients	\$416,100
Administrative Personnel (salary and benefits)	\$176,149.30
Administrative Costs (transportation and cellphones)	\$11,584
TOTAL	\$1,163,614.34

In addition to the above budgeted amounts, Ventura County Health Care Agency will be providing the following personnel in-kind: Community Services Coordinator who will work with eligible clients on housing navigation, and CalAIM Program Manager who will oversee the administration of the program.

Schedule of payment:

Consultant shall invoice the City on a quarterly basis.

32400434

Agreement No. ~~32400272~~

INSURANCE EXHIBIT

INS A

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 10th day of September, 2024 by and between the City of Oxnard, a municipal corporation (“City”), and The Ventura County Health Care Agency (“Consultant”). This First Amendment amends the Agreement entered into on November 1, 2023, by City and Consultant.

City and Consultant agree as follows:

1. The “Schedule of Services” in Section 4 of the Cover Page of the Agreement is hereby amended to “Services shall be provided between November 1, 2023, and April 30, 2025, inclusive.
2. The “Agreement Ending Date” in Section 5 of the Cover Page of the Agreement is hereby amended to “Agreement Ending Date: April 30, 2025.”
3. The “Total Agreement Amount” in Section 6 of the Cover Page of the Agreement is hereby amended to “Not to exceed \$1,308,614.34.”
4. The reference to the “Budget and Reporting Exhibit” everywhere it is listed in the Agreement is hereby amended to the new **Amended Budget and Reporting Exhibit**. The Budget and Reporting Exhibit is hereby disincorporated; instead, the new **Amended Budget and Reporting Exhibit** is attached hereto and incorporated herein by this reference.
5. As so amended, the Agreement remains in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed the Amendment on the date first written above.

City of Oxnard

Ventura County Health Care Agency

John C. Zaragoza
Mayor

Date

Theresa Cho, MD
Health Care Agency Director

Date

Allison Blaze, MD
Interim Chief Executive Officer, Ambulatory
Care

Date

ATTEST:

Rose Chaparro
City Clerk

Date

APPROVED AS TO FORM:

Stephen M. Fischer
City Attorney

Date

AMENDED BUDGET AND REPORTING EXHIBIT

Name of Agency: Ventura County Health Care Agency/ Ambulatory Care

Location Address: 800 South Victoria Avenue, Ventura, CA 93004

Project Name: ERF-2-R Encampment Response Project

Budget Narrative:

Operating costs for the Street Outreach and Shelter Case Management and Provision of Meals for the Encampment Resolution Funding (ERF-2-R) Project.

Budgeted Line Items:

Total Budgeted Amount Not to Exceed \$1,308,614.34

For the purpose of this agreement, the not-to-exceed budgeted amount for this 12-month agreement shall be \$1,308,614.34, consisting of the following elements:

Budget Category	Authorized Budget
Program Personnel (Salary and Benefits)	\$659,653.34
Provision of Meals for Program Clients	\$637,377.00
Administrative Costs (Transportation and Cellphones)	\$11,584.00
TOTAL	\$1,308,614.34

In addition to the above budgeted amounts, Ventura County Health Care Agency will be providing the following personnel in-kind: Community Services Coordinator who will work with eligible clients on housing navigation, and CalAIM Program Manager who will oversee the administration of the program.

Schedule of payment:

Consultant shall invoice the City on a quarterly basis.



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.6

DATE: September 17, 2024
TO: City Council
FROM: Javier Chagoyen-Lazaro, Chief Financial Officer, (805) 200-5400, javier.chagoyenlazaro@oxnard.org
SUBJECT: City's Monthly Investment Report for the period ending July 31, 2024.

RECOMMENDATION

This is an information item for the City Council to receive and file.

This item did not originate in Committee.

BACKGROUND

The City of Oxnard (City) invests funds in compliance with the California Government Code Section 53600 et. Seq., and the City's Investment Policy. This report follows the guidelines established in the California Government Code section 53646 and the City's adopted Investment Policy.

DISCUSSION

The City's total cash and investment position as of July 31, 2024 was \$433.1 million, with \$15.5 million in cash accounts and \$417.6 million in investments, as summarized in the table below.

Cash and Investment Position	July 2024
Cash	
Bank of America General Account	\$7,576,538.83
Bank of America Successor Agency Account	7,768,448.84
Bank of America Citations Account	112,183.50
Bank of America Golf Course Account	-
Total Cash	\$15,457,171.17
Investments	
Local Agency Investment Fund (LAIF)	47,000,000.00
Ventura County Investment Pool (VCIP)	33,270,365.06
Certificates of Deposits	-
Bank Notes	-
Municipal Bonds	-
Federal Agency	-
Supra-National Agency Bonds *	974,428.00
Medium Term Notes *	41,699,152.42
U.S. Treasury Notes *	14,815,605.00
U.S. Government Sponsored Entities *	279,850,935.70

Total Investments

417,610,486.18

Total Cash and Investments

\$433,067,657.35

* Market Value

Statutory Compliance

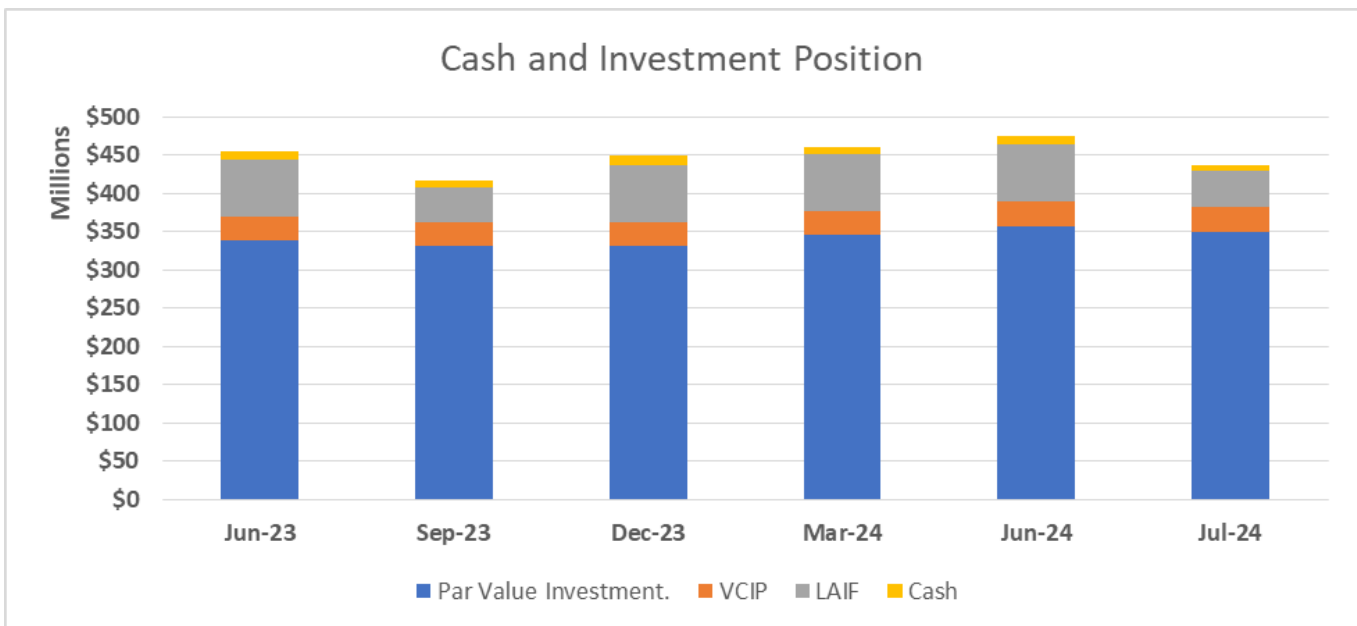
All investment transactions have been executed in conformance with the City's Investment Policy and the California Government Code. The table below represents the City's investment portfolio as of July 31, 2024 by authorized investment and duration for a total portfolio amount of \$417.6 million.

Authorized Investment at Market Value as of July 31, 2024	Allowable Threshold (\$ million or %)	Under 1 year	1-3 years	Over 3 years	Total	Average Yield to Maturity	Portfolio %
LAIF	\$75.0	\$47.00	\$-	\$-	\$47.0	4.42%	11.25%
VCIP	n/a	33.3	-	-	33.3	4.40%	7.97%
Federal Agencies	n/a	57.6	194.3	28.0	279.9	2.56%	67.01%
Medium Term Notes	30%	12.8	26.9	2.0	41.7	2.43%	9.99%
Supranational	20%	1.0	-	-	1.0	0.53%	0.23%
Treasuries	n/a	14.8	-	-	14.8	5.32%	3.55%
Total Investment		\$166.4	\$221.2	\$30.0	\$417.6	2.97%	100%

*Total may not add due to rounding

Portfolio Trends

The cash and investment position, excluding the Successor Agency account, as of June 30, 2024, decreased by \$36 million compared with the prior month, mainly due CalPERS payment for the Unfunded Actuarial Liability for Fiscal Year 2024-25 in amount of \$28 million. The trend for the cash and investment position is represented in the following chart.

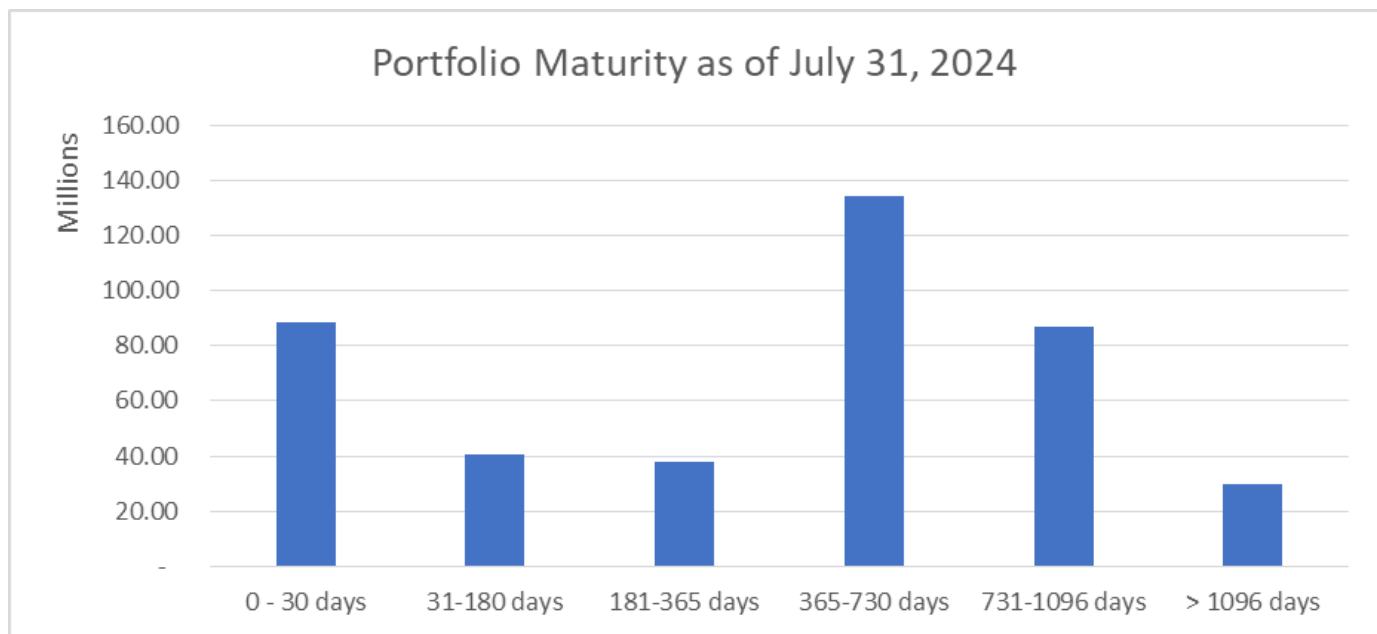


The California Government Code and the City's investment policy defined the eligible investments that the City can purchase to allocate surplus funds. The table below summarizes the City's investment portfolio by investment type. The individual investments included under each investment type are included as an attachment to this report.

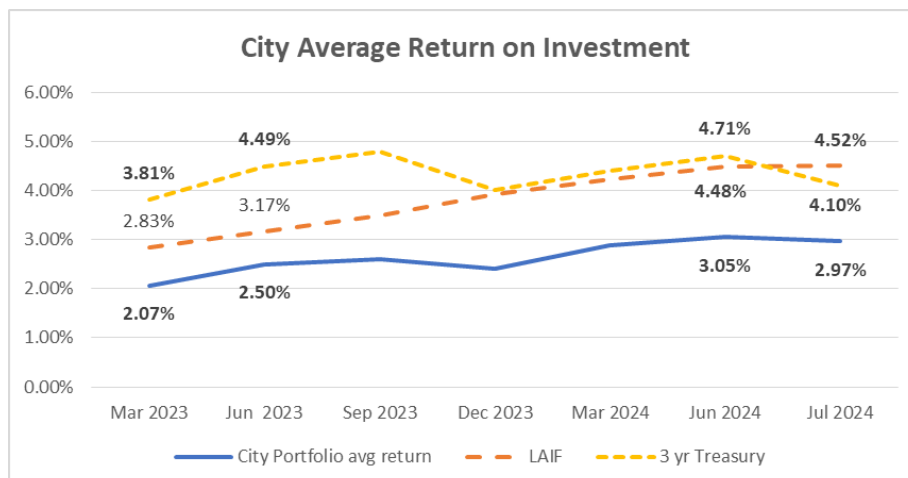
City of Oxnard
Portfolio Summary Statistics
Sorted by Fund
July 31, 2024

Investment Type	Par Value	Book Value	Market Value	% of the Portfolio	Market Price	WAM	WAC	YTM	YTW	Accrued Interest	Unrealized G/L
County Investment Pool	33,270,365.06	33,270,365.06	33,270,365.06	7.75	0.000	1	0	4.400	4.400	123,974.01	0.00
Federal Agency Coupon	289,575,000.00	289,569,783.40	279,850,935.70	67.48	96.640	673	62	2.559	2.518	1,686,578.12	-9,718,847.70
Local Agency Investment Funds	47,000,000.00	47,000,000.00	47,000,000.00	10.95	0.000	1	0	4.272	4.272	248,946.41	0.00
Medium Term Notes	43,510,000.00	43,454,911.55	41,699,152.42	10.13	95.834	507	127	2.435	2.435	175,900.05	-1,755,759.13
Supranational	1,000,000.00	1,001,350.34	974,428.00	0.23	97.443	222	0	0.526	0.526	2,916.67	-26,922.34
Treasury Discounts -Amortizing	15,000,000.00	14,815,057.55	14,815,605.00	3.45	98.771	86	0	5.334	5.334	0.00	547.45
Report Totals:	429,355,365.06	429,111,467.90	417,610,486.18	100 %	78.556	509	71	2.968	2.940	2,238,315.26	-11,500,981.72

The chart below represents the City's investment portfolio classified by days until maturities from July 31, 2024. Pooled investments in LAIF and Ventura County Investment Pooled provide immediate liquidity to support cash flow needs of the City, and are included in the maturity group 0 to 30 days.



The chart below represents the City's average return on investments, alongside with three-year Treasury bill and the LAIF Pooled Monthly Investment Account (PMIA) average Monthly Effective Yields, as benchmarks for the City's portfolio.



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.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Javier Chagoyen-Lazaro, Chief Financial Officer

ATTACHMENTS

1. 202407 City of Oxnard Investment report July 2024
2. Presentation

Investment report
for the month Ended in July 31, 2024

City of Oxnard

All investment transactions have been executed in accordance with the criteria stated in the City's Investment Policy (Resolution No. 15,186) adopted by the City Council held on July 2, 2024

Investments have been made in compliance with California Government Code and in accordance with the City's Investment Policy. **SYMPRO** provides the market value for negotiable instruments held in safekeeping included in this report. For investments not held by the City's custodian, market values are obtained from individual monthly statements. Based on analysis of cash receipts, expenditures, and daily cash flows, it is projected that revenues and investment liquidity are sufficient to meet expenditure requirements for the next six months.



Javier Chagoyen-Lazaro
Chief Financial Officer
City of Oxnard

09/10/2024

Date

City of Oxnard
Cash and Investment Summary
Month Ended
July 31, 2024

Cash and Investment Position	July 2024
Cash	
Bank of America General Account	\$7,576,538.83
Bank of America Successor Agency Account	7,768,448.84
Bank of America Citations Account	112,183.50
Bank of America Golf Course Account	-
Total Cash	15,457,171.17
Investments	
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Bank Notes	-
Municipal Bonds	-
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Supra-National Agency Bonds *	974,428.00
Medium Term Notes *	41,699,152.42
U.S. Treasury Notes *	14,815,605.00
U.S. Government Sponsored Entities *	279,850,935.70
Total Investments	417,610,486.18
Total Cash and Investments	\$ 433,067,657.35
* Market Value	

City of Oxnard
Investment Portfolio Detail
Fiscal Year 2024 - 2025
July 1 - July 31, 2024

CUSIP / Investment #		Issuer	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Days to Maturity	YTM/C	Maturity Date
Pooled Investments										
County Investment Pool										
VCIP										
Federal Agency Coupon Securities										
31422XAS1		Ventura County Investment Pool	3/2/2021	33,270,365.06	33,270,365.06	33,270,365.06	4.400	1	4.400	
31422XNQ1		Farmer Mac	10/5/2021	1,000,000.00	941,374.00	1,000,000.00	0.610	578	0.610	3/2/2026
3133EPYB5		Farmer Mac	10/10/2023	3,000,000.00	2,974,260.00	3,000,000.00	0.560	64	0.560	10/4/2024
3133EPYB5		Federal Farm Credit Bank	10/10/2023	1,000,000.00	999,945.00	1,000,000.00	5.500	70	5.500	10/10/2024
3133EPYB5		Federal Farm Credit Bank	10/10/2023	1,000,000.00	999,945.00	1,000,000.00	5.500	70	5.500	10/10/2024
3133EPYB5		Federal Farm Credit Bank	2/22/2024	2,000,000.00	1,998,804.00	1,998,235.56	5.520	1,208	5.553	11/22/2027
3133EPYB5		Federal Farm Credit Bank	2/28/2024	1,000,000.00	999,402.00	998,892.30	5.520	1,208	5.560	11/22/2027
3133EMQQ8		Federal Farm Credit Bank	2/12/2021	1,000,000.00	985,190.00	1,000,000.00	0.300	103	0.300	11/12/2024
3133EMQQ8		Federal Farm Credit Bank	2/25/2021	2,000,000.00	1,970,380.00	1,999,622.29	0.300	103	0.300	11/12/2024
3133ENBK5		Federal Farm Credit Bank	10/20/2021	1,000,000.00	931,475.00	1,000,000.00	1.140	810	1.140	10/20/2026
3130AQX1		Federal Home Loan Bank	1/28/2022	1,000,000.00	939,113.00	1,000,000.00	1.700	910	1.700	1/28/2027
3130AQPD9		Federal Home Loan Bank	2/17/2022	1,000,000.00	944,764.00	1,000,000.00	2.000	930	2.000	2/17/2027
3130AQPD9		Federal Home Loan Bank	2/17/2022	1,000,000.00	944,764.00	1,000,000.00	2.000	930	2.000	2/17/2027
3130AQXW6		Federal Home Loan Bank	2/25/2022	1,000,000.00	945,530.00	1,000,000.00	2.050	938	2.050	2/25/2027
3130AQXW6		Federal Home Loan Bank	2/25/2022	1,000,000.00	944,379.00	1,000,000.00	2.050	938	2.050	2/25/2027
3130AQXW6		Federal Home Loan Bank	2/25/2022	1,000,000.00	945,176.00	1,000,000.00	2.030	938	2.030	2/25/2027
3130AQXW6		Federal Home Loan Bank	2/28/2022	1,000,000.00	983,820.00	1,000,000.00	2.200	211	2.200	2/28/2025
3130AQXW6		Federal Home Loan Bank	2/28/2022	1,000,000.00	955,885.00	1,000,000.00	2.500	938	2.493	2/25/2027
3130AQXW6		Federal Home Loan Bank	3/4/2022	2,000,000.00	1,899,558.00	2,000,000.00	2.250	945	2.250	3/4/2027
3130AQXW6		Federal Home Loan Bank	3/4/2022	1,000,000.00	948,636.00	1,000,000.00	2.200	945	2.200	3/4/2027
3130AQXW6		Federal Home Loan Bank	3/4/2022	1,000,000.00	948,636.00	1,000,000.00	2.200	945	2.200	3/4/2027
3130AQXW6		Federal Home Loan Bank	3/4/2022	1,300,000.00	1,233,226.80	1,297,978.50	2.200	945	2.264	3/4/2027
3130AQXW6		Federal Home Loan Bank	3/4/2022	2,700,000.00	2,564,403.30	2,698,600.50	2.250	945	2.271	3/4/2027
3130AQXW6		Federal Home Loan Bank	3/10/2022	1,000,000.00	977,420.00	1,000,000.00	2.750	951	3.034	3/10/2027
3130AQXW6		Federal Home Loan Bank	3/30/2022	1,000,000.00	966,330.00	1,000,000.00	3.000	966	3.000	3/25/2027
3130AQXW6		Federal Home Loan Bank	4/8/2022	1,000,000.00	966,323.00	1,000,000.00	3.000	966	3.000	3/25/2027
3130AQXW6		Federal Home Loan Bank	5/9/2022	2,600,000.00	2,563,761.20	2,600,000.00	3.400	404	3.401	9/9/2025
3130AQXW6		Federal Home Loan Bank	5/25/2022	2,000,000.00	1,993,102.00	2,000,000.00	4.200	1027	4.186	5/25/2027
3130ARV3		Federal Home Loan Bank	5/26/2022	1,000,000.00	988,720.00	1,000,000.00	4.000	1,028	4.000	5/26/2027
3130ARV3		Federal Home Loan Bank	5/26/2022	1,000,000.00	988,720.00	1,000,000.00	4.000	1,028	4.000	5/26/2027
3130ARV3		Federal Home Loan Bank	5/26/2022	1,000,000.00	988,720.00	1,000,000.00	4.000	1,028	4.000	5/26/2027
3130AS4F3		Federal Home Loan Bank	6/9/2022	2,000,000.00	1,974,714.00	2,000,000.00	4.000	1,026	4.000	5/24/2027
3130AS4F3		Federal Home Loan Bank	6/9/2022	2,000,000.00	1,974,714.00	2,000,000.00	4.000	1,026	4.000	5/24/2027
3130AS4F7		Federal Home Loan Bank	6/29/2022	1,000,000.00	987,360.00	993,854.44	4.000	1,062	4.066	6/29/2027
3130AS4P8		Federal Home Loan Bank	7/12/2022	1,000,000.00	996,529.00	1,000,000.00	4.500	1,075	4.500	7/12/2027
3130AS4P8		Federal Home Loan Bank	7/14/2022	2,000,000.00	1,984,348.00	2,000,000.00	4.100	347	4.100	7/14/2025
3130AS4P8		Federal Home Loan Bank	7/22/2022	1,000,000.00	989,299.00	1,000,000.00	4.100	1085	4.100	7/22/2027
3130AS4P8		Federal Home Loan Bank	7/22/2022	1,000,000.00	993,836.00	1,000,000.00	4.250	539	4.250	7/22/2026
3130AS4P8		Federal Home Loan Bank	7/26/2022	1,000,000.00	996,909.00	1,000,000.00	4.500	1089	4.500	7/26/2027
3130AS4P8		Federal Home Loan Bank	7/28/2022	1,000,000.00	996,002.00	1,000,000.00	4.375	1,091	4.375	7/28/2027
3130AS4P8		Federal Home Loan Bank	8/8/2022	1,000,000.00	993,400.00	1,000,000.00	4.300	372	4.300	8/8/2025
3130AT3P0		Federal Home Loan Bank	9/28/2022	1,000,000.00	997,310.00	1,000,000.00	5.000	1139	5.000	9/14/2027
3130AUFW9		Federal Home Loan Bank	1/27/2023	1,000,000.00	998,510.00	999,975.56	5.350	179	5.355	1/27/2025
3130AUFW9		Federal Home Loan Bank	1/27/2023	1,000,000.00	998,510.00	999,975.56	5.350	179	5.355	1/27/2025
3130AUFW9		Federal Home Loan Bank	1/27/2023	1,000,000.00	999,288.00	1,000,000.00	5.000	725	5.000	7/27/2026
3130AUFW9		Federal Home Loan Bank	1/30/2023	1,000,000.00	1,000,123.00	1,000,000.00	5.400	1275	5.400	1/28/2028
3130AVRV6		Federal Home Loan Bank	4/28/2023	1,000,000.00	999,623.00	1,000,000.00	5.650	1366	5.650	4/28/2028
3130AVRV6		Federal Home Loan Bank	4/28/2023	2,000,000.00	1,999,246.00	2,000,000.00	5.650	1366	5.650	4/28/2028

City of Oxnard
Investment Portfolio Detail
Fiscal Year 2024 - 2025
July 1 - July 31, 2024

CUSIP / Investment #	Issuer	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Days to Maturity	YTM/C	Maturity Date
3130AYB89	Federal Home Loan Bank	12/27/2023	5,000,000.00	4,994,735.00	5,000,000.00	5.400	508	5.399	12/22/2025
3130AYBY1	Federal Home Loan Bank	3/2/2024	12,000,000.00	11,951,640.00	12,000,000.00	5.120	335	5.120	7/2/2025
3130AYDP9	Federal Home Loan Bank	1/19/2024	1,000,000.00	997,621.00	1,000,000.00	5.000	442	5.005	10/17/2025
3130AYVAD	Federal Home Loan Bank	1/25/2024	1,000,000.00	1,000,031.00	1,000,000.00	5.550	1,638	5.550	1/25/2029
3130AYVGA	Federal Home Loan Bank	2/15/2024	1,000,000.00	1,001,069.00	1,000,000.00	5.400	1,658	5.400	2/14/2029
3130AXVH8	Federal Home Loan Bank	2/1/2024	5,000,000.00	5,004,015.00	5,004,407.85	5.500	1,208	5.467	11/22/2027
3130AYVY9	Federal Home Loan Bank	2/15/2024	1,000,000.00	1,006,804.00	1,000,000.00	5.000	1,659	5.000	2/15/2029
3130AXVH9	Federal Home Loan Bank	2/27/2024	5,000,000.00	4,987,864.44	5,003,819.44	5.500	1,300	5.500	2/22/2028
3130BQVQ8	Federal Home Loan Bank	3/19/2024	1,000,000.00	1,000,453.83	999,969.41	5.375	1,685	5.398	3/13/2029
3130B1LW5	Federal Home Loan Bank	5/30/2024	2,000,000.00	2,006,926.00	2,000,000.00	5.250	666	5.250	5/29/2026
3130AKL18	Federal Home Loan Bank	12/30/2020	2,000,000.00	1,889,740.00	2,000,000.00	5.16	516	5.160	12/30/2025
3130AKN26	Federal Home Loan Bank	1/20/2021	2,000,000.00	1,882,942.00	2,000,000.00	5.325	532	5.325	1/15/2026
3130AKNKH	Federal Home Loan Bank	1/20/2021	5,000,000.00	4,761,125.00	5,000,000.00	5.500	445	5.500	10/20/2025
3130AKN18	Federal Home Loan Bank	1/20/2021	1,000,000.00	952,225.00	1,000,000.00	5.500	445	5.500	10/20/2025
3130AKQ74	Federal Home Loan Bank	1/22/2021	5,000,000.00	4,710,685.00	5,000,000.00	5.625	539	5.625	1/22/2026
3130AKMD5	Federal Home Loan Bank	1/26/2021	5,000,000.00	4,700,010.00	4,999,256.94	5.300	543	5.510	1/26/2026
3130AKN83	Federal Home Loan Bank	1/26/2021	1,000,000.00	940,855.00	1,000,000.00	5.560	543	5.560	1/26/2026
3130AKL61	Federal Home Loan Bank	1/27/2021	5,000,000.00	4,723,910.00	5,000,000.00	7.750	544	6.609	1/27/2026
3130AKQ61	Federal Home Loan Bank	1/27/2021	5,000,000.00	4,723,910.00	5,000,000.00	7.750	544	6.609	1/27/2026
3130AKN88	Federal Home Loan Bank	1/28/2021	2,000,000.00	1,885,324.00	2,000,059.67	7.700	545	6.698	1/28/2026
3130AKQ67	Federal Home Loan Bank	1/28/2021	2,000,000.00	1,884,394.00	2,000,000.00	6.550	545	6.550	1/28/2026
3130AKQ61	Federal Home Loan Bank	1/28/2021	5,000,000.00	4,713,310.00	5,000,000.00	7.700	545	7.700	1/28/2026
3130AKQ82	Federal Home Loan Bank	1/28/2021	1,500,000.00	1,411,852.50	1,500,000.00	6.600	545	6.600	1/28/2026
3130AKPQ0	Federal Home Loan Bank	1/29/2021	2,000,000.00	1,882,280.00	2,000,000.00	6.600	546	6.600	1/29/2026
3130AKVW3	Federal Home Loan Bank	1/29/2021	1,000,000.00	939,995.00	1,000,000.00	5.520	546	5.520	1/29/2026
3130AKVQ6	Federal Home Loan Bank	1/29/2021	1,000,000.00	951,381.00	1,000,000.00	4.770	454	4.770	10/29/2025
3130AKVQ4	Federal Home Loan Bank	2/9/2021	1,000,000.00	944,806.00	1,000,000.00	7.750	557	5.339	2/9/2026
3130AKV44	Federal Home Loan Bank	2/9/2021	1,000,000.00	944,806.00	1,000,000.00	7.750	557	5.540	2/9/2026
3130AKT15	Federal Home Loan Bank	2/9/2021	2,000,000.00	1,878,798.00	2,000,000.00	5.540	557	5.540	2/9/2026
3130AKVAT	Federal Home Loan Bank	2/9/2021	2,000,000.00	1,889,612.00	2,000,000.00	7.750	557	5.564	2/9/2026
3130AKVR4	Federal Home Loan Bank	2/12/2021	1,000,000.00	941,570.00	1,000,000.00	5.550	560	5.550	2/12/2026
3130AL7MD	Federal Home Loan Bank	2/24/2021	2,000,000.00	1,884,714.00	1,988,436.11	6.325	572	6.376	2/24/2026
3130AKX10	Federal Home Loan Bank	2/24/2021	1,000,000.00	941,487.00	999,749.78	6.600	572	6.616	2/24/2026
3130AKX10	Federal Home Loan Bank	2/24/2021	5,000,000.00	4,707,435.00	4,998,748.89	6.600	572	6.636	2/24/2026
3130AKXU0	Federal Home Loan Bank	2/24/2021	3,000,000.00	2,824,461.00	3,000,000.00	6.600	572	6.600	2/24/2026
3130AKXU0	Federal Home Loan Bank	2/24/2021	1,000,000.00	941,487.00	999,843.61	6.600	572	6.630	2/24/2026
3130AKXU0	Federal Home Loan Bank	2/24/2021	1,000,000.00	941,487.00	999,843.61	6.600	572	6.630	2/24/2026
3130ALCB8	Federal Home Loan Bank	2/24/2021	1,000,000.00	942,518.00	1,000,000.00	6.680	572	6.680	2/24/2026
3130AL7MD	Federal Home Loan Bank	2/24/2021	1,000,000.00	941,859.00	999,843.61	6.625	572	6.635	2/24/2026
3130AKWM4	Federal Home Loan Bank	2/26/2021	1,000,000.00	984,714.00	1,000,000.00	3.300	117	3.300	11/26/2024
3130ALE59	Federal Home Loan Bank	2/26/2021	2,000,000.00	1,983,986.00	2,000,000.00	3.330	25	3.330	8/26/2024
3130ALF58	Federal Home Loan Bank	3/10/2021	1,000,000.00	942,976.00	1,000,000.00	8.800	586	8.800	3/10/2026
3130ALDN1	Federal Home Loan Bank	3/16/2021	1,000,000.00	942,384.00	1,000,000.00	8.800	592	8.800	3/16/2026
3130ALDN1	Federal Home Loan Bank	3/16/2021	1,000,000.00	942,384.00	1,000,000.00	8.800	592	8.800	3/16/2026
3130ALG84	Federal Home Loan Bank	3/17/2021	1,000,000.00	942,290.00	1,000,000.00	8.800	593	8.800	3/17/2026
3130ALG17	Federal Home Loan Bank	3/23/2021	975,000.00	921,116.63	975,000.00	1.000	599	1.000	3/23/2026
3130ALGC2	Federal Home Loan Bank	3/23/2021	1,000,000.00	942,929.00	1,000,000.00	8.875	599	8.875	3/23/2026
3130ALIN2	Federal Home Loan Bank	3/24/2021	2,000,000.00	1,896,058.00	2,000,000.00	1.000	600	1.000	3/24/2026
3130ALIN4	Federal Home Loan Bank	3/24/2021	1,000,000.00	972,740.00	1,000,000.00	6.680	235	6.680	3/24/2025
3130AMZF8	Federal Home Loan Bank	4/29/2021	1,000,000.00	943,763.00	1,000,000.00	1.125	636	1.125	4/29/2026
3130AMF43	Federal Home Loan Bank	4/29/2021	1,000,000.00	946,424.00	1,000,000.00	1.250	636	1.097	4/29/2026
3130AMH16	Federal Home Loan Bank	5/26/2021	1,000,000.00	940,839.00	1,000,000.00	1.050	663	1.050	5/26/2026

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3130AM1L42	Federal Home Loan Bank	5/27/2021	1,000,000.00	943,451.00	1,000,000.00	1.200	564	0.957	5/27/2026
3130AM1CM2	Federal Home Loan Bank	6/3/2021	1,250,000.00	1,217,660.00	1,250,000.00	2.000	649	1.543	5/12/2026
3130AM1M41	Federal Home Loan Bank	6/16/2021	5,000,000.00	4,692,195.00	5,000,000.00	1.000	684	1.000	6/16/2026
3130AM1PT3	Federal Home Loan Bank	6/23/2021	5,000,000.00	4,692,240.00	5,000,000.00	1.030	691	1.030	6/23/2026
3130AM1VP1	Federal Home Loan Bank	7/15/2021	3,000,000.00	2,817,705.00	3,000,000.00	1.125	713	1.125	7/15/2026
3130AN1VH9	Federal Home Loan Bank	9/24/2021	1,000,000.00	934,442.00	1,000,000.00	1.080	775	1.080	9/15/2026
3130AN1Y31	Federal Home Loan Bank	10/12/2021	1,000,000.00	968,561.00	999,610.60	0.625	272	0.678	4/30/2025
3130AP1B87	Federal Home Loan Bank	10/13/2021	1,000,000.00	931,657.00	1,000,000.00	1.100	803	1.100	10/13/2026
3130AP1B87	Federal Home Loan Bank	10/13/2021	1,000,000.00	931,657.00	1,000,000.00	1.100	803	1.100	10/13/2026
3130AP1S49	Federal Home Loan Bank	10/15/2021	1,000,000.00	930,459.00	1,000,000.00	1.050	805	1.050	10/15/2026
3130AP1S49	Federal Home Loan Bank	10/15/2021	1,000,000.00	930,459.00	1,000,000.00	1.050	805	1.050	10/15/2026
3130AP1S49	Federal Home Loan Bank	10/15/2021	1,000,000.00	930,459.00	1,000,000.00	1.050	805	1.050	10/15/2026
3130AP1X11	Federal Home Loan Bank	10/15/2021	1,000,000.00	930,252.00	999,867.67	1.040	805	1.046	10/15/2026
3130AP1X11	Federal Home Loan Bank	10/15/2021	1,000,000.00	930,459.00	1,000,000.00	1.050	805	1.050	10/15/2026
3130AP1X11	Federal Home Loan Bank	10/15/2021	1,000,000.00	930,252.00	1,000,000.00	1.040	805	1.040	10/15/2026
3130AP1Y11	Federal Home Loan Bank	10/21/2021	3,000,000.00	2,792,895.00	3,000,000.00	1.100	811	1.100	10/21/2026
3130AP1Y11	Federal Home Loan Bank	10/21/2021	1,000,000.00	931,918.00	1,000,000.00	1.150	812	1.150	10/21/2026
3130AP1Y11	Federal Home Loan Bank	10/22/2021	2,000,000.00	1,863,836.00	2,000,000.00	1.150	812	1.150	10/22/2026
3130AP1Y11	Federal Home Loan Bank	10/26/2021	2,000,000.00	1,865,316.00	2,000,000.00	1.180	816	1.200	10/26/2026
3130AP1Y11	Federal Home Loan Bank	10/26/2021	2,000,000.00	932,239.00	1,000,000.00	1.180	816	1.180	10/26/2026
3130AP1Y11	Federal Home Loan Bank	10/26/2021	2,000,000.00	1,865,316.00	1,999,552.78	1.200	816	1.210	10/26/2026
3130AP1Y11	Federal Home Loan Bank	10/26/2021	1,000,000.00	933,706.00	1,000,000.00	1.250	816	1.250	10/26/2026
3130AP1Y11	Federal Home Loan Bank	10/26/2021	2,000,000.00	1,867,412.00	2,000,000.00	1.250	816	1.250	10/26/2026
3130AP1Y11	Federal Home Loan Bank	10/26/2021	1,000,000.00	933,706.00	1,000,000.00	1.250	816	1.250	10/26/2026
3130AP1Y11	Federal Home Loan Bank	10/27/2021	1,000,000.00	981,946.00	1,000,000.00	0.650	148	0.650	12/27/2024
3130AP1Y11	Federal Home Loan Bank	10/28/2021	1,000,000.00	944,977.00	1,000,000.00	1.000	818	1.264	10/28/2026
3130AP1Y11	Federal Home Loan Bank	10/28/2021	2,000,000.00	1,864,160.00	2,000,000.00	1.180	818	1.180	10/28/2026
3130AP1Y11	Federal Home Loan Bank	10/28/2021	1,000,000.00	933,550.00	1,000,000.00	1.250	818	1.250	10/28/2026
3130AP1Y11	Federal Home Loan Bank	10/28/2021	1,000,000.00	980,082.00	1,000,000.00	0.875	180	0.875	1/28/2025
3130AP1Y11	Federal Home Loan Bank	11/10/2021	1,000,000.00	932,652.00	1,000,000.00	1.250	831	1.250	11/10/2026
3130AP1Y11	Federal Home Loan Bank	11/10/2021	1,000,000.00	932,652.00	998,862.50	1.250	831	1.302	11/10/2026
3130AP1Y11	Federal Home Loan Bank	11/16/2021	1,000,000.00	932,652.00	1,000,000.00	1.250	837	1.250	11/16/2026
3130AP1Y11	Federal Home Loan Bank	11/16/2021	1,000,000.00	935,852.00	1,000,000.00	1.375	837	1.375	11/16/2026
3130AP1Y11	Federal Home Loan Bank	11/16/2021	1,000,000.00	935,852.00	1,000,000.00	1.375	837	1.375	11/16/2026
3130AP1Y11	Federal Home Loan Bank	11/18/2021	1,000,000.00	935,704.00	1,000,000.00	1.375	839	1.375	11/18/2026
3130AP1Y11	Federal Home Loan Bank	11/23/2021	1,000,000.00	938,016.00	1,000,000.00	1.500	844	1.500	11/23/2026
3130AP1Y11	Federal Home Loan Bank	12/23/2021	1,000,000.00	946,238.00	1,000,000.00	2.000	874	1.641	12/23/2026
3130AP1Y11	Federal Home Loan Bank	12/30/2021	1,250,000.00	1,172,220.00	1,250,000.00	1.625	881	1.625	12/30/2026
3130AP1Y11	Federal Home Loan Bank	4/13/2022	1,000,000.00	972,060.00	1,000,000.00	3.250	985	3.250	4/13/2027
3130AP1Y11	Federal Home Loan Bank	5/17/2022	1,000,000.00	987,606.00	1,000,000.00	4.000	1019	4.000	5/17/2027
3130AP1Y11	Federal Home Loan Bank	5/23/2022	2,000,000.00	1,976,470.00	2,000,000.00	3.500	209	3.500	5/23/2025
3130AP1Y11	Federal Home Loan Bank	5/23/2022	2,000,000.00	1,973,374.00	2,000,000.00	3.400	245	3.400	5/23/2025
3130AP1Y11	Federal Home Loan Bank	5/26/2022	2,000,000.00	1,982,494.00	2,000,000.00	4.000	1,028	4.213	5/26/2027
3130AP1Y11	Federal Home Loan Bank	5/26/2022	1,000,000.00	991,247.00	1,000,000.00	4.000	1,028	4.213	5/26/2027
3130AP1Y11	Federal Home Loan Bank	5/26/2022	2,000,000.00	1,978,756.00	1,999,896.46	3.250	209	3.261	2/26/2025
3130AP1Y11	Federal Home Loan Bank	5/26/2022	2,000,000.00	1,991,418.00	2,000,000.00	3.050	25	3.051	8/26/2024
3130AP1Y11	Federal Home Loan Bank	5/26/2022	2,000,000.00	1,978,756.00	2,000,000.00	3.250	209	3.251	2/26/2025
3130AP1Y11	Federal Home Loan Bank	5/26/2022	2,000,000.00	1,982,494.00	2,000,000.00	4.000	1,028	4.213	5/26/2027
3130AP1Y11	Federal Home Loan Bank	5/27/2022	1,000,000.00	987,633.00	1,000,000.00	4.000	1,029	4.000	5/27/2027
3130AP1Y11	Federal Home Loan Bank	5/27/2022	2,000,000.00	1,986,248.00	2,000,000.00	3.250	118	3.250	11/27/2024
3130AP1Y11	Federal Home Loan Bank	6/30/2022	1,000,000.00	994,552.00	1,000,000.00	4.000	151	4.000	12/30/2024

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3134GXZK7	Federal Home Loan Mtg Corp	7/12/2022	1,000,000.00	990,728.00	1,000,000.00	4.250	1,075	4.250	7/12/2027
3134GXDS0	Federal Home Loan Mtg Corp	7/21/2022	1,000,000.00	990,080.00	1,000,000.00	4.000	354	4.000	7/21/2025
3134GXDS0	Federal Home Loan Mtg Corp	7/21/2022	1,000,000.00	990,080.00	1,000,000.00	4.000	354	4.000	7/21/2025
3134GXDS0	Federal Home Loan Mtg Corp	7/21/2022	1,000,000.00	989,779.00	1,000,000.00	4.250	1091	4.250	7/28/2027
3134GXDS7	Federal Home Loan Mtg Corp	8/12/2022	1,000,000.00	998,039.00	999,992.36	4.100	11	4.126	8/12/2024
3134GXDS7	Federal Home Loan Mtg Corp	8/25/2022	1,000,000.00	989,570.00	1,000,000.00	4.250	119	4.250	8/25/2027
3134GXDS7	Federal Home Loan Mtg Corp	10/18/2022	1,000,000.00	998,117.00	1,000,000.00	5.000	259	5.000	4/17/2025
3134GXDS7	Federal Home Loan Mtg Corp	11/28/2022	1,000,000.00	998,971.00	1,000,000.00	5.000	25	5.005	8/26/2024
3134GYEY4	Federal Home Loan Mtg Corp	1/27/2023	1,000,000.00	998,437.00	1,000,000.00	5.050	544	5.050	1/27/2026
3134GYFM9	Federal Home Loan Mtg Corp	2/1/2023	2,000,000.00	1,998,980.00	2,000,000.00	5.050		5.050	8/1/2024
3134GYFM9	Federal Home Loan Mtg Corp	1/17/2024	1,000,000.00	998,254.00	1,000,000.00	5.150	197	5.146	2/14/2025
3134H1PK3	Federal Home Loan Mtg Corp	1/18/2024	1,000,000.00	1,000,120.00	1,000,000.00	5.000	903	5.000	1/21/2027
3134H1T68	Federal Home Loan Mtg Corp	2/21/2024	5,000,000.00	5,001,540.00	5,000,000.00	5.500	1665	5.500	2/21/2029
3134H1T93	Federal Home Loan Mtg Corp	2/23/2024	1,000,000.00	1,000,195.00	1,000,000.00	5.150	566	5.150	2/18/2026
3134H1T93	Federal Home Loan Mtg Corp	2/23/2024	1,000,000.00	1,000,195.00	1,000,000.00	5.150	566	5.150	2/18/2026
3134H1VQ2	Federal Home Loan Mtg Corp	2/27/2024	5,000,000.00	4,998,820.00	5,000,000.00	5.250	575	5.250	2/27/2026
3134H1VQ2	Federal Home Loan Mtg Corp	1/22/2021	2,000,000.00	1,885,360.00	2,000,000.00	5.550	439	5.550	1/22/2026
3136GAE83	Federal National Mtg Assn	1/30/2023	1,000,000.00	999,157.00	1,000,000.00	5.125	361	5.125	7/28/2025
3136GAE83	Federal National Mtg Assn	1/30/2023	1,000,000.00	999,157.00	1,000,000.00	5.125	361	5.125	7/28/2025
3136GAF73	Federal National Mtg Assn	3/30/2023	1,000,000.00	999,600.00	1,000,000.00	5.300	60	5.300	9/30/2024
3136GALZ1	Federal National Mtg Assn	1/18/2024	1,000,000.00	999,597.00	1,000,000.00	5.000	897	5.000	1/15/2027
3135GALZ2	Federal National Mtg Assn	1/18/2024	2,000,000.00	1,999,194.00	2,000,000.00	5.000	897	5.000	1/15/2027
3135GALZ2	Federal National Mtg Assn	1/23/2024	2,000,000.00	1,999,036.00	2,000,000.00	5.150	161	5.147	1/9/2025
Local Agency Investment Funds									
LAIF	LAIF		47,000,000.00	47,000,000.00	47,000,000.00	4.272	1	4.272	
Medium Term Notes									
037833DF4	Apple Inc.	12/28/2023	10,000,000.00	9,893,790.00	9,915,277.46	2.750	165	4.700	1/13/2025
037833DF4	Apple Inc.	44222	1000000	957449	1000131.41	0.550	384	0.537	45889
037833EB2	Apple Inc.	44235	1,000,000.00	944,711.00	999,984.81	0.700	556	0.071	46061
06048WV53	Bank of America	44610	3000000	2877642	3000000	2.000	382	2.000	45887
06048WV98	Bank of America	5/27/2022	2,000,000.00	1,956,308.00	2,000,000.00	4.050	664	4.050	5/27/2026
06048WV98	Bank of America	8/22/2022	1,000,000.00	996,340.00	1,000,000.00	5.000	1055	5.000	6/22/2027
06048WZ29	Bank of America	10/20/2022	1,000,000.00	1,000,109.00	1,000,000.00	6.000	1175	6.000	10/20/2027
06051GFS3	Bank of America	1/8/2021	1,000,000.00	988,270.00	1,030,087.14	3.875	365	0.804	8/1/2025
06048WV32	Bank of America	2/24/2021	1,000,000.00	931,730.00	1,000,000.00	0.800	572	0.080	2/24/2026
06048WV99	Bank of America	5/14/2021	1,000,000.00	997,180.00	1,000,000.00	1.400	651	1.400	5/14/2026
06048WV99	Bank of America	5/14/2021	2,000,000.00	1,874,360.00	2,000,000.00	1.400	651	1.400	5/14/2026
06048WV99	Bank of America	5/14/2021	2,000,000.00	1,874,360.00	2,000,000.00	1.400	651	1.400	5/14/2026
06048WV64	Bank of America	7/12/2021	1,000,000.00	926,755.00	999,420.73	1.200	693	1.231	6/25/2026
06048WV72	Bank of America	7/30/2021	1,000,000.00	906,526.00	1,000,000.00	1.200	728	1.200	7/30/2026
06048WV20	Bank of America	9/24/2021	1,000,000.00	919,715.00	1,000,000.00	1.250	784	1.250	9/24/2026
06048WV20	Bank of America	9/24/2021	1,000,000.00	919,715.00	1,000,000.00	1.250	784	1.250	9/24/2026
06048WV66	Barclays Bank PLC	10/29/2021	1,000,000.00	965,913.00	1,000,000.00	1.000	271	1.000	4/29/2025
17290A2M1	Citi Bank	7/21/2021	1,000,000.00	926,292.00	1,000,000.00	1.400	719	1.400	7/21/2026
38150AH99	Goldman Sachs	8/17/2021	1,000,000.00	925,624.00	1,000,000.00	1.350	746	1.350	8/17/2026
24422FW2	John Deere Capital	1/27/2021	3,000,000.00	2,831,901.00	3,000,000.00	0.700	532	0.700	1/15/2026
48133MA86	JP Morgan	8/15/2022	1,000,000.00	977,399.00	1,000,000.00	4.200	1107	4.200	8/13/2027
48138G4X5	JP Morgan	8/30/2021	1,000,000.00	909,742.00	1,000,000.00	1.200	757	1.200	8/28/2026
48128G4X5	JP Morgan	8/30/2021	1,000,000.00	909,742.00	1,000,000.00	1.200	757	1.200	8/28/2026
53961LA56	Local Initiatives Support	1/28/2021	1,510,000.00	1,406,779.42	1,510,000.00	0.950	532	0.950	1/15/2026
R9236TH21	Toyota Motor Credit	2/1/2021	2,000,000.00	1,940,664.00	2,000,000.00	0.400	186	0.400	2/3/2025
95001DCG3	Wells Fargo	10/28/2022	1,000,000.00	1,000,136.00	1,000,000.00	6.000	453	6.000	10/28/2025

City of Oxnard
Investment Portfolio Detail
Fiscal Year 2024 - 2025
July 1 - July 31, 2024

CUSIP / Investment #	Issuer	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	Days to Maturity	YTM/C	Maturity Date
Supranational									
459058/A2	Intl Bank Recon & Dev	3/1/2021	1,000,000.00	974,428.00	1,001,350.34	0.750	222	0.526	3/11/2025
Treasury Discounts -Amortizing									
912797LD7	U.S. Treasury	5/20/2024	3,000,000.00	2,955,447.00	2,955,388.11	5.099	105	5.303	11/14/2024
912797LD7	U.S. Treasury	45432	2000000	1970298	1970250	5.100	105	5.305	45610
912797N00	U.S. Treasury	5/30/2024	10,000,000.00	9,889,860.00	9,889,419.44	5.170	77	5.349	10/17/2024
Total			429,355,365.06	417,610,486.18	429,111,467.90				

Investment activities for the month of July 2024

Investment Purchases						
No	Date	Transaction	CUSIP	Investment Security	Type	Par Amount
					Investment Yield to Maturity	Maturity
	7/31/2024			Ventura County Investment Pool		\$ 370,072.12
Total Purchases						
						\$ 370,072.12

Investment Maturities, Calls & Sales						
No	Date	Transaction	CUSIP	Investment Security	Type	Par Amount
					Investment Yield to Maturity	Maturity
	7/16/2024			LAIF		\$ 3,000,000.00
	7/22/2024		3133EMNK4	Federal Farm Credit Bank		\$ 1,000,000.00
	7/22/2024		3133EMNK4	Federal Farm Credit Bank		\$ 2,000,000.00
	7/25/2024		3130ATK63	Federal Home Loan Bank		\$ 1,000,000.00
	7/26/2024			LAIF		\$ 25,000,000.00
	7/27/2024		3130AUCX0	Federal Home Loan Bank		\$ 1,065,000.00
	7/27/2024		3130AUHX5	Federal Home Loan Bank		\$ 2,000,000.00
Total Maturities, Calls & Sales						
						\$ 35,065,000.00

City of Oxnard Monthly Investment Report as of July 31, 2024

City Council

Presented by:

Javier Chagoyen-Lazaro, City of Oxnard
Chief Financial Officer

That The City Council receive and file the City of Oxnard Quarterly Investment Report as of July 31, 2024.

City of Oxnard Cash and Investment as of July 31, 2024

Cash and Investment Position	July 2024
Cash	
Bank of America General Account	\$7,576,538.83
Bank of America Successor Agency Account	7,768,448.84
Bank of America Citations Account	112,183.50
Bank of America Golf Course Account	-
Total Cash	15,457,171.17
Investments	
Local Agency Investment Fund (LAIF)	47,000,000.00
Ventura County Investment Pool (VCIP)	33,270,365.06
Certificates of Deposits	-
Bank Notes	-
Municipal Bonds	-
Federal Agency	-
Supra-National Agency Bonds *	974,428.00
Medium Term Notes *	41,699,152.42
U.S. Treasury Notes *	14,815,605.00
U.S. Government Sponsored Entities *	279,850,935.70
Total Investments	417,610,486.18
Total Cash and Investments	\$ 433,067,657.35
* Market Value	

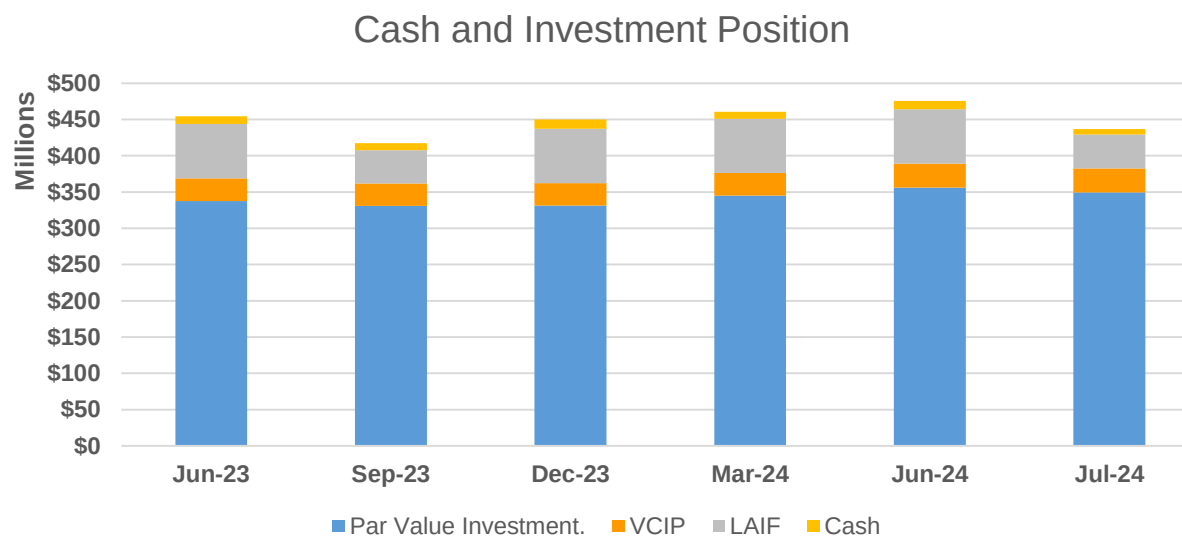
Page 1

Investment Compliance July 2024

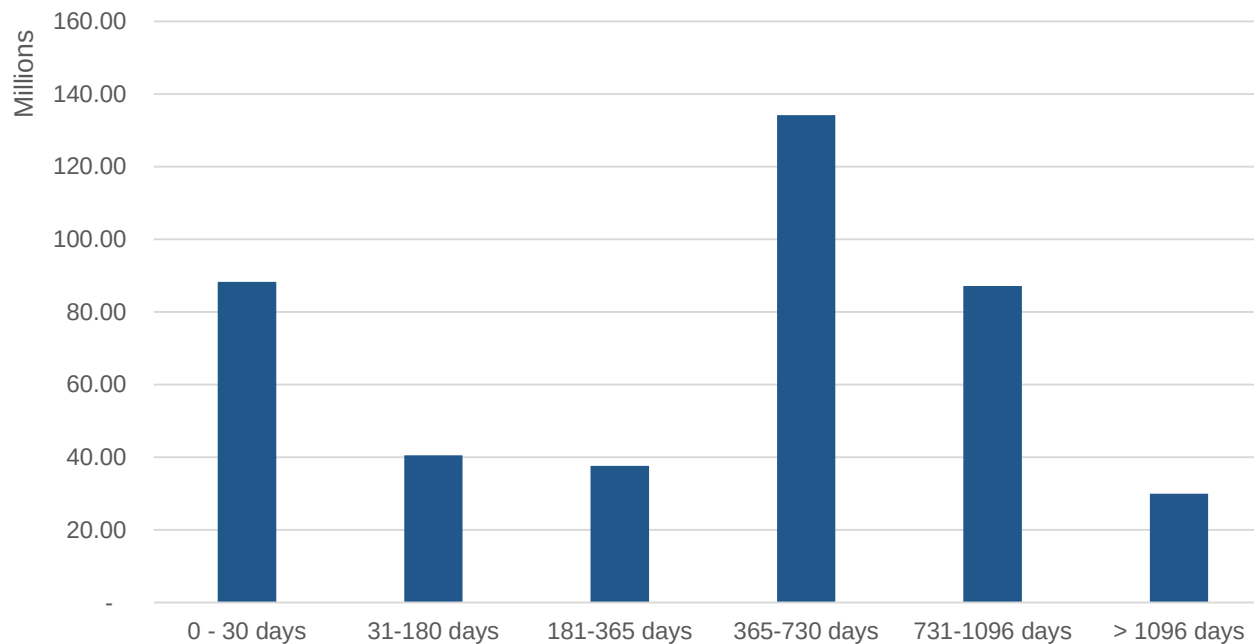
Authorized Investment at Market Value	Allowable Threshold (\$ million or %)	Under 1 year	1-3 years	Over 3 years	Total	Average Yield to Maturity	Portfolio %
LAIF	\$75.0	\$47.00	\$-	\$-	\$47.0	4.52%	11.25%
VCIP	n/a	33.3	-	-	33.3	4.40%	7.97%
Federal Agencies	n/a	57.6	194.3	28.0	279.9	2.56%	67.01%
Medium Term Notes	30%	12.8	26.9	2.0	41.7	2.43%	9.99%
Supranational	20%	1.0	-	-	1.0	0.53%	0.23%
Treasuries	n/a	14.8	-	-	14.8	5.32%	3.55%
Total Investment		\$166.4	\$221.2	\$30.0	\$417.6	2.97%	100%

*Total may not add due to rounding

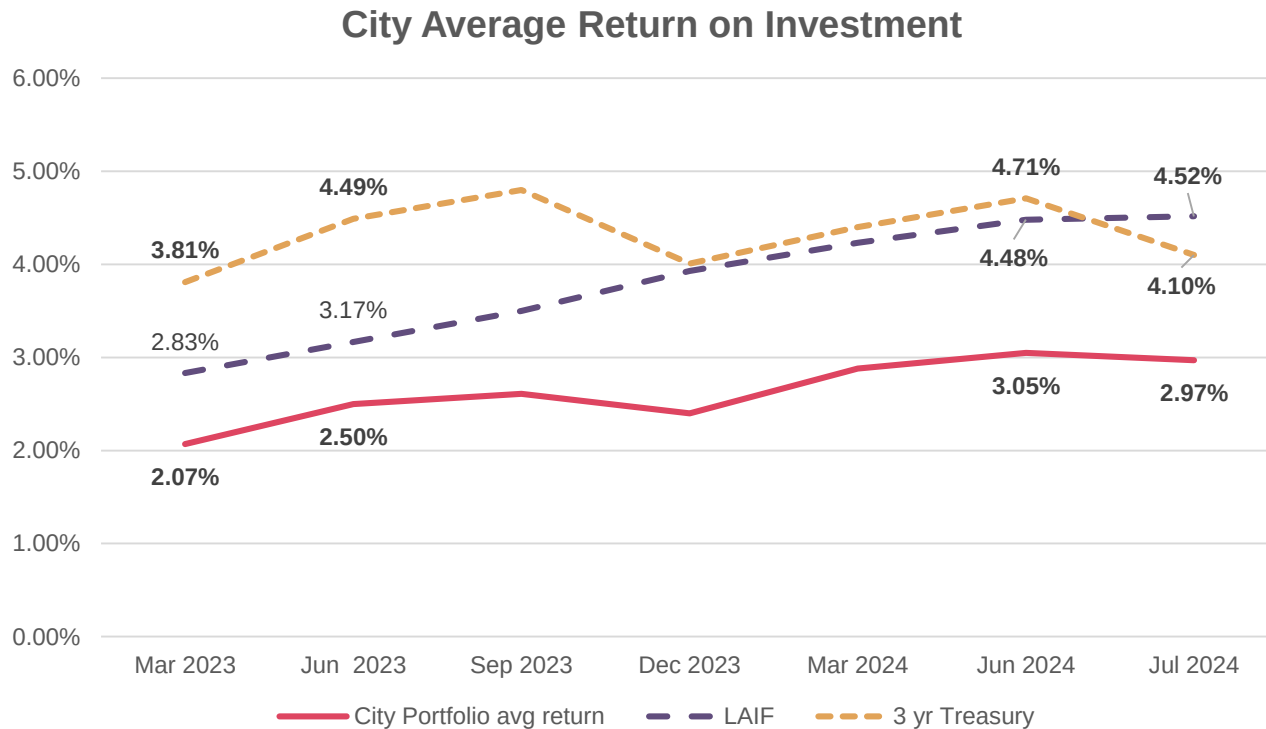
Cash and Investment Trend



Portfolio Maturity as of July 31, 2024



Investment Return Trend



That The City Council receive and file the City of Oxnard Quarterly Investment Report as of July 31, 2024.



Questions / Discussion



CITY COUNCIL AGENDA REPORT

PUBLIC HEARINGS AGENDA ITEM NO. M.1

DATE: September 17, 2024

TO: City Council

FROM: Jeff Pengilley, Community Development Director, (805) 385-8208, jeff.pengilley@oxnard.org

SUBJECT: Request for a Zone Change to adopt the proposed Affordable Housing Discretionary (AHD) Additive Zone for the project site; and Appeal of Planning and Zoning Permit No. 22-500-04 (Special Use Permit); Property Located at 2151 Lockwood Street, APN 213-0-090-275; Project Name: Lockwood III Apartments. (60 minutes).

RECOMMENDATION

That the City Council conduct a public hearing and:

1. Adopt a Resolution adopting Final Initial Study/Mitigated Negative Declaration (Final IS/MND) No. 24-01 for the 2151 Lockwood Street; Lockwood III Apartments Project (Governor's Office of Planning and Research State Clearinghouse No. 2024030528);
2. Introduce an Ordinance (by title only, waiving further reading) approving Planning and Zoning Permit No. 22-570-01 (Zone Change), subject to certain findings and conditions; and
3. Adopt a Resolution denying the appeal and upholding the Planning Commission's decision to grant Planning and Zoning Permit No. 22-500-04 (Special Use Permit) and Planning and Zoning Permit No. 22-535-03 (Density Bonus), subject to certain findings and conditions.

(This is a Public Hearing and was reviewed by the Planning Commission, therefore 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/vAjct7XkbWc>

BACKGROUND

On August 1, 2024, the Planning Commission (the "Commission") held a public hearing to consider the following applications to allow for the construction of a 234 unit apartment complex:

- Final Initial Study/Mitigated Negative Declaration (Final IS/MND) No. 24-01;
- Planning and Zoning Permit No. 22-570-01 (Zone Change);
- Planning and Zoning Permit No. 22-500-04 (SUP); and
- Planning and Zoning Permit No. 22-535-03 (Density Bonus).

At the public hearing, the Commission heard public testimony, deliberated, and voted 4-0, with three Commissioners absent to adopt the resolutions recommending City Council adopt the Final IS/MND (Attachment 2), recommending City Council approve the Zone Change (Attachment 3), and approving the requested SUP and Density Bonus (Attachment 4).

The Commission's actions on the Final IS/MND and Zone Change were recommendations to the City Council; therefore,

those permits are required to come before the City Council pursuant to the Oxnard City Code (“OCC”). Pursuant to Sections 16-544 and 16-545 of the OCC, the action of the Planning Commission on the SUP is final unless an appeal application to the City Council is filed within 18 days after the date of the decision. On August 15, 2024, the Appellant (Supporters Alliance for Environmental Responsibility (“SAFER”) represented by Lozeau Drury, LLP) filed a timely Appeal application with the City (Attachment 5). As a result of the appeal of the SUP, the entire project is before the City Council for consideration and may be considered de novo.

DISCUSSION

The Project includes the construction of a new five-story, 234-unit, mixed-income, multifamily apartment building and associated utilities located on the existing, vacant 5.17-acre property at 2151 Lockwood Street within the Business Research Park land use designation and the Business Research Park (BRP) zone district. The permits necessary for the Project are approval of: 1) a Special Use Permit to construct multifamily housing within the existing BRP zone district and the proposed Affordable Housing Discretionary (AHD) Additive Zone; and 2) Approval of a Zone Change to adopt the proposed Affordable Housing Discretionary (AHD) Additive Zone. The Project also includes a request for the ministerial approval of a Density Bonus Permit to allow for a 50 percent Density Bonus to increase the maximum number of units from 156 units to 234 units and to waive, reduce or modify ten development standards related to open space requirements, balcony size and number, bedroom location, setbacks, parking lot design, unit location, and apply parking reductions per State regulations. Staff presented the project with a recommendation for approval to the Planning Commission (Attachment 1).

Environmental Determination

Pursuant to the California Environmental Quality Act (CEQA) Section 15060, the City of Oxnard as the Lead Agency, prepared an Initial Study/Mitigated Negative Declaration (IS/MND) in accordance with the requirements of CEQA (Public resources Code § 21000, et seq.), the regulations promulgated thereunder (14 California Code of Regulations, §15000, et seq., CEQA Guidelines), and the City’s Environmental Review Guidelines. The IS/MND identified and discussed potential impacts, mitigation measures, monitoring requirements, and residual impacts for identified subject areas. The IS/MND (State Clearinghouse No. 2024030528) was available for public review from March 18, 2024, to April 17, 2024. The City of Oxnard received five comment letters on the IS/MND from agencies, organizations, and interested parties. The written comments and responses to each of those comments received during the public review period of the Administrative Draft of the IS/MND are included in the Final IS/MND.

The IS/MND did not identify any potentially significant and unavoidable impacts (impacts that cannot be reduced to a less than significant level). The IS/MND found that the implementation of the proposed Project would result in potentially significant impacts associated with biological resources and cultural resources. Mitigation measures have been required to reduce each potentially significant impact to less than significant. These measures include: (BIO-1) conducting a pre-construction survey for active bird nests, and (CUL-1, CUL-2, CUL-3, and CUL-4) worker awareness, and monitoring and collecting, if necessary, any discovered archaeological and paleontological resources. The IS/MND concludes that after implementation of standard conditions and mitigation measures, all less than significant impacts associated with the proposed project would be reduced to less than significant levels. The IS/MND includes a Mitigation Monitoring and Reporting Program (MMRP) that details the process to implement the required mitigation measures.

Therefore, staff has determined that there is no substantial evidence that the Project will have a significant effect on the environment and recommends that the City Council certify that: (1) The final IS/MND has been completed in compliance with CEQA; (2) The final IS/MND was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the final IS/MND prior to approving the project; and (3) The final IS/MND reflects the lead agency’s independent judgment and analysis.

Zone Change

The property is currently zoned Business Research Park (BRP), which is intended to provide areas for a limited group of professional, administrative, research, and limited manufacturing uses, along with limited commercial activities intended to support such uses. In order to allow for the proposed residential development, the Applicant is requesting a zone change to allow for the property to be granted the Affordable Housing Discretionary additive zone designation. This additive zone would keep the underlying zone in place. However, the additive zone would allow for the development of residential uses up to 30 units per acre.

The affordable housing additive zones provide opportunities for affordable residential developments to help reach the City's Regional Housing Needs Allocation (RHNA). The designation was specifically created as part of the adoption of the City's 2021-2029 Housing Element to help the City achieve compliance with the most recent RHNA allocation. To date, the City is in full compliance with respect to the City's Housing Element and RHNA, as the City, through the housing element process, identified housing sites to accommodate the City's RHNA allocation of 8,549 units. As part of the Housing Element, it was determined that the City has a site capacity for 9,167 additional units. Each of these sites has been identified in the Supplement 1 to the 2021-2029 Housing Element. These sites include a mix of existing vacant residential properties, underutilized properties, annexations, and specific properties rezoned as part of the housing element to add the affordable housing additive zone. Therefore, the rezone of this property is not necessary to meet the City's housing element or RHNA goals.

In consideration of the Zone Change request, the City must consider the larger context of the change and the trade-offs associated with the change, such as compatibility with surrounding land use and fiscal impacts. While the underlying BRP zone will remain unchanged, the approval of the proposed project and/or the zone change would result in the development of housing on the property. There are two approved residential projects adjacent to the subject Project, therefore compatibility is not a concern. Development of the subject Project would preclude the development of the primary uses intended for the BRP zone, which typically provides space for tax-generating business and higher wage job opportunities. While it would preclude the development of BRP uses, the Project would provide for additional workforce housing, which would serve many of the existing businesses by providing for an expanded employee base. Therefore, the approval would be beneficial as it helps to support and grow our existing businesses within the community.

Appeal

The Appellant appealed the decision of the Planning Commission based on two general grounds of appeal. The two grounds raised are that:

1. "SAFER believes that the City cannot proceed with the Project as Proposed because it fails to meet the City's required minimum affordability requirement (OMC 16-420)."
2. "Additionally, SAFER has submitted substantial evidence of a fair argument that the Project may have potentially significant environmental effects and the MND prepared for the Project does not adequately analyze or mitigate the potentially significant impacts from the Project."

In support of these two grounds, the Appellant attached two prior comment letters dated April 12, 2024, and August 1, 2024. The August 1, 2024, letter raises many of the same issues raised in the April 12, 2024, letter, so the grounds of appeal below and responses are based on the August 1, 2024, letter. Responses to the April 12, 2024, letter are provided in the Final IS/MND (Attachment 6). The Appellant's specific issues raised in their August 1, 2024, letters are noted below. Further details regarding each of these grounds can be found in their August 1, 2024, letter provided in Attachment 5.

Ground of Appeal 1:

"The Project Fails to Satisfy the Minimum Affordable Housing Requirement under the City's Affordable Housing Additive Zone"

Staff Response:

Staff disagrees with Ground of Appeal 1, as the Appellant is incorrectly interpreting the OCC. The language in the code, which references "all units," is in reference to the units allowed under the Affordable Housing Discretionary (AHD) Additive zone. The AHD Additive zone in this case allows for the development of housing up to a maximum density of 30 units per acre, which would allow for a total of 156 units on this property. As a result, under the AHD Additive zone, 20% of the units, which rounds up to 32 total units, must be restricted as affordable. Density bonus units are considered separately from that calculation under the AHD Additive zone. This is not only consistent with the current interpretation of the Inclusionary Ordinance and Density Bonus sections of the OCC, it is consistent with prior City approvals of other development projects within the Affordable Housing Discretionary and Affordable Housing Permitted Additive Zones. Therefore, the Project is in compliance with the affordability requirement of the AHD Additive Zone.

Ground of Appeal 2:

"The IS/MND Fails to Adequately Describe the Project's Environmental Setting"

Staff Response:

Staff disagrees with Ground of Appeal 2, as the Project's Environmental Setting was appropriately established pursuant to CEQA. As it relates to biological resources which is the focus of this Ground of Appeal, the setting was established via a review of resource inventory databases and various publications, as well as a site survey by the City's CEQA consultant's biologist. This analysis appropriately established the Environmental Setting at the time the environmental analysis commenced, in accordance with CEQA. These topics discussed in this Ground of Appeal are addressed in the Final IS/MND in the response to Comments A-7 through A-11 and A-24 located in Appendix L to the Final IS/MND and also included as Attachment 6.

Ground of Appeal 3:

"There is Substantial Evidence of a Fair Argument that the Project May Have Significant Biological Resource Impacts"

Staff Response:

Staff disagrees with Ground of Appeal 3, as the Final IS/MND adequately analyzed all potential Biological Resource impacts pursuant to CEQA and determined that all impacts were less than significant with mitigation incorporated. As it relates to biological resources, which is the focus of this Ground of Appeal, the City's CEQA consultant conducted a review of resource inventory databases and various publications, as well as conducted a site survey performed by the consultant's biologist. These topics discussed in this Ground of Appeal are addressed in the Final IS/MND in the response to Comments A-6, A-12, and A-25 located in Appendix L to the Final IS/MND and also included as Attachment 6.

Ground of Appeal 4:

"There is Substantial Evidence of a Fair Argument that the Project May Have Potentially Significant Air Quality Impacts"

Staff Response:

Staff disagrees with Ground of Appeal 5, as the Final IS/MND adequately analyzes all potential air quality impacts pursuant to CEQA and determined that all impacts were less than significant. As it relates to air quality, which is the focus of this Ground of Appeal, an Air Quality and Health Risk Assessment was prepared for this project. These topics discussed in this Ground of Appeal are addressed in the Final IS/MND in the response to Comments A-17 and A-18 located in Appendix L to the Final IS/MND and also included as Attachment 6.

Ground of Appeal 5:

"There is Substantial Evidence of a Fair Argument that the Project May Have Significant Health Risks from Indoor Air Quality Emissions"

Staff Response:

Staff disagrees with Ground of Appeal 5, as the Final IS/MND adequately analyzes all potential air quality impacts pursuant to CEQA and determined that all impacts were less than significant. As it relates to air quality, which is the focus of this Ground of Appeal, an Air Quality and Health Risk Assessment was prepared for this project. These topics discussed in this Ground of Appeal are addressed in the Final IS/MND in the response to Comments A-14, and A-27 through A-35 located in Appendix L to the Final IS/MND and also included as Attachment 6.

Ground of Appeal 6:

"Installation of Filters to Reduce Significant Impact to a Level Below Significance Constitutes a Mitigation Measure. Use of this Mitigation Measure Must be Reflected in the Mitigation Monitoring and Reporting Program"

Staff Response:

Staff disagrees with Ground of Appeal 6, as the Final IS/MND adequately analyzes all potential air quality impacts pursuant to CEQA and determined that all impacts were less than significant. As it relates to the need for air filters, this is already required for this project pursuant to OCC Section 16-420J(C). The requirement has been incorporated into the project and the requirement is included in the project conditions of approval. Therefore, the filters are part of the project and not required as a mitigation, as the impact would be less than significant with the project, as designed. These topics discussed in this Ground of Appeal are addressed in the Final IS/MND in the response to Comments A-14, A-17, A-28, A-29, A-32, and A-33 located in Appendix L to the Final IS/MND and also included as Attachment 6.

Ground of Appeal 7:

“There is Substantial Evidence of a Fair Argument that the Project May Have Significant Noise Impacts that were inadequately Addressed”

Staff Response:

Staff disagrees with Ground of Appeal 7, as the Final IS/MND adequately analyzes all potential noise impacts pursuant to CEQA and determined that all impacts were less than significant. As it relates to noise, which is the focus of this Ground of Appeal, a noise study was prepared for this project. Many of the issues raised in the August 1, 2024, letter continue to make the same arguments raised and responded to during the public review period. The Appellant generally asserts that the City should have used the office threshold in its analysis. However, staff continues to assert that the workshop threshold used was appropriate as California Lutheran University would not be considered an office. While the university, as well as other non-office uses, such as commercial, warehouse, etc. may contain office space, they would not be considered office under the category, as the office category here is intended for more traditional office uses. Given the variety of uses present in the building and Palms center, it is more appropriately categorized as a workshop as they would not be as sensitive to vibration, as stated in the Final IS/MND, and therefore would not fall under the office threshold. These topics discussed in this Ground of Appeal are addressed in the Final IS/MND in the response to Comments A-19, A-20, and A-36 through A-42 located in Appendix L to the Final IS/MND and also included as Attachment 6.

Conclusion

In regard to the Appeal, the Appellant requests the Planning Commission’s decision to grant the SUP be overturned and an EIR prepared for the project based on several grounds.

Based on the above Analysis/Discussion Section, the staff’s responses collectively demonstrate the Appeal lacks merit and the Commission’s determination on August 1, 2024 should remain unchanged. Thus, staff recommends that the City Council find there is no merit to the Appellant’s Grounds of Appeal and the Appeal should not overturn the decision of the Commission to approve the SUP and Density Bonus. Furthermore, the City Council staff report, attachments, and the specific Findings outlined in the City Council resolution provide substantial evidence in the record for the City Council to approve the Project.

Staff recommends that the City Council approve the associated Zone Change and adopt the Final IS/MND pursuant to Planning Commission’s recommendation.

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.

FINANCIAL IMPACT

The approval of the Zone Change and Special Use Permit provides the opportunity for future development that will result in increased property tax revenue for the City. The Project will be required to pay the required connection and impact fees. When completed, the 234 apartment units will generate property taxes for the City.

COMMITTEE OUTCOME

This is a Public Hearing and was reviewed by the Planning Commission, therefore this item did not originate in Committee. During the Commission’s public hearing on August 1, 2024, Commissioners asked a series of questions as a result of staff’s and the Applicant team’s presentations. One verbal comment was provided during the public comment period. The questions and comments were generally in regard to the number of affordable units, environmental impacts, solar, and proposal for an all electric building and solar requirements.

Following the deliberation, the Commission made a motion recommending that the City Council adopt Final IS/MND 24-01 and Mitigation Monitoring Reporting Program (MMRP) and adopt a resolution recommending that the City Council Approve Planning and Zoning Permit No. 22-570-01 (Zone Change) and approving a resolution approving Planning and Zoning Permit Nos. 22-500-04 (Special Use Permit) and 22-535-03. The Planning Commission meeting can be viewed online at the following links:

August 1, 2024 - <https://www.youtube.com/watch?v=oLmxIdQmIwQ>

The final motion carried 4 (in favor) - 0 (against), with three commissioners absent.

Attachments 2, 3, and 4 reflect the Commission's recommended action to the City Council. The Commission's recommended action would allow for the project as requested by the project applicant.

Prepared by: Joe Pearson II, AICP, Planning & Environmental Services Manager

ATTACHMENTS

1. Planning Commission Staff Report dated August 1, 2024 (W Attachments A-F)
2. Planning Commission Resolution No. 2024-18 (Final ISMND 24-01)
3. Planning Commission Resolution No. 2024-19 (Zone Change)
4. Planning Commission Resolution No. 2024-20 (Special Use Permit and Density Bonus)
5. Appeal Form with Grounds of Appeal submitted by Appellant dated August 15, 2024
6. Response to Comments from Lozeau Drury, LLP (SAFER) April 12, 2024 Letter (2)
7. Resolution adopting a Mitigated Negative Declaration (MND) 24-01 and Mitigation Monitoring Reporting Program (MMRP)
8. Resolution Denying the Appeal and Approving Planning and Zoning Permit No. 22-500-04 (Special Use Permit) and 22-535-03 (Density Bonus)
9. Ordinance No. 3050 Planning and Zoning Permit No. 22-570-01 (Zone Change) 09 17 2024
10. Presentation

**PLANNING COMMISSION
STAFF REPORT**

TO: Planning Commission

FROM: Brenna Wengert, AICP, Associate Planner II (Contract)

DATE: August 1, 2024

SUBJECT: **Project Name: Lockwood III Apartments;** Planning and Zoning Permit No. 22-500-04 (Special Use Permit), Planning and Zoning Permit No. 22-535-03 (Density Bonus), and Planning and Zoning Permit No. 22-570-01 (Zone Change); Property Located at 2151 Lockwood Street, APN 213-0-090-275.

- 1) **Recommendation:** That the Planning Commission (“**Commission**”):
 - a) Adopt Resolution 2024-XX recommending that the City Council adopt Final Initial Study/Mitigated Negative Declaration (IS/MND) No. 24-01 for the 2151 Lockwood Street (Lockwood 3) Apartments Project (Governor's Office of Planning and Research State Clearinghouse No. 2024030528); and
 - b) Adopt Resolution 2024-XX recommending that the City Council approve Planning and Zoning Permit No. 22-570-01 (Zone Change), subject to certain findings and conditions; and
 - c) Adopt Resolution 2024-XX approving Planning and Zoning Permit No. 22-500-04 (Special Use Permit) and Planning and Zoning Permit No. 22-535-03 (Density Bonus), subject to certain findings and conditions.
- 2) **Project Description and Applicant:** The applicant is requesting a Special Use Permit, Density Bonus Permit, and Zone Change to construct a new five-story, 234-unit, mixed-income, multi-family apartment building and associated utilities located on the existing, vacant 5.17-acre property at 2151 Lockwood Street within the Business Research Park land use designation and the Business Research Park (BRP) zone district.

The Project requires approval of a Special Use Permit to construct multi-family housing within the existing BRP zone district and the proposed Affordable Housing Discretionary (-AHD) Additive Zone; approval of a Zone Change to adopt the proposed Affordable Housing Discretionary (-AHD) Additive Zone. The Project also includes a request for the ministerial approval of a Density Bonus Permit to allow for a 50 percent Density Bonus to increase the maximum number of units from 156 units to 234 units and to waive, reduce or modify ten development standards related to open space requirements, balcony size and

number, and bedroom location, setbacks, parking lot design, unit location, and apply parking reductions per State regulations.

The request includes certification of the proposed Final Initial Study/Mitigated Negative Declaration (IS/MND) No. 24-01 (State Clearinghouse No. 2024030528) and approval of the Mitigation Monitoring and Reporting Program (MMRP) which has been prepared pursuant to the California Environmental Quality Act (CEQA) Public Resources Code (California Public Resources Code Section 21000 et seq.) and CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.). For purposes of this staff report, the foregoing project description shall be referred to as the “Project.”

The Project application was filed by Mark Ross – Manager, SVM Development, 1534 Moorpark Road #337, Thousand Oaks, California 91360, designated agent (the “Applicant”) on behalf of Sunbelt Enterprises, LLC, 5715 Mesmer Avenue, Los Angeles, California 90230 (the “Property Owner”).

As shown in the following table, the Project includes a request for three concessions and three parking reductions:

Density Bonus Concession (3)	1. Bedroom facing public right-of-way at ground floor level 2. Interior Yard Space (IYS) reduction 19% (30% required) 3. Patio & Deck minimum size (10 feet X 10 feet required) reduction
Density Bonus Waivers (3)	4. Allow for building height to increase from a maximum of 56 feet to 68 feet. 5. Allow for a reduction of the front setback 30 feet to approximately 6.5 feet. 6. Allow for landscape planter overhang to be less than 5 feet, but no less than 2 feet.
State Bonus Density Parking Reductions	Provide 351 parking spaces onsite (300 parking spaces Required). 7. 1 spaces per unit for 1 bedroom and 1.5 spaces for 2 or 3 bedrooms. (1 space/1 bedroom & 2 space/2 bedrooms or more required by the OCC) 8. Allow uncovered parking (Garage required by the OCC) 9. Allow for Tandem parking 10. 0 Visitor parking reduction (one covered space for the first 30 units; 0.5 spaces after 31st unit required by the OCC).

Project Deviations

Please see the reduced Project plans (Attachment B) for more details.

- 3) Existing & Surrounding Land Uses:** The Project site is currently vacant and undeveloped land. The Project site is not in a General Plan identified neighborhood. The following table lists and identifies the General Plan Land Use Designations, Zoning Designations, and existing land uses of the Project site and properties immediately adjacent to the site, which are also illustrated in Attachment A:

TABLE 1 EXISTING AND SURROUNDING LAND USES			
Property Location	General Plan Land Use Designation	Zoning Designation	Existing Land Use
Project Site	Business and Research Park (BRP)	Business and Research Park (BRP)	Vacant, undeveloped
North	Not applicable	Not applicable	US-101/Ventura Freeway
South	Business and Research Park (BRP)	Business and Research Park/ Affordable Housing Discretionary (BRP-AHD)	Vacant, undeveloped; Approved for construction of mixed-income, multi-family apartment buildings (Lockwood 1 and Lockwood 2).
East	Business and Research Park (BRP)	Business and Research Park (BRP)	Outlet center; California Lutheran University satellite campus
West	Business and Research Park (BRP)	Business and Research Park (BRP)	Automobile dealership

- 4) Background Information:** The Project site is part of Tract 4881 approved by City Council on November 16, 1993 and recorded on December 8, 1993. Subsequent lot line adjustments, LLA 99-5-151 (recorded on February 2, 2000) and LLA 00-5-103 (recorded on October 31, 2000), were completed, however, no development was proposed. Lastly, a tentative parcel

map (PZ 18-300-10) was approved by the City Council on September 17, 2019, to create the project parcel and construct the connection of Lockwood Street with associated infrastructure. The parcel has remained undeveloped since it was created. The existing Project site is relatively flat, vacant land. The subject property was historically used for agricultural purposes. Farming on the site ceased between 1970 and 1994 and the lot remained undeveloped. There are no existing structures on the property.

- 5) Environmental Determination:** Pursuant to the California Environmental Quality Act (CEQA) Section 15060, the City of Oxnard as the Lead Agency, prepared an Initial Study/Mitigated Negative Declaration (IS/MND) in accordance with the requirements of CEQA (Public resources Code § 21000, et seq.), the regulations promulgated thereunder (14 California Code of Regulations, §15000, et seq., CEQA Guidelines), and the City's Environmental Review Guidelines. The IS/MND identified and discussed potential impacts, mitigation measures, monitoring requirements, and residual impacts for identified subject areas. The IS/MND (State Clearinghouse No. 2024030528) was available for public review from March 18, 2024, to April 17, 2024. The City of Oxnard received comment letters on the IS/MND from agencies, organizations, and interested parties. The written comments and responses to each of those comments received during the public review period of the Administrative Draft of the IS/MND are included in the Final IS/MND (Attachment C).

The IS/MND did not identify any potentially significant and unavoidable impacts (impacts that cannot be reduced to a less than significant level). The MND found that the implementation of the proposed Project would result in potentially significant impacts associated with biological resources and cultural resources. Mitigation measures have been required to reduce each potentially significant impact to less than significant. The mitigation measures that have been required within the MND would reduce potential significant impacts. These measures include: (BIO-1) conducting a pre-construction survey for active bird nests, and (CUL-1, CUL-2, CUL-3, and CUL-4) worker awareness, and monitoring and collecting, if necessary, any discovered archaeological and paleontological resources. The IS/MND concludes that after implementation of standard conditions and mitigation measures, all less than significant impacts associated with the proposed project would be reduced to less than significant levels. The IS/MND includes a Mitigation Monitoring and Reporting Program (MMRP) that details the process to implement the required mitigation measures.

Therefore, staff has determined that there is no substantial evidence that the Project will have a significant effect on the environment and recommends that the Planning Commission certify that: (1) The final IS/MND has been completed in compliance with CEQA; (2) The final IS/MND was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the final IS/MND prior to approving the project; and (3) The final IS/MND reflects the lead agency's independent judgment and analysis.

6) Project Analysis:

- a) **General Discussion:** As discussed below, the Project has been found to be consistent with both the 2030 General Plan and the Oxnard City Code (OCC), subject to approval of the proposed Zone Change.

The Planning Commission is the decision maker for Special Use Permit pursuant to OCC Section 16-531. The Planning Commission makes recommendations to the City Council for Zone Change (OCC Section 16-581).

Pursuant to OCC Section 16-420D (C), at this location a Special Use Permit is required for the development of multi-family residential uses permitted under Division 7C (Affordable Housing -AHP and -AHD Additive Zones). The Planning Commission is the decision maker for Special Use Permit pursuant to OCC Section 16-531. Based on OCC Section 16-420G(A), the allowable density of units per acre for the -AHD additive zones is up to 30 units per acre. Under the -AHD additive zone density allowance, the 5.17-acre site could accommodate a maximum of approximately 156 units. However, OCC Section 16-420G(B), affordable housing additive zone sites such as the -AHD additive zones are eligible for the state Density Bonus if the developer files a Density Bonus permit request under Division 7A of Article V of Chapter 16 (Density Bonus and Related Incentives and Concessions Program). As such, the Project is requesting a total of 234 units based on the State and City Density Bonus laws.

Pursuant to Oxnard City Code (OCC) §16-163 and §16-420(D)(C), respectively, a Special Use Permit (SUP) is required for the proposed multi-family residential use to be located within the existing BRP Zone District and the proposed -AHD Additive Zone. Pursuant to OCC §16-536, the Planning Commission is the decision maker for the SUP. If approved by the Planning Commission, the SUP would become effective pending the approval of the associated Zone Change by the City Council, as described below.

Pursuant to OCC §16-576, a Zone Change is required to adopt the proposed -AHD Additive Zone. Pursuant to OCC §16-581 and §16-587, the Planning Commission shall make a recommendation to the City Council on the Zone Change application, which shall be advisory only. Pursuant to OCC §16-588, the City Council is the decision maker for the requested Zone Change.

Pursuant to OCC §16-410.3, an applicant for a density bonus permit shall file an application in accordance with OCC §16-410.5 and 16-410.6. Pursuant to OCC §16-410.6(E), approval of a Density Bonus permit shall be made by the approval authority within the City that is authorized to approve the associated discretionary approval or ministerial approval for the underlying development permit for the housing

development. As described above, the Special Use Permit requires discretionary approval by the Planning Commission. Therefore, the Planning Commission is the decision maker for the requested Density Bonus. The approval of the density bonus application is non discretionary unless the city adopts written findings justifying the denial of the density bonus.

- b) **General Plan Consistency:** The City's 2030 General Plan land use designation for the subject site is Business and Research Park (BRP). The BRP designation allows a base density for residential uses up to 30 units per acre on parcels identified as Affordable Housing Discretionary (-AHD); and which may be increased to 45 units per acre with approval of the proposed 50 percent Density Bonus pursuant to OCC §16-410H and Cal. Gov't Code, Section 65915(f).

The proposed Project includes the development of a new mixed-income, multi-family apartment building at a density of 45 units per acre. The approval of this Project has been determined to be consistent with the property's existing and proposed land use designations. The project's consistency review with General Plan policies is included as Attachment D. The proposed Project has been determined to be consistent with the General Plan and the property's land use designation, subject to approval of the requested Zone Change and Density Bonus.

- c) **Conformance with Zoning Code Development Standards:** Pursuant to OCC §16-420H(A), in addition to the -AHD additive zone standards, new residential development in the -AHD additive zone is subject to the R-4 High Rise Residential development standards (OCC §16-70 to 16-79), the attached dwelling unit development standards (OCC §16-360 to 16-363), the off-street parking requirements (Article X of Chapter 16 of the City Code), and standards for all zones (Article IV of Chapter 16 of the City Code) except as otherwise provided under Division 7C and Division 7A Density Bonus. Pursuant to OCC §16-420H(D), buildings within the BRP zone shall comply with the front, side, rear, and street side yard setbacks of the BRP zone.

The proposed project was evaluated for consistency with the above-referenced development standards. As found in Attachment E, the Project is designed to be consistent with the development standards, except as otherwise noted.

- d) **Zone Change Request:** The property is currently zoned Business Research Park which is intended to provide areas for a limited group of professional, administrative, and research, and limited manufacturing uses along with limited commercial activities intended to support such uses. In order to allow for the proposed residential development, the Applicant is requesting a zone change to allow for the property to be granted the Affordable Housing Discretionary additive zone designation. This additive zone would keep the underlying zone in place, however, would allow for the development of

residential uses up to 30 units per acre.

The affordable housing additive zones are city-initiated zoning designations to provide opportunities for developers and the non-profit sector to develop affordable residential developments to help reach the City's regional housing needs allocation (RHNA). The designation was specifically created as part of the adoption of the City's 2021-2029 Housing Element to help the City achieve compliance with the most recent RHNA allocation. To date the City is in full compliance with respect to the City's Housing Element and RHNA, as the City through the housing element process, identified housing sites to accommodate the City's RHNA allocation of 8,549 units. As part of the Housing Element, it was determined that the City has a site capacity for 9,167 additional units. Each of these sites has been identified in the Supplement 1 to the 2021-2029 Housing Element. These sites include a mix of existing vacant residential properties, underutilized properties, annexations, and specific properties rezoned as part of the housing element to add the affordable housing additive zone. Therefore, the rezone of this property is not necessary to meet the City's housing element or RHNA goals.

In consideration of the Zone Change request, the City must consider the larger context of the change and the trade offs associated with the change. While the underlying BRP zone will remain unchanged, the approval of the proposed project and/or the zoning change would result in the development of housing on the property. This would preclude the development of the uses intended for the BRP zone, which are typically important as they provide space for office and limited industrial uses, which typically provide space for tax generating business and higher wage job opportunities.

e) Density Bonus Permit Request:

Density Bonus

Pursuant to OCC §16-410.3 through §16-410.11 and Cal. Gov't Code Section 65915, density bonuses are available to affordable housing developers. A "density bonus" is an increase over the otherwise maximum allowable residential density for a qualified housing development. If the requirements of OCC §16-410.3 are met, then the affordable housing developer is entitled to a density bonus pursuant to Cal. Gov't Code, Section 65915(f). The subject project meets the requirements of §16-410.3, subsection (A), by including a minimum affordable housing component as identified in Cal. Gov't Code, Section 65915(b). Specifically, the subject project is eligible for a 50 percent density bonus, because it includes low-income housing units (38) equal to at least 24 percent of the number of units (156) allowed per the maximum base density (30 units per acre). Therefore, the proposed affordable housing project may construct 234 total units, including 156 units as allowed by the maximum base density (inclusive of 38 affordable units), and 78 units as allowed by the density bonus, as shown below.

TABLE 4 DENSITY BONUS CALCULATION			
	High Rise Residential (R-4) Zone	Density Bonus	Total
Density	30 units/acre	15 units/acre	45 units/acre
No. of Units	156*	78	234*

* Includes 38 affordable units.

Incentives/Concessions for Affordable Housing

Pursuant to OCC §16-410.12 through §16-410.14 and Cal. Gov't Code Section 65915, an applicant for affordable housing may submit to the City a proposal for specific incentives or concessions that the applicant requests. The applicant for an incentive may also be an applicant for a density bonus. Pursuant to Cal. Gov't Code Section 65915(d)(2)(A), the subject project is eligible to receive a total of three (3) incentives or concessions, because it includes low-income housing units equal to at least 24 percent of the number of units allowed per the maximum base density.

With respect to the subject project, the applicant has submitted a request for a total of (3) three incentives and/or concessions, as follows:

- The applicant requests a concession to allow for less than the minimum required interior yard space of 30 percent in the High Rise Residential (R-4) zone pursuant to OCC §16-78. The applicant proposes to construct the project with interior yard space equal to 15.2 percent of the total lot area. The applicant estimates that meeting the requirement would require reducing the project by 100 units and 75 parking spaces, increasing the land cost by 75 percent and making the proposed development economically infeasible.
- The applicant requests a concession to allow for less than the minimum required balcony dimension of ten (10) feet (which provides for a minimum balcony area of 100 square feet) pursuant to the Attached Dwelling Unit Development Standards, OCC §16-362(G). The applicant proposes to construct balconies/patios of varying dimensions and sizes, with depth dimensions less than ten (10) feet and ranging in area from 60 sf to 222 sf. The applicant estimates that meeting the requirement would increase project costs by \$936,000.

- The applicant requests a concession to allow for an exception to the requirement for the primary street and the side street frontages of on-grade parking podiums and parking structures, up to 75 feet from the primary street front property line, to be lined with occupiable, usable space with a minimum depth of 18 feet, in the Affordable Housing Discretionary (-AHD) overlay zone pursuant to OCC §16-420I(B)(8). The applicant proposes to construct the project with no occupiable space at the podium level. The applicant estimates that meeting the requirement would require reducing the project by 23 parking spaces which would increase the land cost by \$735,000.

Pursuant to Cal. Gov't Code, Section 65915(d)(1), a city shall grant the concessions or incentives requested by the applicant unless the city makes a written finding, based upon substantial evidence, of any of the following:

- A) The concession or incentive does not result in identifiable and actual cost reductions.

Staff Response: Based upon information submitted by the applicant, the requested concessions or incentives would result in identifiable and actual cost reductions.

- B) The concession or incentive would have a specific, adverse impact upon public health and safety or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.

Staff Response: According to the findings of the Initial Study/ Mitigated Negative Declaration No. 24-01, the Project would not result in a specific, adverse impact upon public health and safety or on any real property that is listed in the California Register of Historical Resources. The Initial Study/ Mitigated Negative Declaration No. 24-01 recommends adoption of a Mitigation Monitoring and Reporting Program which would reduce all potentially significant impacts associated with the Project to less than significant levels.

- C) The concession or incentive would be contrary to state or federal law.

Staff Response: The project complies with all local, state, and federal laws.

Therefore, as there is no basis for denial, the City is legally obligated to grant the concessions or incentives requested as described above, pursuant to Cal. Gov't Code, Section 65915(d)(1).

Waivers for Affordable Housing

Pursuant to OCC §16-410.15 and Cal. Gov't Code Section 65915, an applicant for affordable housing development may submit to the City a proposal for one or more waivers for modification/reduction of development standards. An application for the waiver or reduction of development standard(s) shall neither reduce nor increase the number of incentives (or concessions) to which the applicant is entitled.

With respect to the subject project, the applicant has submitted a request for waivers for modification/reduction to development standards, as follows:

- The applicant requests a waiver to allow for greater than the maximum allowed building height of five (5) stories and 56 feet in the Affordable Housing Discretionary (-AHD) additive zone pursuant to OCC §16-420H(B). The applicant proposes to construct the project at five (5) stories and at a maximum building height of 67.5 feet. The applicant estimates that meeting the requirement would require removing an entire floor totaling 56 residential units, which would increase the land cost by 31.34 % or \$1,465,000+/-, rendering the project economically infeasible to build.
- The applicant requests a waiver to allow for less than the minimum required front yard setback of 20 feet in the High Rise Residential (R-4) zone pursuant to OCC §16-75, and less than the minimum required front yard setback of 30 feet in the Business and Research Park (BRP) district pursuant to OCC 16-164. The applicant proposes to construct a minimum front yard building setback of 6'-6" as measured from the edge of the public right-of-way. The applicant estimates that meeting the requirement would require removing approximately 24 units on the second through fifth floors and 18 parking spaces, which would render the project economically infeasible to build.
- The applicant requests a waiver to allow for less than the minimum required 5-foot landscape planter dimension abutting a parking space overhang, pursuant to the Design Standards for Vehicle Parking Areas, OCC §16-636(C). The applicant proposes to build approximately six (6) parking spaces with overhangs abutting planters with depth dimensions of less than five (5) feet. The applicant estimates that meeting the requirement would require removing about 12 parking spaces.

Pursuant to Cal. Gov't Code Section 65915(e)(1), in no case may a city apply any development standard that will have the effect of physically precluding the construction of an affordable housing development at the densities or with the concessions or

incentives permitted by Cal. Gov't Code Section 65915. Therefore, the City is legally obligated to grant the waivers requested for modification/reduction to development standards as described above, pursuant to Cal. Gov't Code, Section 65915(e)(1).

- f) **Building Design:** The exterior building architecture includes rectangular forms, flat roofs, and articulated massing. Exterior building walls are comprised primarily of composite board and plaster cement, with sections painted Warm White, Hamilton Blue (a light grey/blue), California Sagebrush (a sage green), Long Lake (a dark grey/blue), Black, and Khaki Brown for the fiber cement lap sidings. Balconies and patios variously have railings of open metal, solid with siding, solid with cement plaster finish, and/or solid cement plaster with glazed panel.

Residential units are on the second through fifth floors. The 234 residential units include 30 low-income level affordable units and 8 very low-income level affordable units, equal to 19.3 percent and 5.0 percent, respectively, of the total number of units subject to the maximum base density. The residential unit types and quantities consist of 16 studio units (3 affordable); 86 one-bedroom units (14 affordable); 108 two-bedroom units (17 affordable); and 24 three-bedroom units (4 affordable). The average unit sizes are 559 sf for studio units; 693 sf for one-bedroom units; 982 sf for two-bedroom units; and 1,107 sf for three-bedroom units.

- g) **Site Design:** The first floor is dedicated to common areas, utility space, and off-street parking. The project provides 351 off-street parking spaces, including 189 podium spaces, 19 tuck-under spaces, and 143 uncovered spaces. The project includes 250 full-size spaces and 101 compact spaces. Vehicle access to Lockwood Street is provided via two separate driveways located at the east and west ends of the site.

The project site includes 1.31 acres of new landscape, including 0.78 acres of interior yard space, defined as landscaped open area behind the front yard setback. The 30-foot-deep, 0.36-acre rear yard contains a dog run, two bocce courts, and a putting course. Within the building, the project provides: two common interior courtyards at the second floor totaling 0.42 acres, and common rooftop decks/lounges at the second and fifth floors totaling 0.12 acres. In addition, the project provides a community room, lounge, fitness center, and outdoor pool on the first floor.

Site fencing is semi-open, combination metal and stucco at the front yard facing Lockwood Street; solid concrete masonry unit (CMU) wall at the east property line facing existing commercial property; open metal fence at the west property line facing existing commercial property; and solid CMU wall with evergreen hedge and ivy screening at the north property line facing US-101/Ventura Freeway. Fence/wall heights are six (6) feet, except at the north (rear) property line, which is eight (8) feet.

- h) **Parking:** Pursuant to OCC §16-651(B)(3), an applicant may request administrative relief in the form of providing compact parking spaces in lieu of some of the full-size parking spaces required for a proposed uses; provided, however, that no more than 25 percent of required full-size parking spaces shall be replaced by compact parking spaces. The applicant requests administrative relief to allow for 51 of the required 300 parking spaces to be constructed as compact spaces, equal to 17 percent of the total minimum required parking spaces. Therefore, the applicant's request for administrative relief from parking provisions is consistent with OCC §16-651(B)(3).

The modified Project is consistent with the parking pursuant to Density Bonus State Law, Government Code Section 65915(p). This Government Code section provides relief and preempts the City's off street parking requirements for bedroom vs number of parking stalls required, garage parking, and visitor parking. The following table provides a tabulation showing how the Project compares with the State Density Bonus Law.

PARKING TABLE BREAKDOWN AND DISTRIBUTION PER CALIFORNIA GOVERNMENT CODE SECTION 65915(p)(1)					
BEDROOM COUNT	# OF UNITS	OFF-STREET REQUIRED	PARKING		NOTE
			REQUIRED	PROVIDED	
1-Bed	102	1 Parking Stall	102	351	Pursuant to §65915(p)(1), the project provides 51 more parking stalls than required by Government Code Section 65915
2 to 3 Bedrooms	132	1.5 Parking Per Unit	198		
Visitor Parking		No Visitor Parking Required	0		
		Total:	300	351	

- 7) **Development Advisory Committee (DAC):** The DAC reviewed the development application on December 14, 2022, and March 1, 2023. The DAC review process resulted in changes in the project and/or conditions of approval that ensured consistency with the City's development policies and appropriateness of the new development for the proposed site.
- 8) **Community Workshop:** The Project site is not located within a designated residential community and neighborhood as identified within the City of Oxnard Neighborhoods Map (Figure 3-4) of the City's 2030 General Plan. As such, a Community workshop was not required.
- 9) **Noticing and Public Comments:** Consistent with public noticing requirements, the Planning Commission Hearing was advertised with on-site postings in two locations and by mail to property owners within 300 feet of Project Site. Following the end of the public comment period for the Draft IS/MND, the City received no further comments on the Project. Since

noticing the project, Staff has not received any concerns or public comments regarding the proposed Project.

10) Appeal Procedure: In accordance with Section 16-545 of the Oxnard City Code, the Planning Commission's action may be appealed to the City Council not later than 18 days after the decision date. Appeal forms may be obtained from the City Clerk and must be submitted with the appropriate fees before the end of the appeal period. If an appeal to the City Council is not filed within 18 days of the Planning Commission's decision, the decision of the Planning Commission shall be considered final. The action of the Planning Commission on the Zone Change is a recommendation of either approval or denial to the City Council. All aspects of this Project shall not become effective unless and until the City Council approves the Zone Change.

Attachments:

- A. Maps (Vicinity, General Plan, Zoning, Aerial)
- B. Reduced Project Plans
- C. Initial Study/ Mitigated Negative Declaration No. 24-01
- D. General Plan Consistency Analysis
- E. Zoning Consistency Table (AHD Development and Design Standards, Applicable R-4 and BRP Standards, and Attached Dwelling Unit Standards)
- F. Draft Planning Commission Resolution recommending that the City Council adopt Final Initial Study/Mitigated Negative Declaration (IS/MND) No. 24-01
- G. Draft Planning Commission Resolution Approving Planning and Zoning Permit No. 22-500-04 (Special Use Permit) and Planning and Zoning Permit No. 22-535-03 (Density Bonus)
- H. Draft Planning Commission Resolution Recommending Approval of Planning and Zoning Permit No. 22-570-01 (Zone Change)
- I. Staff Presentation

ATTACHMENT

A

MAPS

(VICINITY, GENERAL PLAN, ZONING, AERIAL)



VENTURA BLVD
101 FWY SOUTH
101 FWY NORTH

LOCKWOOD ST

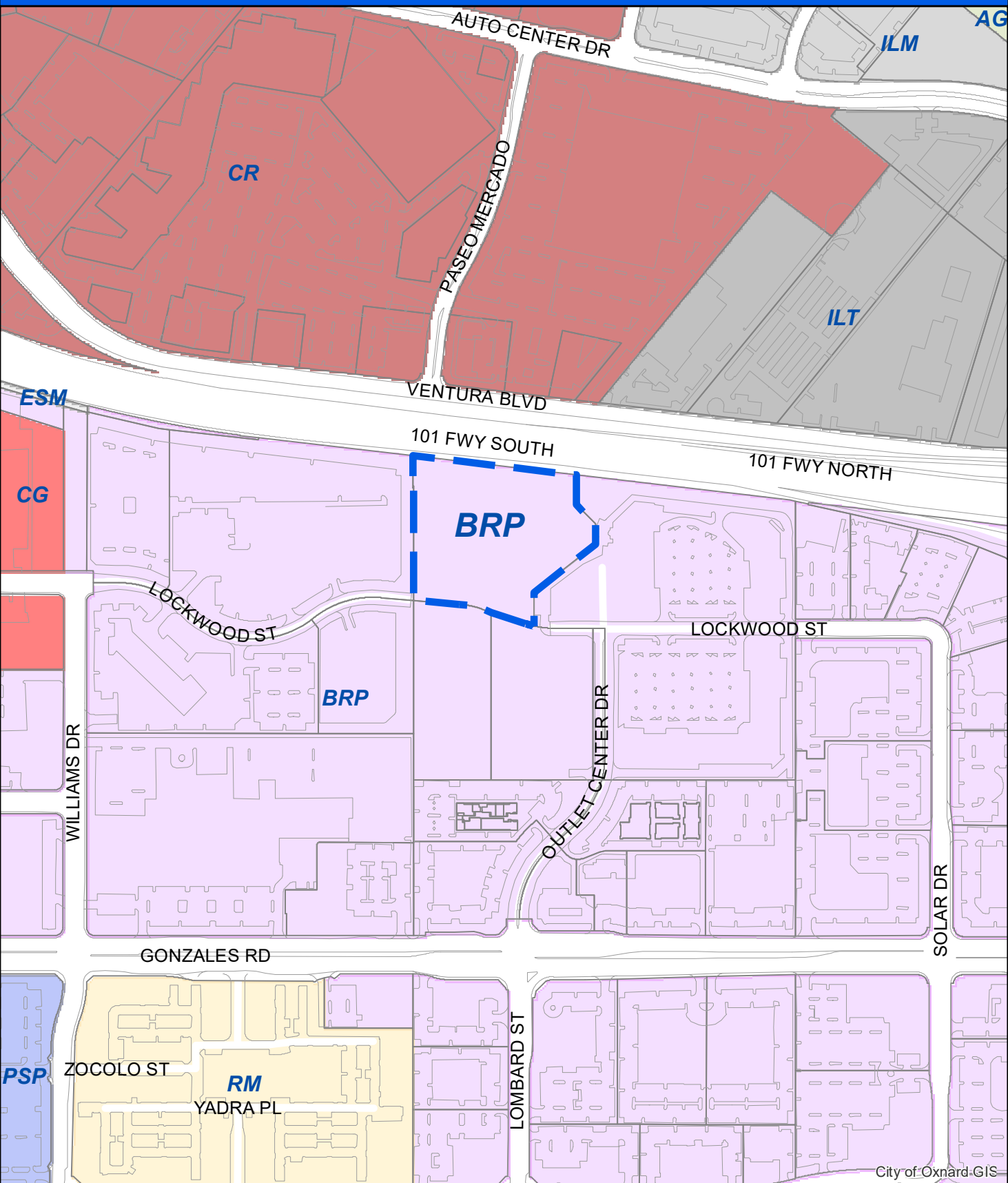
E GONZALES RD

OUTLET CENTER DR

Vicinity Map



2030 General Plan Land Use Map



City of Oxnard GIS



Oxnard Planning
March 26, 2024

PZ 22-500-04, 22-570-01, 22-535-03
Location: 2151 Lockwood St
APN: 2130090275
Lockwood 3 Apartments

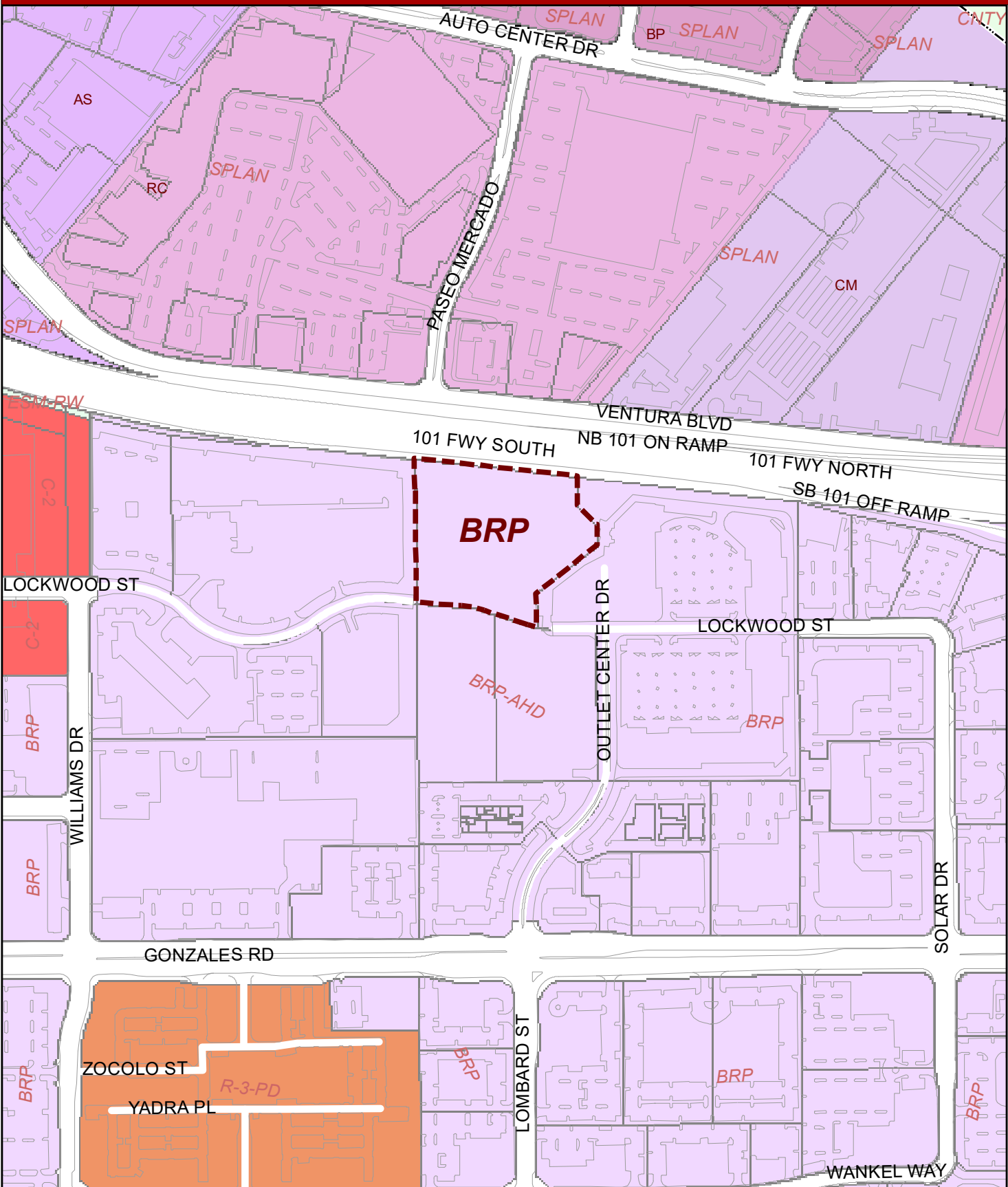
0 130 260 520 Feet

2030 General Plan Land Use Map



1:5,000

Zoning/Specific Plan Map



Oxnard Planning

June 5, 2024

PZ 22-500-04, 22-570-01, 22-535-03

Location: 2151 Lockwood St

APN: 2130090275

Lockwood 3 Apartments

062.525 250 375 500 Feet

062.525 250 375 500

Zoning/Specific Plan Map



1:5,000

ATTACHMENT B

REDUCED PROJECT PLANS

GENERAL NOTES

- PROJECT SHALL COMPLY WITH THE OXNARD FIRE DEPARTMENT FIRE PROTECTION GUIDE REQUIREMENTS.
- NFPA 13 FIRE SPRINKLER SYSTEM IS REQUIRED FOR THE BUILDING.
- NFPA 72 FIRE ALARM IS REQUIRED FOR THE BUILDING.
- NFPA FIRE FLOW TEST REQUIRED.
- FIRE PUMP & GENERATOR FOR PUMP WILL BE REQUIRED.
- FIRE HYDRANTS SHALL BE JONES J-4095 4x4x2 1/2 CONNECTIONS.
- WET STANDPIPE SYSTEM REQUIRED IN ALL STAIRWELLS WITH CONNECTIONS AT EACH FLOOR WITH 2 1/2 FIRE HOSE CONNECTIONS AT ALL FLOOR LANDINGS.
- TUCK UNDER PARKING TO BE FIRE SPRINKLERED.
- FIRE ACCESS ROAD SHALL BE A MINIMUM OF 26-FEET WIDE PAVED SURFACE.
- TRASH ENCLOSURE SHALL BE OF NON-COMBUSTIBLE CONSTRUCTION AND MEET CLEARANCE REQUIREMENTS.
- ELEVATORS SHALL BE GURNEY SIZE. SEE SHEET A-1.7
- ALL NEIGHBORING SIGNALIZED INTERSECTIONS SHALL BE EQUIPPED WITH ENTRAC- PREEMPTION EQUIPMENT.
- SITE TO BE SECURED WITH ENTRY FENCING AND ACCESS CONTROL GATES.
- TRASH CHUTES TO BE ACCESSIBLE BY EVERYONE IN EACH BUILDING FLOOR.
- THERE IS A NEED FOR A MINIMUM OF:
 - (32) 64-GAL. FOOD WASTE CURB CARTS SERVICED 3x A WEEK. (32) PROVIDED
 - (8) 4-YARD FRONT LOADING RECYCLING CONTAINERS SERVICED 3x A WEEK. (8) PROVIDED
 - (8) 4-YARD FRONT LOAD TRASH CONTAINERS SERVICED 3x A WEEK. (8) PROVIDED
- SITE MUST MEET STORMWATER MS4 PERMIT DEVELOPMENT REQUIREMENTS AND THE STATEWIDE TRASH AMENDMENTS
- DEVELOPER SHALL PROVIDE SHORT-TERM BICYCLE PARKING STALLS. RACKS SHALL BE LOCATED CLOSE TO A MAIN BUILDING ENTRANCE. IN A LIGHTED, HIGH VISIBILITY AREA PROTECTED FROM THE ELEMENTS.
- ANY DAMAGED OR SUBSTANDARD SIDEWALK ALONG THE PROJECT FRONTSAGE SHALL BE RECONSTRUCTED. CONFORM SAWCUT SHALL BE MADE AT THE EXISTING JOINT OR SCORELINE. ALL EXISTING ADA CURB RAMPS ALONG THE PROJECT FRONTSAGE SHALL BE BROUGHT UP TO ADA STANDARDS.
- OUTDOOR LIGHTING SHALL COMPLY WITH TITLE 24, PART 6, PF THE CALIFORNIA CODE OF REGULATIONS. CALIFORNIA'S ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL AND NONRESIDENTIAL BUILDINGS AND THE PROVISIONS OF OXNARD CITY CODE 16-320.

PARKING ANALYSIS

TOTAL UNITS: 234

STATE CODE (FOR REFERENCE PURPOSES ONLY)

PARKING	UNITS	PER CODE	REQUIRED
STUDIO	16	1 PARKING SPACE	= 16
1BD	86	1 PARKING SPACE	= 86
2 BD	108	1.5 PARKING SPACE	= 162
3 BD	24	1.5 PARKING SPACE	= 36
	234		300

MINIMUM REQUIRED
25% OF 300 = 75 COMPACT SPACES
225 FULL SIZE SPACES

PROPOSED
351 TOTAL
101 COMPACT SPACES
250 FULL SIZE SPACES

ACCESSIBLE PARKING REQUIREMENTS PER CBC 11B-208.2

151-200 PARKING SPACES: (5) STANDARD ACCESSIBLE (1) VAN ACCESSIBLE (BASED ON 176 NON EV STALLS)
PROVIDED: (5) STANDARD ACCESSIBLE (1) VAN ACCESSIBLE

ELEC. VEH. CHARGING STATIONS REQ. PER CGS TABLE 4.106.4.2

STALLS PROVIDED: 351

REQUIRED EV CAPABLE (EV-F): 351 x 10% = 36 STALLS PROVIDED: 89 STALLS

REQUIRED EV READY (EV-R): 351 x 25% = 88 STALLS PROVIDED: 88 STALLS

REQUIRED EV CHARGERS (EVCS): 351 x 5% = 18 STALLS PROVIDED: 18 STALLS

TOTAL EV PROVIDED: 175 STALLS

ACCESSIBLE EVCS PER CBC TABLE 11B-228.3.2.1

(101 AND OVER) EVCS REQUIRES TWO (2) VAN & FOUR (4) STANDARD ACCESSIBLE EVCS AND FOUR (4) AMBULATORY PROVIDED: (2) VAN ACCESSIBLE (4) STANDARD ACCESSIBLE (4) AMBULATORY

BICYCLE STORAGE REQUIREMENTS PER CITY OF OXNARD MASTER PLAN

REQ. SHORT TERM: 0.05 BDRM: 0.05 x 390= 20 BIKE SPACES
REQ. LONG TERM: 0.15 BDRM: 0.15 x 390= 59 BIKE SPACES
PROVIDED: 28 SHORT TERM, 60 LONG TERM

NOTE: RESIDENT PARKING TO BE ASSIGNED

* ADMINISTRATIVE PARKING RELIEF REQUESTED

PARKING SCHEDULE

PARKING TYPE	PARKING SIZE	COUNT
PODIUM PARKING		
ACCESSIBLE	9'x19' MIN.	4
COMPACT	8'x19' MIN.	30
EV-F	9'x19' MIN.	46
EV-R	9'x19' MIN.	67
EV-R AMBULATORY	10'x19' MIN.	3
EVCS	9'x19' MIN.	2
EVCS ACCESSIBLE	9'x19' MIN.	3
EVCS AMBULATORY	10'x19' MIN.	1
STANDARD	9'x19' MIN.	33
TUCK UNDER PARKING		
COMPACT	8'x19' MIN.	6
EV-F	9'x19' MIN.	5
EV-R	9'x19' MIN.	8
UNCOVERED PARKING		
ACCESSIBLE	9'x19' MIN.	2
COMPACT	8'x19' MIN.	65
EV-F	9'x19' MIN.	18
EV-R	9'x19' MIN.	10
EVCS	9'x19' MIN.	9
EVCS ACCESSIBLE	9'x19' MIN.	3
STANDARD	9'x19' MIN.	36
TOTAL:		351
- ALL STALLS MEET 18' DEPTH REQUIREMENT WHEN INCLUDING 2' OVERHANG		
- ALL STALLS NOT LABELED AS COMPACT MEET OR EXCEED THE REQUIREMENTS FOR 'STANDARD STALL' PER SUANT SEC. 16-638		

DENSITY CALCULATION

LAND SIZE	5.17 ACRES
BASE DENSITY	30 PER ACRE
DENSITY BONUS - STACKED CALCULATION	# OF UNITS
BASE DENSITY ROUNDED	155.1 UNITS
DENSITY BONUS 50.0% OF BASE UNITS	78.0 UNITS
TOTAL UNITS	234 UNITS
OF WHICH 24.0% OF BASE UNITS ARE LOW INCOME	37.4 UNITS
	38 UNITS

LOT SIZE: 5.17 AC 225,348 S.F. 100%

SITE ANALYSIS

AREA TYPE	AREA	%
CONDITIONED BUILDING	19727 SF	9%
LANDSCAPE	57033 SF	25%
NON CONDITIONED BUILDING	75250 SF	33%
PAVEMENT	56738 SF	27%
SIDEWALK DEDICATION	5053 SF	2%
STREET DEDICATION	8548 SF	4%
Grand total	225348 SF	100%

TOTAL UNIT COUNT

BDRMS.	COUNT	AVE. AREA
(02) LEVEL 2 (F.F.)		
1 BD.	22	892.98 SF
2 BD.	27	961.62 SF
3 BD.	6	1108.83 SF
STUDIO	4	558.56 SF
(03) LEVEL 3 (F.F.)		
1 BD.	22	892.98 SF
2 BD.	27	961.62 SF
3 BD.	6	1108.83 SF
STUDIO	4	558.56 SF
(04) LEVEL 4 (F.F.)		
1 BD.	23	892.98 SF
2 BD.	27	961.62 SF
3 BD.	6	1108.83 SF
STUDIO	4	558.56 SF
(05) LEVEL 5 (F.F.)		
1 BD.	19	892.98 SF
2 BD.	27	961.62 SF
3 BD.	6	1108.83 SF
STUDIO	4	558.56 SF
Grand total	234	
TOTAL 1 BD. UNITS:	86	
TOTAL 2 BD. UNITS:	108	
TOTAL 3 BD. UNITS:	24	
TOTAL STUDIO UNITS:	16	
TOTAL UNITS:	234	

1ST FL. BLDG. AREAS

BUILDING AREAS	AREA
COMMUNITY SPACE	10870 SF
CORRIDOR AND VERTICAL CIRCULATION	2668 SF
COVERED: BALCONIES/ PATIOS/ PARKING/ WALKWAYS	75250 SF
UTILITY	6189 SF
Grand total	94878 SF

2ND. FL. BLDG. AREAS

TOTAL BUILDING AREA	AREA
BALCONY	6201 SF
COMMUNITY SPACE	685 SF
CORRIDOR	10122 SF
RESIDENTIAL	59621 SF
UTILITY	2979 SF
Grand total	70607 SF

3RD. FL. BLDG. AREAS

BUILDING	AREA
BALCONY	5533 SF
COMMUNITY SPACE	685 SF
CORRIDOR	10122 SF
RESIDENTIAL	59621 SF
UTILITY	2979 SF
Grand total	69943 SF

4TH. FL. BLDG. AREAS

BUILDING	AREA
BALCONY	5921 SF
COMMUNITY SPACE	685 SF
CORRIDOR	10122 SF
RESIDENTIAL	51317 SF
UTILITY	2282 SF
Grand total	70332 SF

5TH. FL. BLDG. AREAS

BUILDING	AREA
BALCONY	5256 SF
COMMUNITY SPACE	1277 SF
CORRIDOR	10122 SF
RESIDENTIAL	40556 SF
UTILITY	2282 SF
Grand total	67493 SF

TOTAL BLDG. AREAS

TOTAL BUILDING AREA	AREA
BALCONY	22610 SF
COMMUNITY SPACE	13609 SF
CORRIDOR	40497 SF
CORRIDOR AND VERTICAL CIRCULATION	2668 SF
COVERED: BALCONIES/ PATIOS/ PARKING/ WALKWAYS	75250 SF
NON CONDITIONED BUILDING	562 SF
RESIDENTIAL	201115 SF
UTILITY	16710 SF
Grand total	373051 SF

NOTE: VERTICAL CIRCULATION COUNTED ONCE

(BALCONIES PROVIDED AT ALL UNITS)

AMENITIES*

INTERIOR YARD SPACE	ADDITIONAL AMENITY SPACE
• PARK AREAS	• MULTI-PURPOSE ROOM
• INTERIOR COURTYARD	• MAIN FLOOR COMMUNITY ROOM
• DOG RUN	• FITNESS CENTER
• SCENIC ROAD OPEN AREA	• RESIDENT STORAGE
• BOCCIE BALL COURTS	• BICYCLE STORAGE
• PET PARK	• PET CARE
• PUTTING COURSE	• 2ND FLOOR AMENITY SPACE COURTYARDS
	• 2ND FLOOR OBSERVATION DECK
	• 5TH FLOOR DECK

*FOR AREAS SEE SHEET A-0.5 AND A-0.6

CONCESSIONS, WAIVERS & INCENTIVES

- CONCESSIONS**
- SIZE OF PATIOS & BALCONIES AT 100 S.F. (10'x10') SEC. 362(F)
 - RESIDENTIAL UNITS FRONTING LOCKWOOD AT PODIUM BLDG. DESIGN SEC. 16-420(B)
 - 30% INTERIOR YARD SPACE SEC. 16-78
- WAIVERS**
- HEIGHT OF BUILDING EXCEEDS 56 FT. (R-4 OK) SEC. 16-420(G)
 - 5 STORIES ALLOWED
 - 30' SETBACK AT FRONT YARD (INCLUDING BUILDING, LANDSCAPE WALLS/ FENCES AND ACCESSORY STRUCTURES)
 - 5' LANDSCAPE AT PARKING OVERHANG SEC. 16-439 (FIG. 6)

ALLOWED UNDER R-4

FRONT YARD SETBACK (R-4 OK) SEC. 16-420(D)

20' CURRENTLY (R-4 OK) SEC. 16-420(D)

AUTOMATIC PARKING INCENTIVE

- TANDEN PARKING
- UNCOVERED PARKING
- ADMINISTRATIVE PARKING RELIEF REQUESTED: SEC. 16-622.258
- 25% COMPACT SPACES OF REQUIRED PARKING 300 REQ. x 25% = 75 COMPACT PROPOSED AND
- 45% COMPACT SPACES OF SURPLUS PARKING 51 SURPLUS x 45% = 23 COMPACT SPACES

AFFORDABLE UNIT ALLOCATION

MARKET RATE:			
TYPE	COUNT	% OF BASE UNITS	% OF TOTAL UNITS
STUDIO:	13	8.3%	5.6%
1 BEDROOM 1 BATH:	72	46.2%	30.8%
2 BEDROOM 2 BATH:	91	58.3%	38.9%
3 BEDROOM 2 BATH:	20	12.8%	8.6%
TOTAL MARKET RATE:	196 UNITS	19.3%	12.8%

LOWER INCOME:			
TYPE	COUNT	% OF BASE UNITS	% OF TOTAL UNITS
STUDIO:	2	1.3%	.9%
1 BEDROOM 1 BATH:	11	7.1%	4.7%
2 BEDROOM 2 BATH:	14	9.0%	6.0%
3 BEDROOM 2 BATH:	3	1.9%	1.3%
TOTAL LOWER INCOME:	30 UNITS	19.3%	12.8%

VERY LOW INCOME:			
TYPE	COUNT	% OF BASE UNITS	% OF TOTAL UNITS
STUDIO:	1	0.6%	0.4%
1 BEDROOM 1 BATH:	3	1.9%	1.3%
2 BEDROOM 2 BATH:	3	1.9%	1.3%
3 BEDROOM 2 BATH:	1	0.6%	0.4%
TOTAL VERY LOW INCOME:	8 UNITS	5.0%	3.4%
TOTAL UNITS:	234 UNITS		100%

DEVELOPMENT STANDARDS

EXISTING ZONE: BUSINESS RESEARCH PARK (BRP § 16-164)
ADDITIVE ZONE: AFFORDABLE HOUSING DISCRETIONARY (AHD § 16-420 et seq)
APPLICABLE STANDARDS: HIGH RISE RESIDENTIAL (R-4 § 16-70 TO 16-79)
GENERAL PLAN URBAN DESIGN GOAL CD-9.4 VIEW CORRIDOR PRESERVATION
OFF-STREET PARKING (ARTICLE X, CHAPTER 16)
STANDARDS FOR ALL ZONES (ARTICLE IV, CHAPTER 16)
ATTACHED DWELLING UNIT DEV. STANDARDS SEC. 16-360 TO 16-363

STANDARD	ZONE DISTRICT	PROPOSED PROJECT
MINIMUM LOT SIZE	20,000 S.F.	N/A
MAXIMUM LOT COVERAGE	40%	N/A
MAXIMUM FLOOR AREA RATIO	1:1	N/A
MAXIMUM BUILDING HEIGHT	35'-0" MAX. UNLESS ADDITIONAL HEIGHT PERMITTED BY S.U.P.	4 STORIES OR 11 STORIES 100'-0" MAX (WITH S.U.P.)
FRONT YARD SETBACK	30'	20'
SIDE YARD SETBACK	EQUAL TO BLDG. HT. UNLESS OTHERWISE PERMITTED BY S.U.P.	5'-PLUS 2 1/2" PER EA. STORY OVER TWO
REAR YARD SETBACK	20'	5'-PLUS 2 1/2" PER EA. STORY OVER TWO
STREET SIDE YARD SETBACK	HALF OF BLDG. HT.	NOT TO EXCEED 10'
INTERIOR YARD SPACE (MIN. 15' x 15')	N/A	30%
DENSITY	1,500 S.F. LOT AREA = 1 UNIT 225,348 S.F. / 1,500 S.F. = 150 UNITS + 50% DENSITY BONUS 150*78 = 225 UNITS	30 UNITS TO THE ACRE 5.17 ACRE * 30 = 156 + 156 UNITS = 312 UNITS
FLOOR AREA RATIO CALCULATION	TOTAL BUILDING AREA: 373,069 S.F. TOTAL SITE AREA: 225,348 S.F.	373,069 / 225,348 = 1.65 F.A.R. = 1.65
CD-9.4 REAR YARD SETBACK REQUIREMENT: 30' LANDSCAPE BUFFER AT FREEWAY		

AFFORDABLE UNIT RATIO

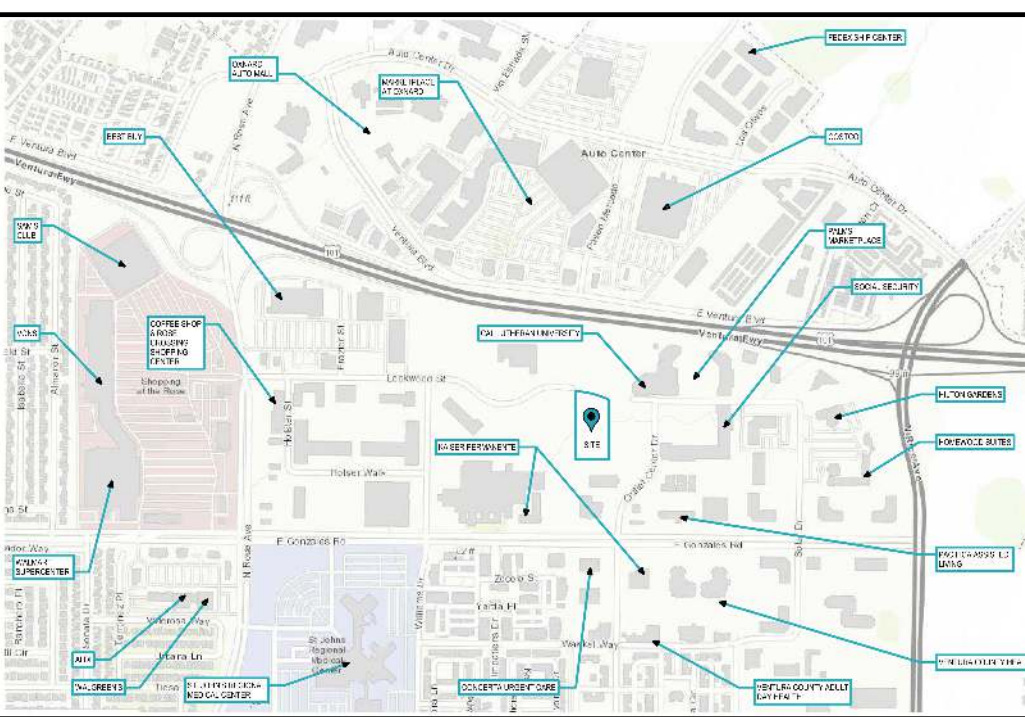
DESCRIPTION	UNITS	AFFORDABLE	MARKET
STUDIO	6.6%	16 UNITS	3 UNITS
1 BEDROOM	36.8%	86 UNITS	14 UNITS
2 BEDROOM	46.2%	106 UNITS	17 UNITS
3 BEDROOM	10.3%	24 UNITS	4 UNITS
TOTAL UNITS		234 UNITS	38 UNITS

PROPERTY AND PROJECT INFO

NEW CONSTRUCTION :		TYPE V-A - FULLY SPRINKLERED		
CODE ENFORCEMENT JURISDICTION:		CITY OF OXNARD - BUILDING AND SAFETY		
ZONING JURISDICTION:		CITY OF OXNARD - PLANNING DEPARTMENT		
CODE	TITLE	EDITION	LOCAL	AMENDMENTS
Administrative	Bldg. Shnds. Admin Code	2022		
Building	California Bldg. Code	2022		
Access Compliance	California Bldg. Code	2022		
Mechanical	California Mech. Code	2022		
Electrical	California Electrical Code	2022		
Plumbing	California Plumbing Code	2022		
Fire Prevention	California Fire Code	2022	YES	
	State Fire Marshall Regs.	2022		
	NFPA 13	2022		
	NFPA 20	2022		
	NFPA 72	2022		
Energy	California Green Building Code	2022		
Zoning Code	City of Oxnard Zoning Ordinance	2022		
CITY OF OXNARD BUILDING CODE - ORDINANCE 2860		2022		

ZONE:	EXISTING BRP ZONE WITH A RESIDENTIAL R-4 ADDITIVE ZONE
DENSITY DB#22-535-03	R4 DENSITY ALLOWED SITE = 5.17 ACRES/ 225,348 S.F. ALLOWABLE DENSITY = 5.17 ACRE * 30 = 156 BASE UNITS DENSITY BONUS PER SB 2345 - 50% OF BASE UNITS = 78 UNITS - TOTAL
AFFORDABLE UNITS	LOWER INCOME = 19.3% OF BASE UNITS VERY LOW INCOME = 5% OF BASE UNITS
ACCESSIBLE UNITS	CBC 2022.11 A
ADAPTABLE FEATURES:	ELEVATOR BUILDING: ALL UNITS

PROJECT DIRECTORY

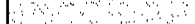
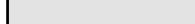


SHEET INDEX

GENERAL	COVER SHEET
C-01	COVER SHEET
C-1	GRADING
C-2	GRADING
C-3	GRADING
C-4	GRADING
C-5	GRADING
C-6	GRADING
C-7	GRADING
C-8	GRADING
C-9	UTILITY
ARCHITECTURAL	
A-0.1	SITE OVERVIEW
A-0.2	SITE PHOTOS
A-0.3	SITE PLAN
A-0.4	SAFE ROUTES TO SCHOOLS EXHIBIT
A-0.5	INTERIOR YARD SPACE AREAS
A-0.6	INTERIOR YARD SPACE AREAS
A-0.7	PARKING & LANDSCAPE AREAS
A-0.8	SECURITY PLAN - SITE & DRIVEWAYS
A-0.9	SECURITY PLAN - 1ST FLOOR
A-0.10	SECURITY PLAN - 2ND FLOOR
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A-0.12	SECURITY PLAN - 4TH
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A-0.16	FIRE & TRASH TRUCK EXHIBIT
A-0.17	FIRE PUMP ROOM
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A-1.2	2ND FLOOR PLAN
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A-1.5	5TH FLOOR PLAN
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A-2.1	EXTERIOR ELEVATIONS
A-2.2	EXTERIOR ELEVATIONS - COLOR
A-2.3	3D VIEWS
A-2.4	3D VIEWS
A-2.5	3D VIEWS
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A-2.8	MAIL ROOM
A-2.9	INTERIOR DESIGN ELEMENTS
A-2.10	EXTERIOR DESIGN ELEMENTS
A-2.12	FENCES, GATES, SITE WALLS AND RAILINGS
A-2.13	TRELLIS, MONUMENT SIGN, AND BALCONY EXHIBITS
A-4.1	LSV - UNIT PL

APN: 213-0-090-275



- | | | |
|---|----|--|
|  | 1 | CONSTRUCT 6" CURB TYPE A1-6 PER CITY OF OXNARD STANDARD PLATE NO. 111. |
|  | 2 | CONSTRUCT 6" CURB AND GUTTER TYPE A2-6 PER CITY OF OXNARD STANDARD PLATE NO. 111. |
|  | 3 | CONSTRUCT HARDSCAPE. INSTALL MATERIAL ON 4" AGGREGATE BASE. SEE LANDSCAPE PLANS FOR PRODUCT SPECIFICATION. PRODUCT TO BE 4" P.C.C. UNLESS NOTED OTHERWISE. |
|  | 4 | CONSTRUCT A.C. PAVEMENT, 3" ASPHALT CONCRETE OVER 4" CLASS II BASE, TI-6. |
|  | 5 | CONSTRUCT A.C. PAVEMENT, 3" ASPHALT CONCRETE OVER 4" CLASS II BASE, TI-5. |
|  | 6 | CONSTRUCT COLORED, SCORED CONCRETE. SEE LANDSCAPE PLANS FOR DETAILS. |
|  | 7 | CONSTRUCT DRIVEWAY PER CITY OF OXNARD STANDARD PLATE NO. 116. |
|  | 8 | CONSTRUCT RETAINING WALL PER SEPARATE PERMIT. |
|  | 9 | CONSTRUCT GARDEN WALL. NO PERMIT REQUIRED. |
|  | 10 | CONSTRUCT EARTHEN SWALE TO INTERCEPT AND CONVEY FREEWAY RUNOFF. DRAIN TO EXISTING SWALE. |

GRADING NOTES

1. PROVIDE 8-INCHES MINIMUM CLEAR SPACE FROM FINISHED SOIL GRADE (FG) TO BUILDING WALL. CONSTRUCT STEM WALL AT BUILDING PERIMETER WHERE THIS CONDITION IS NOT MET.
2. RETAINING WALLS LOCATED CLOSER TO THE PROPERTY LINE THAN THE HEIGHT OF THE WALL SHALL BE BACKFILLED NOT LATER THAN 10 DAYS AFTER CONSTRUCTION OF THE WALL AND NECESSARY STRUCTURAL SUPPORTING MEMBERS UNLESS RECOMMENDED OTHERWISE BY RESPONSIBLE ENGINEER.
3. ADA HANDRAILS, PARKING SIGNS, AND PARKING STRIPING ARE PER ARCHITECTURAL PLANS AND ARE SHOWN HEREON FOR REFERENCE ONLY.
4. TOP OF WALL CALLOUTS REPRESENT TOP OF RETAINED SURFACE AND DO NOT INCLUDE WALL FREEBOARD AS SHOWN ON DETAILS. BOTTOM OF WALL CALLOUTS REPRESENT FACE OF WALL AT FINISHED SURFACE.
5. CLEARING AND GRUBBING OF THE SITE SHOULD CONSIST OF THE REMOVAL OF ASPHALT, CONCRETE SLAB, VEGETATION SUCH AS BRUSH, GRASS, WOOD, STUMPS, TREES, ROOTS OF TREES AND OTHERWISE DELETERIOUS NATURAL MATERIALS FROM THE AREAS TO BE GRADED. CLEARING AND GRUBBING SHOULD EXTEND TO THE OUTSIDE OF ALL PROPOSED EXCAVATION AND FILL AREAS.
6. ALL GRADING SLOPES SHALL BE PLANTED AND SPRINKLERED.
7. STANDARD 12" HIGH BERM IS REQUIRED AT TOP OF ALL GRADED SLOPES.
8. NO FILL TO BE PLACED, UNTIL THE CITY GRADING INSPECTOR HAS INSPECTED AND APPROVED THE BOTTOM EXCAVATION.
9. MAN-MADE FILL SHALL BE COMPACTED TO A MINIMUM RELATIVE COMPACTION OF 90% MAX. DRY DENSITY WITHIN 40' BELOW FINISH GRADE AND 93% OF MAX. DRY DENSITY DEEPER THAN 40' BELOW FINISH GRADE, UNLESS A LOWER RELATIVE COMPACTION (NOT LESS THAN 90% OF MAX. DRY DENSITY) IS JUSTIFIED BY THE SOILS ENGINEER.
10. TEMPORARY EROSION CONTROL TO BE INSTALLED BETWEEN OCTOBER 1 AND APRIL 15. OBTAIN GRADING INSPECTOR'S AND DEPARTMENT OF PUBLIC WORKS APPROVAL OF PROPOSED PROCEDURES.
11. FINISHED GRADE NOT TO EXCEED A FOUR INCH VERTICAL DROP WITHIN TWO FEET OF ADA ACCESSIBLE PATH.
12. ANY DAMAGED OR SUBSTANDARD SIDEWALK ALONG THE PROJECT FRONTAGES SHALL BE RECONSTRUCTED. CONFORM/SAWCUT SHALL BE MADE AT THE EXISTING JOINT OR SCORE-LINE. ALL EXISTING ADA CURB RAMPS ALONG THE PROJECT FRONTAGE SHALL BE BROUGHT UP TO ADA-STANDARDS.

ABBREVIATIONS

BFP	BACKFLOW PREVENTION DEVICE	FF	FINISHED FLOOR
BO	BLOWOFF	FG	FINISHED GRADE
BOW	BOTTOM OF WALL (AT GROUND)	FS	FINISHED SURFACE
BW	BACK OF WALK	GB	GRADE BREAK
BLDG	BUILDING	HP	HIGH POINT
CB	CATCH BASIN	INV	INVERT ELEVATION
CC	CLEANOUT	LP	LOW POINT
CONC	CONCRETE	MH	MAN-HOLE
CMP	CORRUGATED METAL PIPE	PIV	POST INDICATOR VALVE
DR	DOOR	POC	POINT OF CONNECTION
DS	DOWN SPOUT	R	RIDGE
ESMT	EASEMENT	RM	RIM ELEVATION
EG	EXISTING GRADE	RD	ROOF DRAIN
FC	FACE OF CURB	TC	TOP OF CURB
FF	FINISHED FLOOR	TW	TOP OF WALL
FDC	FIRE DEPARTMENT CONNECTION	TE	TRASH ENCLOSURE
FH	FIRE HYDRANT	WM	WATER METER
FL	FLOW LINE	WV	WATER VALVE

Scale 1" = 10 FT

REVISIONS			
MARK	DATE	DESCRIPTION	BY

REVIEWED BY: _____

DATE _____

DATE _____

DRAWN BY: JOA

CHECKED BY: RC



CITY OF
OXNARD
CALIFORNIA

Development Services Department

GRADING PLAN

ACCEPTED BY: _____

CITY ENGINEER

R.C.E.

DATE

SHEET DRAWING NUMBER _____

SCALE: HORIZ. _____
VERT. _____

SHEET No. 1 OF 9

DRAWING NUMBER _____

LEGAL DESCRIPTION

LEGEND

NEW	EXISTING	
		ASPHALT BERM
		BLOCK/RETAINING WALL
		BUILDING LINE
		CONCRETE CURB
		CONCRETE CURB CUT
		CONCRETE CURB & GUTTER
		CONTOUR LINE
		DRIVEWAY
		EDGE OF PAVEMENT
		FENCE LINE
		GRADE BREAK
		LOT LINE
		RIDGE LINE
		SANITARY SEWER
		SIDEWALK
		STORM DRAIN & CATCH BASIN
		TRACT BOUNDARY
		WATER LINE AND WATER METER

PREPARED BY:

CCE
DESIGN ASSOCIATES

CCE DESIGN ASSOCIATES, INC.
771 E. Daily Drive • Ste 120 • Camarillo, CA 93010
445 S Figueroa Street • Ste 3100 • Los Angeles, CA 90071
805.738.5434 • www.ccedesignassociates.com

JARED Q. ADAMS, P.E.
R.C.E. No. 86086

DATE _____



REAL PROPERTY IN THE COUNTY OF VENTURA, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

THAT PORTION OF LOT 3 OF TRACT NO. 4891, IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 128, PAGE 44 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING A PORTION OF PARCEL A AND ALL OF PARCEL B OF PLANNING AND ZONING PERMIT NUMBER 99-5-101 (LOT LINE ADJUSTMENT) AS SHOWN ON CERTIFICATE OF APPROVAL FOR LOT LINE ADJUSTMENT, RECORDED FEBRUARY 2, 2000, AS DOCUMENT NO. 2000-25273 OF OFFICIAL RECORDS, SHOWN AS PARCEL 2 OF PLANNING AND ZONING PERMIT NUMBER PZ 00-5-103 (LOT LINE ADJUSTMENT), RECORDED OCTOBER 31, 2000, AS DOCUMENT NO. 2000-171968 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

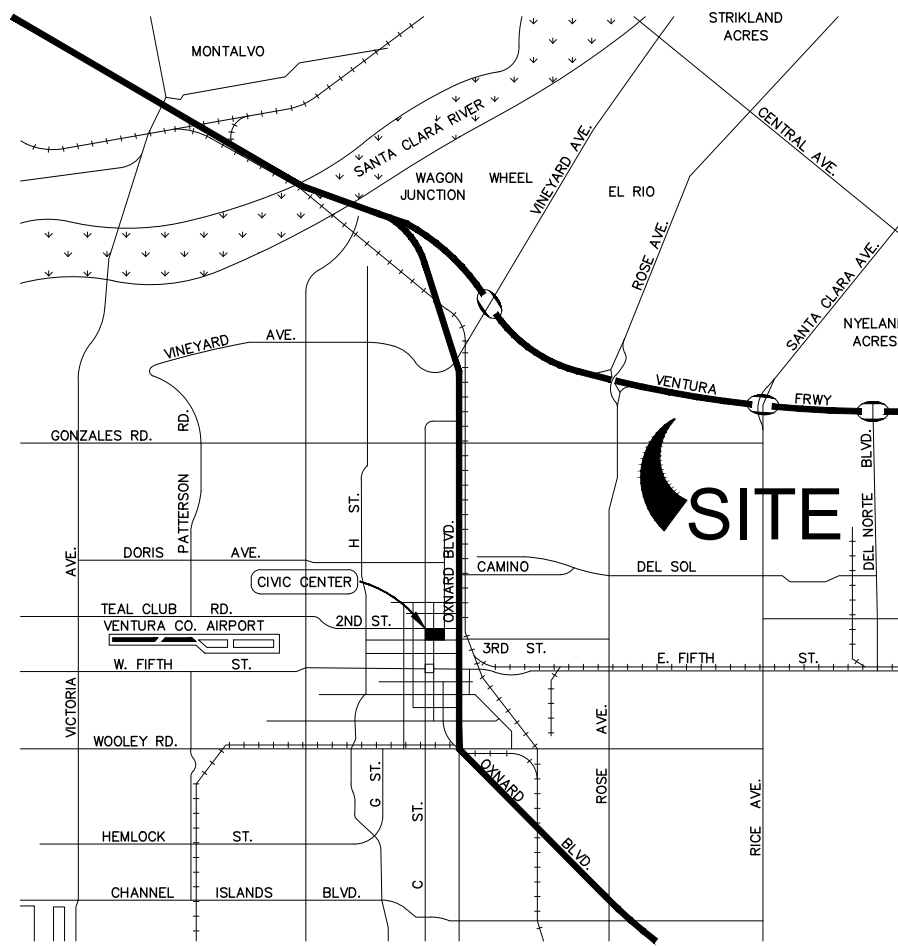
BEING ALL OF PARCEL B, IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA AS PER THE LOT LINE ADJUSTMENT, RECORDED FEBRUARY 2, 2000, AS DOCUMENT NO. 2000-25273 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; AND THAT PORTION OF PARCEL A OF SAID DOCUMENT LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT ON THE WESTERLY LINE OF SAID PARCEL A DISTANT THEREON NORTH 0° 04' 18" EAST 491.05 FEET FROM THE SOUTHWEST CORNER OF SAID PARCEL A; THENCE, 1ST: SOUTH 89° 55' 38" EAST 591.99 FEET TO THE EASTERLY LINE OF SAID PARCEL A.

EXCEPT THEREFROM ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER SAID LAND LYING 500 FEET BELOW THE SURFACE THEREOF, WITHOUT, HOWEVER, THE RIGHT TO ENTER UPON THE SURFACE OR UNDER 500 FEET OF THE SUBSURFACE OF SAID LAND.

ENGINEERING SITE PLAN

APN: 213-0-090-275



GRADING CONSTRUCTION NOTES / LEGEND

1. CONSTRUCT 6" CURB TYPE A1-6 PER CITY OF OXNARD STANDARD PLATE NO. 111.
2. CONSTRUCT 6" CURB AND GUTTER TYPE A2-6 PER CITY OF OXNARD STANDARD PLATE NO. 111.
3. CONSTRUCT HARDSCAPE. INSTALL MATERIAL ON 4" AGGREGATE BASE. SEE LANDSCAPE PLANS FOR PRODUCT SPECIFICATION. PRODUCT TO BE 4" P.C.C. UNLESS NOTED OTHERWISE.
4. CONSTRUCT A.C. PAVEMENT, 3" ASPHALT CONCRETE OVER 4" CLASS II BASE, TI=6.
5. CONSTRUCT A.C. PAVEMENT, 3" ASPHALT CONCRETE OVER 4" CLASS II BASE, TI=5.
6. CONSTRUCT COLORED, SCORED CONCRETE. SEE LANDSCAPE PLANS FOR DETAILS.
7. CONSTRUCT DRIVEWAY PER CITY OF OXNARD STANDARD PLATE NO. 116.
8. CONSTRUCT RETAINING WALL PER SEPARATE PERMIT.
9. CONSTRUCT GARDEN WALL. NO PERMIT REQUIRED.
10. CONSTRUCT EARTHEN SWALE TO INTERCEPT AND CONVEY FREEWAY RUNOFF. DRAIN TO EXISTING SWALE.

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9. MAN-MADE FILL SHALL BE COMPACTED TO A MINIMUM RELATIVE COMPACTION OF 90% MAX. DRY DENSITY WITHIN 40" BELOW FINISH GRADE AND 80% OF MAX. DRY DENSITY DEEPER THAN 40" BELOW FINISH GRADE, UNLESS A LOWER RELATIVE COMPACTION (NOT LESS THAN 90% OF MAX. DRY DENSITY) IS JUSTIFIED BY THE SOILS ENGINEER.
10. TEMPORARY EROSION CONTROL TO BE INSTALLED BETWEEN OCTOBER 1 AND APRIL 15. OBTAIN GRADING INSPECTOR'S AND DEPARTMENT OF PUBLIC WORKS APPROVAL OF PROPOSED PROCEDURES.
11. FINISHED GRADE NOT TO EXCEED A FOUR INCH VERTICAL DROP WITHIN TWO FEET OF ADA ACCESSIBLE PATH.
12. ANY DAMAGED OR SUBSTANDARD SIDEWALK ALONG THE PROJECT FRONTAGES SHALL BE RECONSTRUCTED, CONFORM/SAWCUT SHALL BE MADE AT THE EXISTING JOINT OR SCORE-LINE. ALL EXISTING ADA CURB RAMPS ALONG THE PROJECT FRONTAGE SHALL BE BROUGHT UP TO ADA-STANDARDS.

ABBREVIATIONS

BFP	BACKFLOW PREVENTION DEVICE	FF	FINISHED FLOOR
BO	BLOWOFF	FG	FINISHED GRADE
BOW	BOTTOM OF WALL (AT GROUND)	FS	FINISHED SURFACE
BW	BACK OF WALK	GB	GRADE BREAK
BLDG	BUILDING	HP	HIGH POINT
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CONC	CONCRETE	MH	MANHOLE
CMP	CORRUGATED METAL PIPE	PIV	POST INDICATOR VALVE
DR	DOOR	POC	POINT OF CONNECTION
DS	DOWN SPOUT	R	RIDGE
ESMT	EASEMENT	RIM	RIM ELEVATION
EG	EXISTING GRADE	RD	ROOF DRAIN
FC	FACE OF CURB	TC	TOP OF CURB
FF	FINISHED FLOOR	TW	TOP OF WALL
FDC	FIRE DEPARTMENT CONNECTION	TE	TRASH ENCLOSURE
FM	FIRE HYDRANT	WM	WATER METER
FL	FLOW LINE	WV	WATER VALVE

PROPOSED
BUILDING
GFF = 81.00
PAD = 80.33

LEGAL DESCRIPTION

REAL PROPERTY IN THE COUNTY OF VENTURA, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

THAT PORTION OF LOT 3 OF TRACT NO. 4881, IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 125, PAGE 44 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING A PORTION OF PARCEL A AND ALL OF PARCEL B OF PLANNING AND ZONING PERMIT NUMBER 99-5-151 (LOT LINE ADJUSTMENT) AS SHOWN ON CERTIFICATE OF APPROVAL FOR LOT LINE ADJUSTMENT, RECORDED FEBRUARY 2, 2000, AS DOCUMENT NO. 2000-25273 OF OFFICIAL RECORDS, SHOWN AS PARCEL 2 OF PLANNING AND ZONING PERMIT NUMBER PZ 00-5-103 (LOT LINE ADJUSTMENT), RECORDED OCTOBER 31, 2000, AS DOCUMENT NO. 2000-171969 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

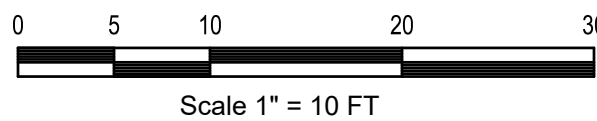
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LEGEND

NEW	EXISTING	
		ASPHALT BERM
		BLOCK RETAINING WALL
		BUILDING LINE
		CONCRETE CURB
		CONCRETE CURB CUT
		CONTOUR LINE
		DRIVEWAY
		EDGE OF PAVEMENT
		FENCE LINE
		GRADE BREAK
		LOT LINE
		RIDGE LINE
		SANITARY SEWER
		SIDEWALK
		STORM DRAIN & CATCH BASIN
		TRACT BOUNDARY
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PREPARED BY:

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445 S Figueroa Street • Ste 3100 • Los Angeles, CA 90071
805.738.5434 • www.ccedesignassociates.com

JARED O. ADAMS, P.E.
R.C.E. No. 86086

DATE



REVISIONS

MARK	DATE	DESCRIPTION	BY

REVIEWED BY:

OXNARD

Development Services Department

GRADING PLAN

ACCEPTED BY: CITY ENGINEER R.C.E. DATE

SHEET DRAWING NUMBER

SCALE: HORIZ. 1"=10' VERT. 1"=10'

DRAWN BY: JQA SHEET No. 2 OF 9

CHECKED BY: RC DRAWING NUMBER

APN: 213-0-090-275



1. CONSTRUCT 6" CURB TYPE A1-6 PER CITY OF OXNARD STANDARD PLATE NO. 111.
2. CONSTRUCT 6" CURB AND GUTTER TYPE A2-6 PER CITY OF OXNARD STANDARD PLATE NO. 111.
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GRADING NOTES

1. PROVIDE 8-INCHES MINIMUM CLEAR SPACE FROM FINISHED SOIL GRADE (FG) TO BUILDING WALL. CONSTRUCT STEM WALL AT BUILDING PERIMETER WHERE THIS CONDITION IS NOT MET.
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LEGAL DESCRIPTION

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		BLOCK/RETAINING WALL
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		CONTOUR LINE
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		RIDGE LINE
		SANITARY SEWER
		SIDEWALK
		STORM DRAIN & CATCH BASIN
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JARED Q. ADAMS, P.E.
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DATE _____

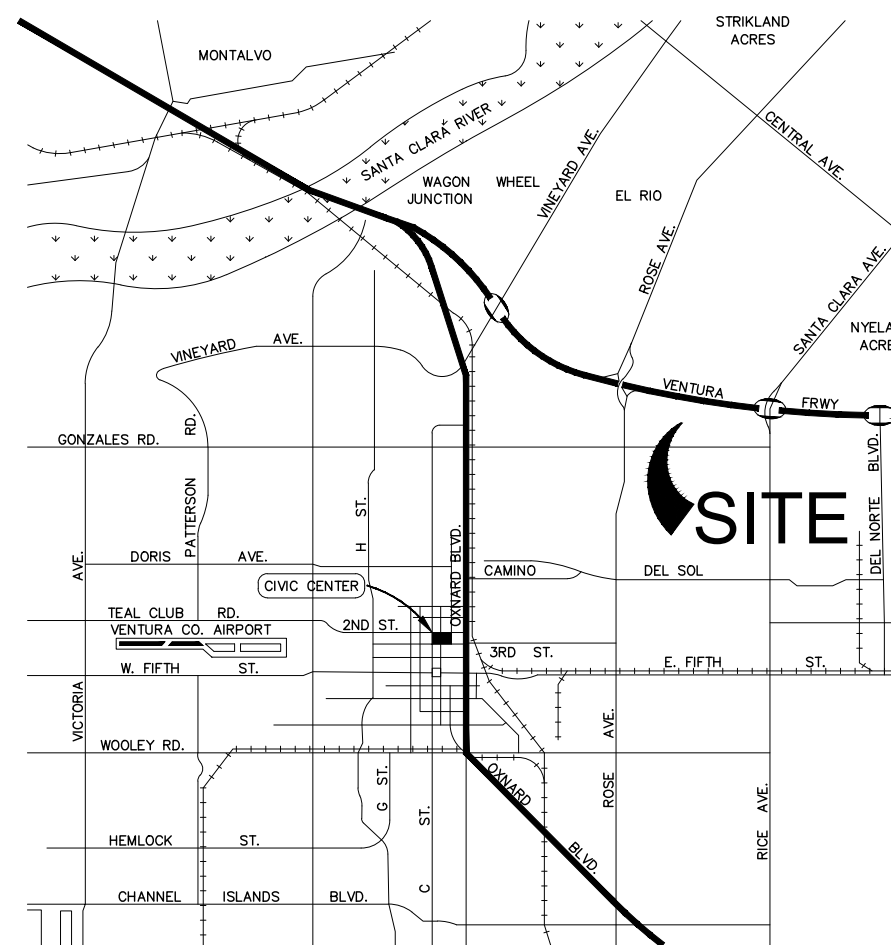


REVISIONS

MARK	DATE	DESCRIPTION	BY	
				Development Services Department GRADING PLAN ACCEPTED BY: _____ CITY ENGINEER _____ R.C.E. _____ DATE _____ SHEET DRAWING NUMBER _____ SCALE: HORIZ. _____ 1"=10' VERT. _____ 1"=10' DRAWN BY: JGA DRAWING NUMBER _____
REVIEWED BY: _____				SHEET No. <u>3</u> OF <u>9</u>
DATE _____				DRAWING NUMBER _____

ENGINEERING SITE PLAN

APN: 213-0-090-275



GRADING CONSTRUCTION NOTES / LEGEND

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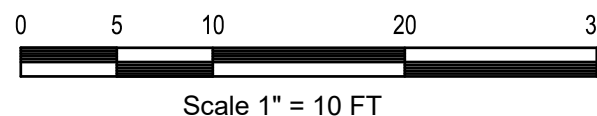
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JARED Q. ADAMS, P.E.
R.C.E. No. 86086

DATE



REVISIONS

MARK	DATE	DESCRIPTION	BY

REVIEWED BY:

OXNARD

Development Services Department

GRADING PLAN

ACCEPTED BY: CITY ENGINEER R.C.E. DATE

SHEET DRAWING NUMBER

SCALE: HORIZ. 1"=10' VERT. 1"=10'

DRAWN BY: JOA SHEET No. 4 OF 9

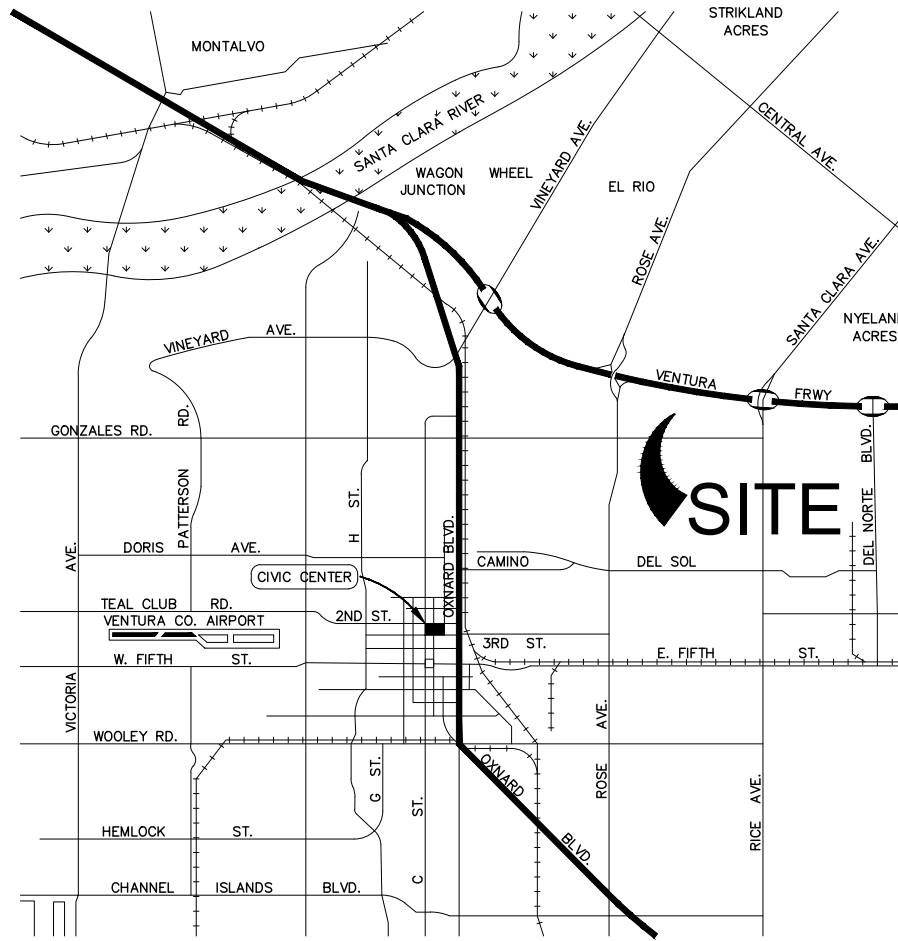
CHECKED BY: RC DRAWING NUMBER

ENGINEERING SITE PLAN

APN: 213-0-090-275

MATCHLINE - SEE SHEET 5

PROPOSED
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- ANY DAMAGED OR SUBSTANDARD SIDEWALK ALONG THE PROJECT FRONTAGES SHALL BE RECONSTRUCTED. CONFORM/SAWCUT SHALL BE MADE AT THE EXISTING JOINT OR SCORE-LINE. ALL EXISTING ADA CURB RAMPS ALONG THE PROJECT FRONTAGE SHALL BE BROUGHT UP TO ADA-STANDARDS.

ABBREVIATIONS

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BO	BLOWOFF	FG	FINISHED GRADE
BOW	BOTTOM OF WALL (AT GROUND)	FS	FINISHED SURFACE
BW	BACK OF WALK	GB	GRADE BREAK
BLDG	BUILDING	HP	HIGH POINT
CB	CATCH BASIN	INV	INVERT ELEVATION
CO	CLEANOUT	LP	LOW POINT
CONC	CONCRETE	MH	MANHOLE
CMP	CORRUGATED METAL PIPE	PV	POST INDICATOR VALVE
DR	DOOR	POC	POINT OF CONNECTION
DS	DOWN SPOUT	R	RIDGE
ESMT	EASEMENT	RIM	RIM ELEVATION
EG	EXISTING GRADE	RD	ROOF DRAIN
FC	FACE OF CURB	TC	TOP OF CURB
FF	FINISHED FLOOR	TW	TOP OF WALL
FDC	FIRE DEPARTMENT CONNECTION	TE	TRASH ENCLOSURE
FH	FIRE HYDRANT	WM	WATER METER
FL	FLOW LINE	WM	WATER VALVE

LEGEND

NEW	EXISTING	
		ASPHALT BERM
		BLOCK/RETAINING WALL
		BUILDING LINE
		CONCRETE CURB
		CONCRETE CURB & GUTTER
		CONTOUR LINE
		DRIVEWAY
		EDGE OF PAVEMENT
		FENCE LINE
		GRADE BREAK
		LOT LINE
		RIDGE LINE
		SANITARY SEWER
		SIDEWALK
		STORM DRAIN & CATCH BASIN
		TRACT BOUNDARY
		WATER LINE AND WATER METER

LEGAL DESCRIPTION

REAL PROPERTY IN THE COUNTY OF VENTURA, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

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BEGINNING AT A POINT ON THE WESTERLY LINE OF SAID PARCEL A DISTANT THEREON NORTH 0° 04' 18" EAST 491.05 FEET FROM THE SOUTHWEST CORNER OF SAID PARCEL A; THENCE, 1ST: SOUTH 89° 55' 38" EAST 591 FEET TO THE EASTERLY LINE OF SAID PARCEL A.

EXCEPT THEREFROM ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER SAID LAND LYING 500 FEET BELOW THE SURFACE THEREOF, WITHOUT, HOWEVER, THE RIGHT TO ENTER UPON THE SURFACE OR UNDER 500 FEET OF THE SUBSURFACE OF SAID LAND.

PREPARED BY:

CCE CCE DESIGN ASSOCIATES, INC.
771 E. Daily Drive • Ste 120 • Camarillo, CA 93010
445 S Figueroa Street • Ste 3100 • Los Angeles, CA 90071
805.738.5434 • www.ccedesignassociates.com

JARED Q. ADAMS, P.E.
R.C.E. No. 86086

DATE



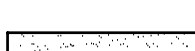
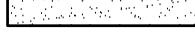
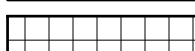
REVISIONS

MARK	DATE	DESCRIPTION	BY

	Development Services Department
GRADING PLAN	
ACCEPTED BY: CITY ENGINEER	R.C.E. DATE
SHEET DRAWING NUMBER	
REVIEWED BY:	SCALE: HORIZ. 1"=10'
DATE	VERT. 1"=10'
DATE	DRAWN BY: JOA
DATE	CHECKED BY: RC
SHEET No. 6 OF 9	
DRAWING NUMBER	

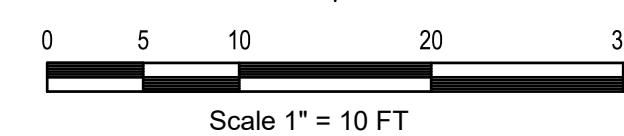
APN: 213-0-090-275



- | | | |
|---|----|--|
|  | 1 | CONSTRUCT 6" CURB TYPE A1-6 PER CITY OF OXNARD STANDARD PLATE NO. 111. |
|  | 2 | CONSTRUCT 6" CURB AND GUTTER TYPE A2-6 PER CITY OF OXNARD STANDARD PLATE NO. 111. |
|  | 3 | CONSTRUCT HARDSCAPE. INSTALL MATERIAL ON 4" AGGREGATE BASE. SEE LANDSCAPE PLANS FOR PRODUCT SPECIFICATION. PRODUCT TO BE 4" P.C.C. UNLESS NOTED OTHERWISE. |
|  | 4 | CONSTRUCT A.C. PAVEMENT, 3" ASPHALT CONCRETE OVER 4" CLASS II BASE, TI=6. |
|  | 5 | CONSTRUCT A.C. PAVEMENT, 3" ASPHALT CONCRETE OVER 4" CLASS II BASE, TI=5. |
|  | 6 | CONSTRUCT COLORED, SCORED CONCRETE. SEE LANDSCAPE PLANS FOR DETAILS. |
|  | 7 | CONSTRUCT DRIVEWAY PER CITY OF OXNARD STANDARD PLATE NO. 116. |
|  | 8 | CONSTRUCT RETAINING WALL PER SEPARATE PERMIT. |
|  | 9 | CONSTRUCT GARDEN WALL. NO PERMIT REQUIRED. |
|  | 10 | CONSTRUCT EARTHEN SWALE TO INTERCEPT AND CONVEY FREEWAY RUNOFF. DRAIN TO EXISTING SWALE. |

1. PROVIDE 8-INCHES MINIMUM CLEAR SPACE FROM FINISHED SOIL GRADE (FG) TO BUILDING WALL. CONSTRUCT STEM WALL AT BUILDING PERIMETER WHERE THIS CONDITION IS NOT MET.
2. RETAINING WALLS LOCATED CLOSER TO THE PROPERTY LINE THAN THE HEIGHT OF THE WALL SHALL BE BACKFILLED NOT LATER THAN 10 DAYS AFTER CONSTRUCTION OF THE WALL AND NECESSARY STRUCTURAL SUPPORTING MEMBERS UNLESS RECOMMENDED OTHERWISE BY RESPONSIBLE ENGINEER.
3. ADA HANDRAILS, PARKING SIGNS, AND PARKING STRIPING ARE PER ARCHITECTURAL PLANS AND ARE SHOWN HEREON FOR REFERENCE ONLY.
4. TOP OF WALL CALLOUTS REPRESENT TOP OF RETAINED SURFACE AND DO NOT INCLUDE WALL FREEBOARD AS SHOWN ON DETAILS. BOTTOM OF WALL CALLOUTS REPRESENT FACE OF WALL AT FINISHED SURFACE.
5. CLEARING AND GRUBBING OF THE SITE SHOULD CONSIST OF THE REMOVAL OF ASPHALT, CONCRETE SLAB, VEGETATION SUCH AS BRUSH, GRASS, WOOD, STUMPS, TREES, ROOTS OF TREES AND OTHERWISE DELETERIOUS NATURAL MATERIALS FROM THE AREAS TO BE GRADED. CLEARING AND GRUBBING SHOULD EXTEND TO THE OUTSIDE OF ALL PROPOSED EXCAVATION AND FILL AREAS.
6. ALL GRADING SLOPES SHALL BE PLANTED AND SPRINKLERED.
7. STANDARD 12" HIGH BERM IS REQUIRED AT TOP OF ALL GRADED SLOPES.
8. NO FILL TO BE PLACED, UNTIL THE CITY GRADING INSPECTOR HAS INSPECTED AND APPROVED THE BOTTOM EXCAVATION.
9. MAN-MADE FILL SHALL BE COMPACTED TO A MINIMUM RELATIVE COMPACTION OF 90% MAX. DRY DENSITY WITHIN 40' BELOW FINISH GRADE AND 93% OF MAX. DRY DENSITY DEEPER THAN 40' BELOW FINISH GRADE, UNLESS A LOWER RELATIVE COMPACTION (NOT LESS THAN 90% OF MAX. DRY DENSITY) IS JUSTIFIED BY THE SOILS ENGINEER.
10. TEMPORARY EROSION CONTROL TO BE INSTALLED BETWEEN OCTOBER 1 AND APRIL 15. OBTAIN GRADING INSPECTOR'S AND DEPARTMENT OF PUBLIC WORKS APPROVAL OF PROPOSED PROCEDURES.
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NEW	EXISTING	
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		BLOCK/RETAINING WALL
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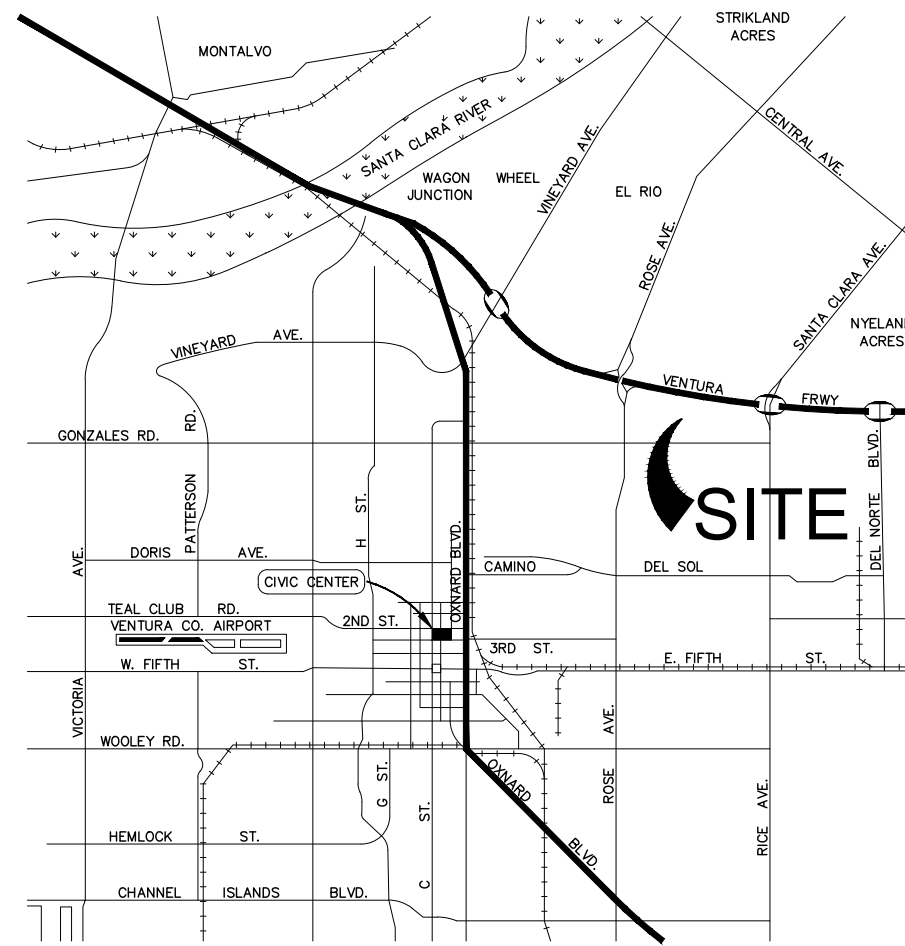
DATE _____



REVISIONS						Development Services Department	
MARK	DATE	DESCRIPTION	BY				
				GRADING PLAN			
REVIEWED BY: _____ _____ DATE _____				ACCEPTED BY: _____ CITY ENGINEER _____ R.C.E. _____ DATE _____			
				SHEET DRAWING NUMBER _____			
_____ DATE _____ _____ CHECKED BY: RC _____				SCALE: HORIZ. _____ 1"=10' VERT. _____ 1"=10'		SHEET No. <u>8</u> OF <u>9</u>	
				DRAWN BY: JOA		DRAWING NUMBER _____	

ENGINEERING SITE PLAN

APN: 213-0-090-275



UTILITY CONSTRUCTION KEYNOTES / LEGEND

- S — ① INSTALL 8" SEWER LATERAL, SEWER WITHIN BUILDING FOOTPRINT TO BE PER PLUMBING PLANS, SHOWN FOR REFERENCE HEREON. TRENCH AND BACKFILL PER CITY OXNARD STD. PLATE NO. 602.
- SD — ②① INSTALL PVC SDR-35 STORM DRAIN PIPE (12" UNLESS NOTED OTHERWISE), LENGTH AND SLOPE PER PLAN.
- ②② INSTALL CONTECH 60" CMP DETENTION SYSTEM OR APPROVED EQUAL.
- ②③ INSTALL BROOKS PRODUCTS CATCH BASIN (1212) OR APPROVED EQUAL.
- ②④ INSTALL BROOKS PRODUCTS CATCH BASIN (2424) OR APPROVED EQUAL.
- ②⑤ INSTALL CONTECH 60" CMP INFILTRATION SYSTEM OR APPROVED EQUAL.
- ②⑥ INSTALL CONTECH CDS UNIT 2025-5 OR APPROVED EQUAL, FOR INFILTRATION PRETREATMENT.
- ②⑦ INSTALL TRENCH DRAIN.
- W — ④① INSTALL 2" DOMESTIC WATER SERVICE AND METER PER CITY OF OXNARD STD. PLATE NO. 310.
- W — ④② INSTALL 1" IRRIGATION WATER SERVICE AND METER PER CITY OF OXNARD STD. PLATE NO. 305.
- FW — ④③ INSTALL 8" FIRE WATER LINE.
- ④④ INSTALL FIRE WATER DCV / FDC PER CITY OF OXNARD STD. PLATE NO. 311.

UTILITY NOTES

- BACKFILLING AND COMPACTION FOR ALL TRENCHES SHALL BE INSPECTED AND APPROVED BY THE GEOTECHNICAL ENGINEER.
- CONTRACTOR TO VERIFY ALL EXISTING INVERT ELEVATIONS FOR STORM DRAIN AND SANITARY SEWER CONSTRUCTION PRIOR TO ANY SITE WORK. ALL WORK FOR STORM DRAIN AND SANITARY SEWER INSTALLATION SHALL BEGIN AT THE DOWNSTREAM CONNECTION POINT. THIS WILL ALLOW FOR ANY NECESSARY ADJUSTMENTS TO BE MADE PRIOR TO THE INSTALLATION OF THE ENTIRE LINE. IF THE CONTRACTOR FAILS TO BEGIN AT THE DOWNSTREAM CONNECTION POINT AND WORKS UPSTREAM, HE SHALL PROCEED AT HIS OWN RISK AND BE RESPONSIBLE FOR ANY ADJUSTMENTS NECESSARY.
- ALL WORK ON-SITE AND IN THE PUBLIC RIGHT OF WAY, SHALL CONFORM TO CITY STANDARDS AND REQUIREMENTS. NOTE THE REQUIREMENT OF ADDITIONAL PERMITS TO BE OBTAINED BY THE CITY PRIOR TO ANY WORK BEING DONE IN THE RIGHT-OF-WAY.
- GENERAL CONTRACTOR SHALL COORDINATE ALL UNDERGROUND UTILITIES. PROVIDE 6" MINIMUM BETWEEN PIPES CROSSING ELECTRICAL LINES HORIZONTALLY AND 12" MINIMUM BETWEEN PARALLEL PIPES CROSSING ELECTRICAL LINES.
- FOR UTILITY MATERIALS AND TYPES, SEE CITY STANDARDS AND / OR THE PROJECT SPECIFICATIONS.
- WATER LINES SHALL BE 12" MINIMUM ABOVE SANITARY SEWER LINE AT ALL CROSSINGS.
- MINIMUM COVER FOR WATER LINES IS 3.0 FEET.
- WATER LINES SHOWN HEREON FOR REFERENCE. SEE PLUMBING PLANS FOR CONSTRUCTION DETAILS.
- ALL EXISTING SEWER AND WATER LATERAL SUBBED TO THE SITE THAT WILL NOT BE USED SHALL BE ABANDONED.

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BLOCK/RETAINING WALL	BLOCK/RETAINING WALL	
BUILDING LINE	BUILDING LINE	
CONCRETE CURB	CONCRETE CURB	
CONCRETE CURB & GUTTER	CONCRETE CURB & GUTTER	
CONTOUR LINE	CONTOUR LINE	
DRIVEWAY	DRIVEWAY	
EDGE OF PAVEMENT	EDGE OF PAVEMENT	
FENCE LINE	FENCE LINE	
GRADE BREAK	GRADE BREAK	
LOT LINE	LOT LINE	
RIDGE LINE	RIDGE LINE	
SANITARY SEWER	SANITARY SEWER	
SIDEWALK	SIDEWALK	
STORM DRAIN & CATCH BASIN	STORM DRAIN & CATCH BASIN	
TRACT BOUNDARY	TRACT BOUNDARY	
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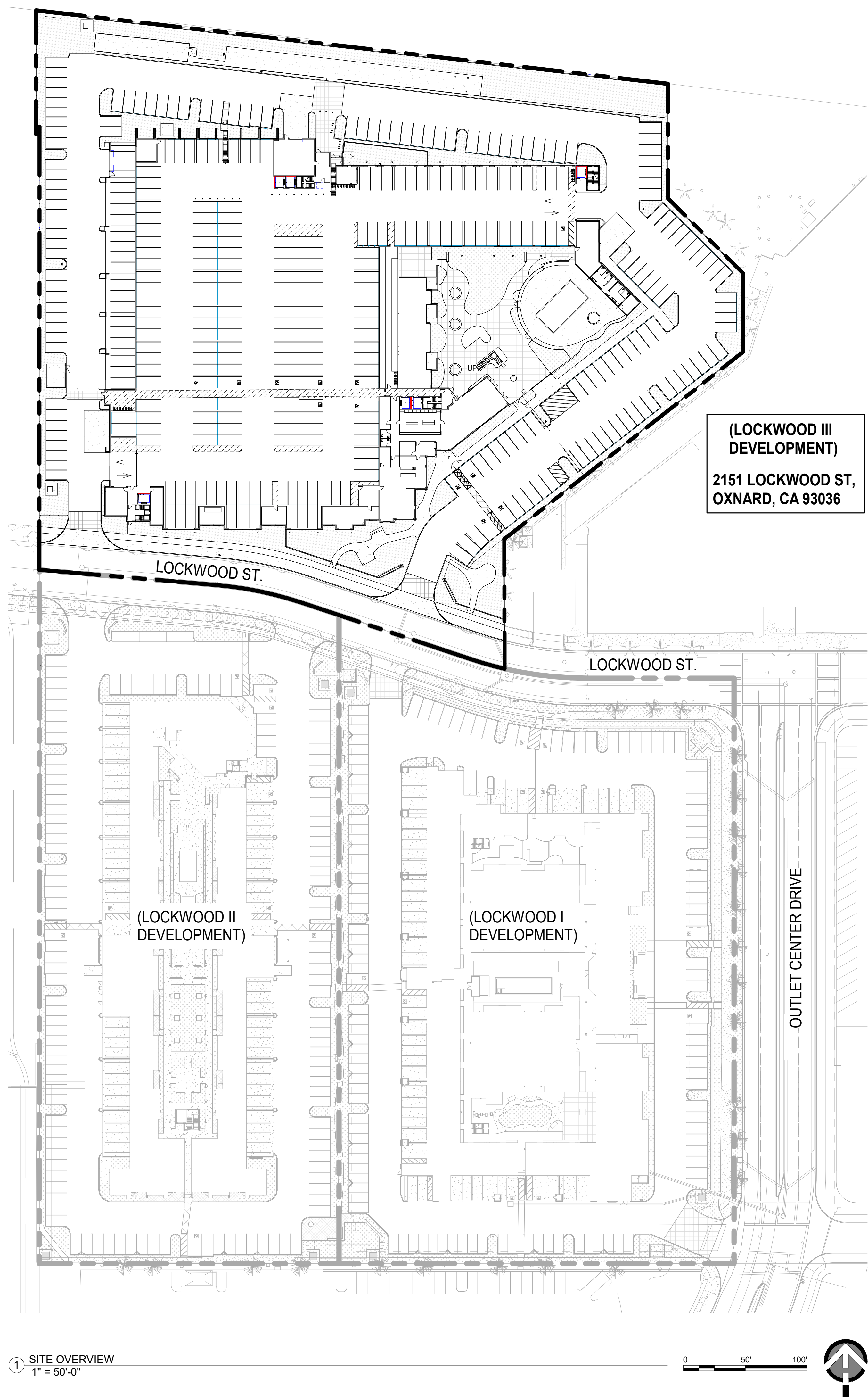
JARED Q. ADAMS, P.E.
R.C.E. No. 86086
DATE



REVISIONS

MARK	DATE	DESCRIPTION	BY

OXNARD		Development Services Department	
UTILITY PLAN			
ACCEPTED BY:	CITY ENGINEER	R.C.E.	DATE
SHEET DRAWING NUMBER			
REVIEWED BY:	DATE	SCALE: HORIZ. 1"=30'	SHEET No. 9 OF 9
DATE	DATE	VERT. 1"=30'	DRAWN BY: JQA
DATE	DATE	CHECKED BY: RC	DRAWING NUMBER



SITE OVERVIEW



1



2



3



4



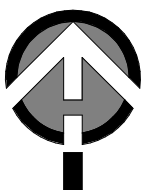
5



6



APN:
213-0-090-105 (PORTION OF)
GROSS LOT SIZE:
5.17 ACRES, 225,348 S.F.



LAUTERBACH & ASSOCIATES
ARCHITECTS
389 MONTGOMERY AVENUE, OXNARD, CALIFORNIA 93051 | 805-888-8912 | FAX 805-881-14510 | www.la-arch.com



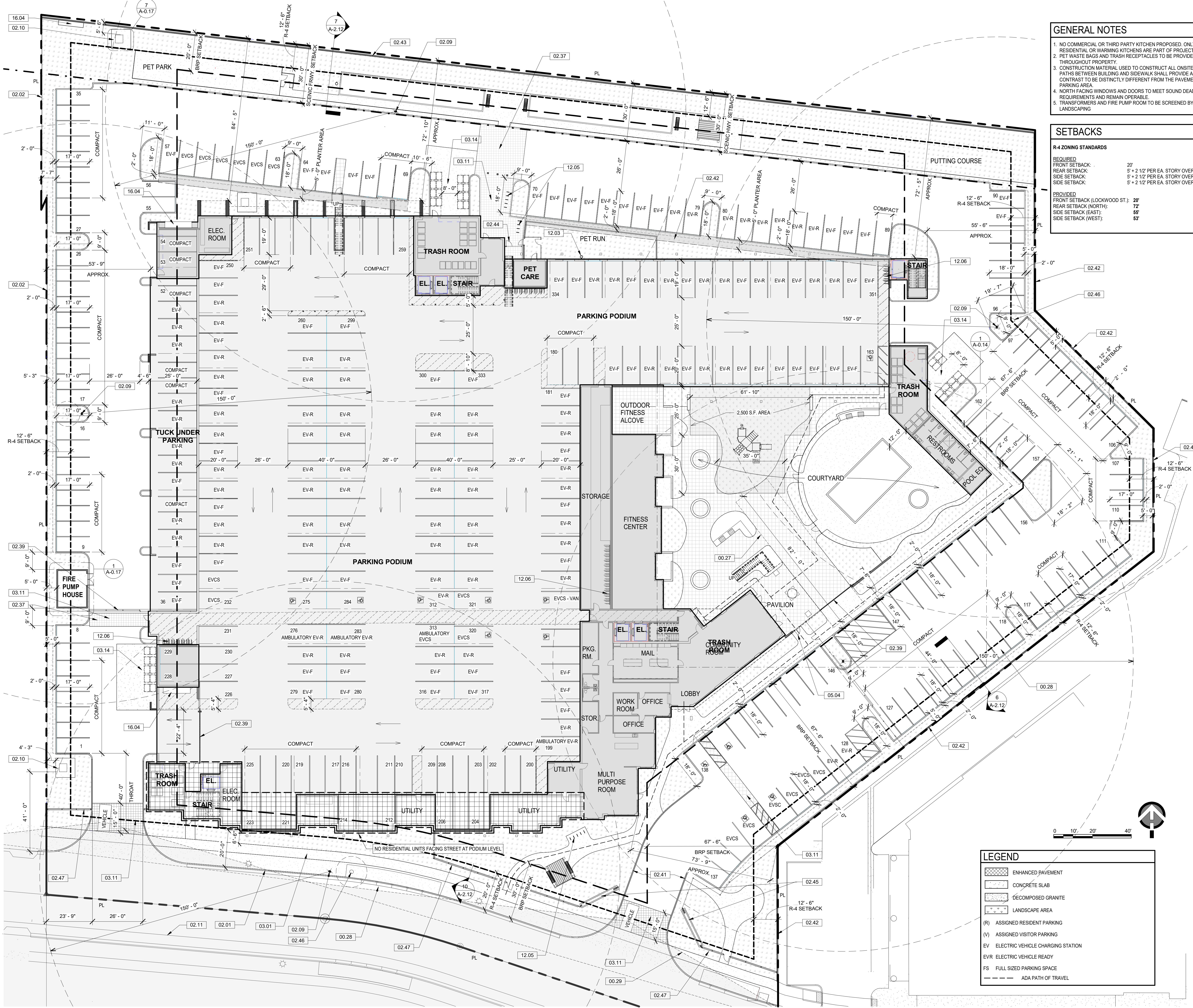
LOCKWOOD III APARTMENTS
SVM LOCKWOOD, LLC
3855 E. THOUSAND OAKS BLVD. #254, THOUSAND OAKS, CA 91322

SITE PHOTOS

LOCKWOOD III APARTMENTS
2151 LOCKWOOD STREET, OXNARD,
CALIFORNIA, 93036

A-0.2

Print: 10/17/2023 2:08:39 PM
Date: 20-211003
No.:



- GENERAL NOTES**
 - NO COMMERCIAL OR THIRD PARTY KITCHEN PROPOSED. ONLY RESIDENTIAL OR WARMING KITCHENS ARE PART OF PROJECT.
 - PET WASTE BAGS AND TRASH RECEPTACLES TO BE PROVIDED THROUGHOUT PROPERTY.
 - CONSTRUCTION MATERIAL USED TO CONSTRUCT ALL ONSITE ADA PATHS BETWEEN BUILDING AND SIDEWALK SHALL PROVIDE A CONTRAST TO BE DISTINCTLY DIFFERENT FROM THE PAVEMENT/ PARKING AREA.
 - NORTH FACING WINDOWS AND DOORS TO MEET SOUND DEADENING REQUIREMENTS AND REMAIN OPERABLE.
 - TRANSFORMERS AND FIRE PUMP ROOM TO BE SCREENED BY LANDSCAPING.
- SETBACKS**

R-4 ZONING STANDARDS

REQUIRED	
FRONT SETBACK:	20'
REAR SETBACK:	5' + 2 1/2' PER EA. STORY OVER TWO = 12.5'
SIDE SETBACK:	5' + 2 1/2' PER EA. STORY OVER TWO = 12.5'
SIDE SETBACK (WEST):	5'

PROVIDED

FRONT SETBACK (LOCKWOOD ST.):	20'
REAR SETBACK (NORTH):	12'
SIDE SETBACK (EAST):	5'
SIDE SETBACK (WEST):	5'

- KEYNOTES**

00.27	AREA FOR FIRE APPARATUS ACCESS VEHICLE, KEEP AREA CLEAR. PAVEMENT SHALL BE SUITABLE FOR USE BY A 20 TON FIRE DEPARTMENT VEHICLE.
00.28	REQUIRED SETBACK LINE
00.29	EXITING VEHICLE LINE OF SIGHT
02.01	CURB AND GUTTER, AT EDGE OF STREET RIGHT OF WAY
02.02	SITE FENCING METAL THROUGH R-4 SETBACK, 6' HT.
02.03	FIRE HYDRANT WITH 150' RADIUS
02.10	TRANSFORMER LOCATION
02.11	5' MIN. CLASS II BIKE LANE ALONG LOCKWOOD ST. STRIPE AND SIGN FROM ROSE AVE. TO SOLAR DR.
02.37	TRAFFIC CALMING CROSSWALK
02.39	VEHICULAR GATE WITH KNOX KEY SWITCH AND CLICK-2-ENTER, TYPICAL
02.41	RED PAINTED CURB, NO PARKING
02.42	SITE WALL, CMU, 8' HT.
02.43	SITE WALL, CMU, 8' HT.
02.44	FIRE DEPARTMENT EMERGENCY ACCESS AND EGRESS TO ACCOMMODATE 20 FT. LADDER
02.45	PROPOSED MONUMENT SIGN UNDER SEPARATE PERMIT APPROVAL. SIGN REQUIRES SEPARATE APPROVAL OF A SIGN PERMIT. PERMIT TO ARTICLE IX. SEE DETAIL 2 ON A-2.13
02.46	PROPOSED TREE
02.47	SECURITY WALL. SEE DETAILS 9, 10 ON A-2.12
03.01	CONCRETE SIDEWALK. SEE CIVIL GRADING PLANS
03.11	ENHANCED PAVING. SCORED CONCRETE.
03.14	REINFORCED CONCRETE APRON AND TRASH STAGING AREA. 2% MAX SLOPE IN ANY DIRECTION.
05.04	PEDESTRIAN GATE, 3'-0" x 6'-0", STYLE TO MATCH SITE FENCING
12.03	PET WASTE BAG STATION
12.05	BICYCLE RACK (SHORT TERM)
12.06	WALL MOUNTED BICYCLE RACK (LONG TERM)
16.04	ELECTRICAL METER. SEE ELECTRICAL PLANS
- LOT SIZE:** 5.17 AC 100%
225,348 S.F.

SITE ANALYSIS

AREA TYPE	AREA	%
CONDITIONED BUILDING	19727 SF	9%
LANDSCAPE	57033 SF	25%
NON CONDITIONED BUILDING	75250 SF	33%
PAVEMENT	58738 SF	27%
SIDEWALK DEDICATION	5063 SF	2%
STREET DEDICATION	8548 SF	4%
Grand total	225348 SF	100%

1ST FL. BLDG. AREAS

BUILDING AREAS	AREA
COMMUNITY SPACE	10870 SF
CORRIDOR AND VERTICAL CIRCULATION	2669 SF
COVERED BALCONIES/ PATIOS/ PARKING WALKWAYS	75250 SF
UTILITY	6189 SF
Grand total	94976 SF

- PARKING ANALYSIS** TOTAL UNITS: 234
- STATE CODE (FOR REFERENCE PURPOSES ONLY)**
- | PARKING | UNITS | PER CODE | REQUIRED |
|---------|-------|---------------------|----------|
| STUDIO | 16 | 1 PARKING SPACE = | 16 |
| 1 BD. | 86 | 1 PARKING SPACE = | 86 |
| 2 BD. | 108 | 1.5 PARKING SPACE = | 162 |
| 3 BD. | 24 | 1.5 PARKING SPACE = | 36 |
| | 234 | | 300 |
- MINIMUM REQUIRED:**
25% OF 300 = 75 COMPACT SPACES
225 FULL SIZE SPACES
- PROPOSED:**
351 TOTAL
101 COMPACT SPACES
250 FULL SIZE SPACES
- ACCESSIBLE PARKING REQUIREMENTS PER CBC 11B-208.2**
151-200 PARKING SPACES: (5) STANDARD ACCESSIBLE (1) VAN ACCESSIBLE (BASED ON 175 NON EV STALLS)
PROVIDED: (5) STANDARD ACCESSIBLE (1) VAN ACCESSIBLE
- ELEC. VEH. CHARGING STATIONS REQ. PER CGS TABLE 4.106.4.2**
STALLS PROVIDED: 351
REQUIRED EV CAPABLE (EV-F): 351 x 10% = 36 STALLS PROVIDED: 60 STALLS
REQUIRED EV READY (EV-R): 351 x 25% = 88 STALLS PROVIDED: 88 STALLS
REQUIRED EV CHARGERS (EV-CS): 351 x 5% = 18 STALLS PROVIDED: 18 STALLS
- TOTAL EV PROVIDED:** 175 STALLS
- ACCESSIBLE EVCS PER CBC TABLE 11B-228.3.2.1**
(101 AND OVER) EVCS REQUIRES TWO (2) VAN AND FOUR (4) STANDARD ACCESSIBLE EVCS AND FOUR (4) AMBULATORY
(BASED ON TOTAL 175 EV CHARGING STALLS)
PROVIDED: (2) VAN ACCESSIBLE, (4) STANDARD ACCESSIBLE, (4) AMBULATORY
- BICYCLE STORAGE REQUIREMENTS PER CITY OF OXNARD MASTER PLAN**
REQ. SHORT TERM: 0.05 BDRM: 0.05 x 390= 20 BIKE SPACES
REQ. LONG TERM: 0.15 BDRM: 0.15 x 390= 59 BIKE SPACES
PROVIDED: 28 SHORT TERM, 60 LONG TERM
- NOTE: RESIDENT PARKING TO BE ASSIGNED
* ADMINISTRATIVE PARKING RELIEF REQUESTED

PARKING SCHEDULE

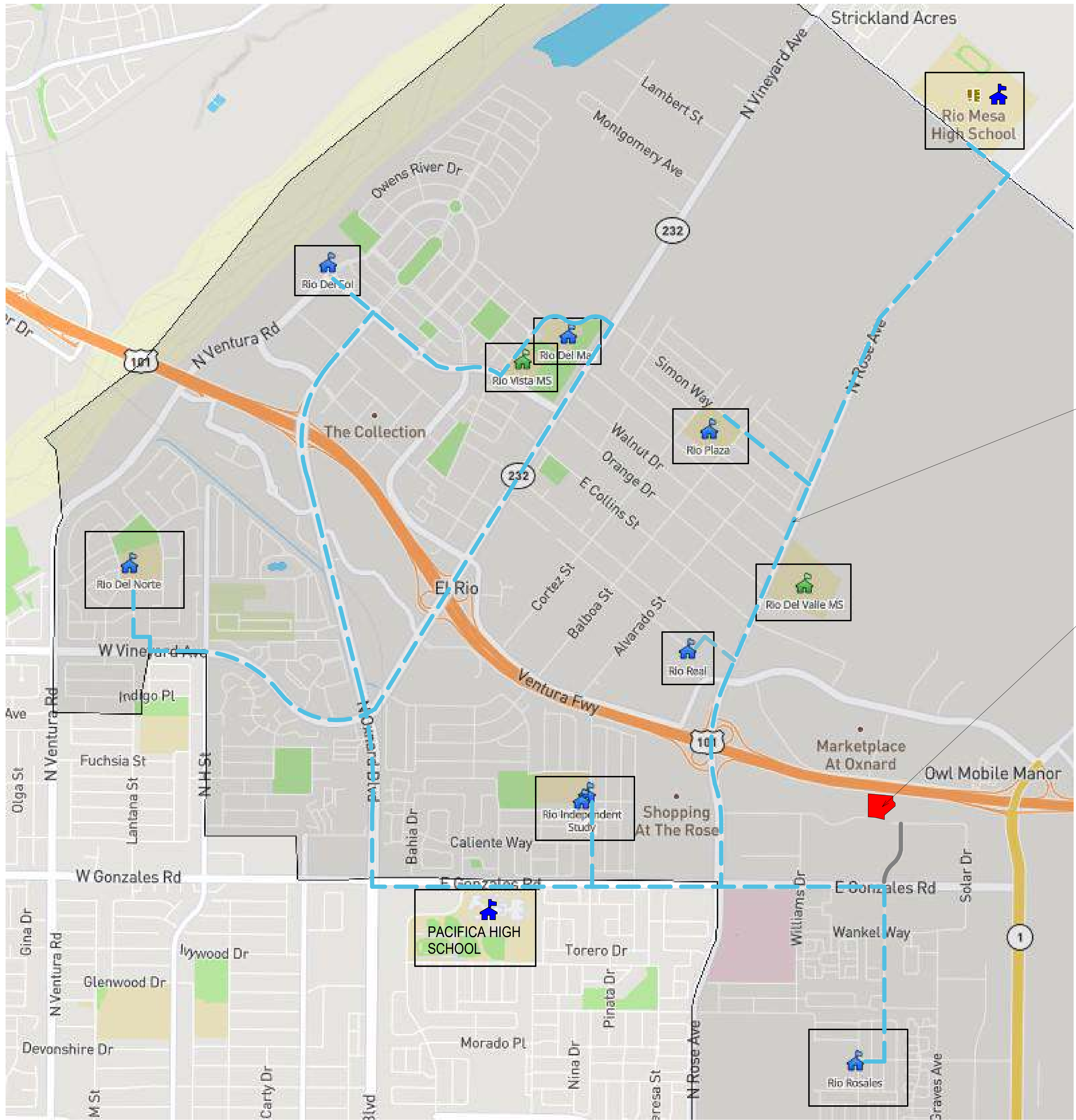
PARKING TYPE	PARKING SIZE	COUNT
Podium Parking		
ACCESSIBLE	9'x19' MIN.	4
COMPACT	8'x19' MIN.	30
EV-F	9'x19' MIN.	46
EV-R	9'x19' MIN.	67
EV-R AMBULATORY	10'x19' MIN.	3
EVCS	9'x19' MIN.	2
EVCS ACCESSIBLE	9'x19' MIN.	3
EVCS AMBULATORY	10'x19' MIN.	1
STANDARD	9'x19' MIN.	33
Tuck Under Parking		
COMPACT	8'x19' MIN.	6
EV-F	9'x19' MIN.	5
EV-R	9'x19' MIN.	8
Uncovered Parking		
ACCESSIBLE	9'x19' MIN.	2
COMPACT	8'x19' MIN.	65
EV-F	9'x19' MIN.	18
EV-R	9'x19' MIN.	10
EVCS	9'x19' MIN.	9
EVCS ACCESSIBLE	9'x19' MIN.	3
STANDARD	9'x19' MIN.	36
TOTAL:		351

- ALL STALLS MEET 19' DEPTH REQUIREMENT WHEN INCLUDING 2' OVERHANG
- ALL STALLS NOT LABELED AS COMPACT MEET OR EXCEED THE REQUIREMENTS FOR STANDARD STALL. PER SUITE SEC. 16-638

- LEGEND**
- ENHANCED PAVEMENT
 - CONCRETE SLAB
 - DECOMPOSED GRANITE
 - LANDSCAPE AREA
 - (R) ASSIGNED RESIDENT PARKING
 - (V) ASSIGNED VISITOR PARKING
 - EV ELECTRIC VEHICLE CHARGING STATION
 - EV-R ELECTRIC VEHICLE READY
 - FS FULL SIZED PARKING SPACE
 - ADA PATH OF TRAVEL

1 SITE PLAN
1" = 20'-0"

SITE PLAN



SAFE ROUTES TO SCHOOLS EXHIBIT
12" = 1'-0"

SAFE ROUTES TO SCHOOLS

PROJECT LOCATION



INTERIOR YARD SPACE CALCULATION

SITE / 1ST FLOOR	NO.	OPEN AREA (S.F.)
1.1 PARK AREA		1,046
1.2 PARK AREA		768
1.3 INTERIOR COURTYARD		14,248
1.4 PLANTER AREA		350
1.5 DOG RUN		1,247
1.6 PLANTER AREA		864
1.7 SCENIC ROAD OPEN AREA		15,781
TOTAL:		34,304

2ND FLOOR	NO.	OPEN AREA (S.F.)
		00
TOTAL:		00

3RD FLOOR	NO.	OPEN AREA (S.F.)
		00
TOTAL:		00

4TH FLOOR	NO.	OPEN AREA (S.F.)
		00
TOTAL:		00

5TH FLOOR	NO.	OPEN AREA (S.F.)
		00
TOTAL:		00

OVERALL TOTAL		34,304
AREA (S.F.)		% OF LOT
LOT SIZE	225,348	100 %
REQUIRED	67,604	30 %
PROVIDED	34,304	15.2%

GENERAL NOTES

1. EACH LOT SHALL PROVIDE FOR INTERIOR YARD SPACE IN AN AREA EQUAL TO AT LEAST 30 PERCENT OF THE LOT AREA.
2. THIS INTERIOR YARD SPACE SHALL BE COMPLETELY OPEN FROM GROUND TO SKY EXCEPT FOR A PATIO OR PERGOLA OR THE PROJECTIONS OF THOSE ITEMS REFERRED TO IN SECTIONS 16-304 THROUGH 16-307. THE INTERIOR YARD SPACE AREA SHALL HAVE A MINIMUM DIMENSION OF 15 BY 15 FEET.
3. THE INTERIOR YARD SPACE SHALL BE COMPLETELY SEPARATE FROM ANY ARE REQUIRED FOR AUTOMOBILE CIRCULATION.

LEGEND

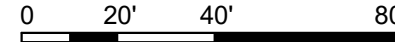
- INTERIOR YARD SPACE AREA TOTAL: 34,304 S.F.
- AMENITY AREAS BUILDING TOTAL: 32,963 S.F.



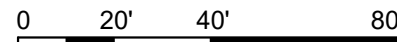
② 4TH FLOOR PLAN
1" = 40'-0"



① 3RD FLOOR PLAN
1" = 40'-0"



③ 5TH FLOOR PLAN
1" = 40'-0"



INTERIOR YARD SPACE CALCULATION

SITE / 1ST FLOOR	NO.	OPEN AREA (S.F.)
1.1 PARK AREA		1,046
1.2 PARK AREA		768
1.3 INTERIOR COURTYARD		14,248
1.4 PLANTER AREA		350
1.5 DOG RUN		1,247
1.6 PLANTER AREA		864
1.7 SCENIC ROAD OPEN AREA		15,781
TOTAL:		34,304

2ND FLOOR	NO.	OPEN AREA (S.F.)
		00
TOTAL:		00

3RD FLOOR	NO.	OPEN AREA (S.F.)
		00
TOTAL:		00

4TH FLOOR	NO.	OPEN AREA (S.F.)
		00
TOTAL:		00

5TH FLOOR	NO.	OPEN AREA (S.F.)
		00
TOTAL:		00

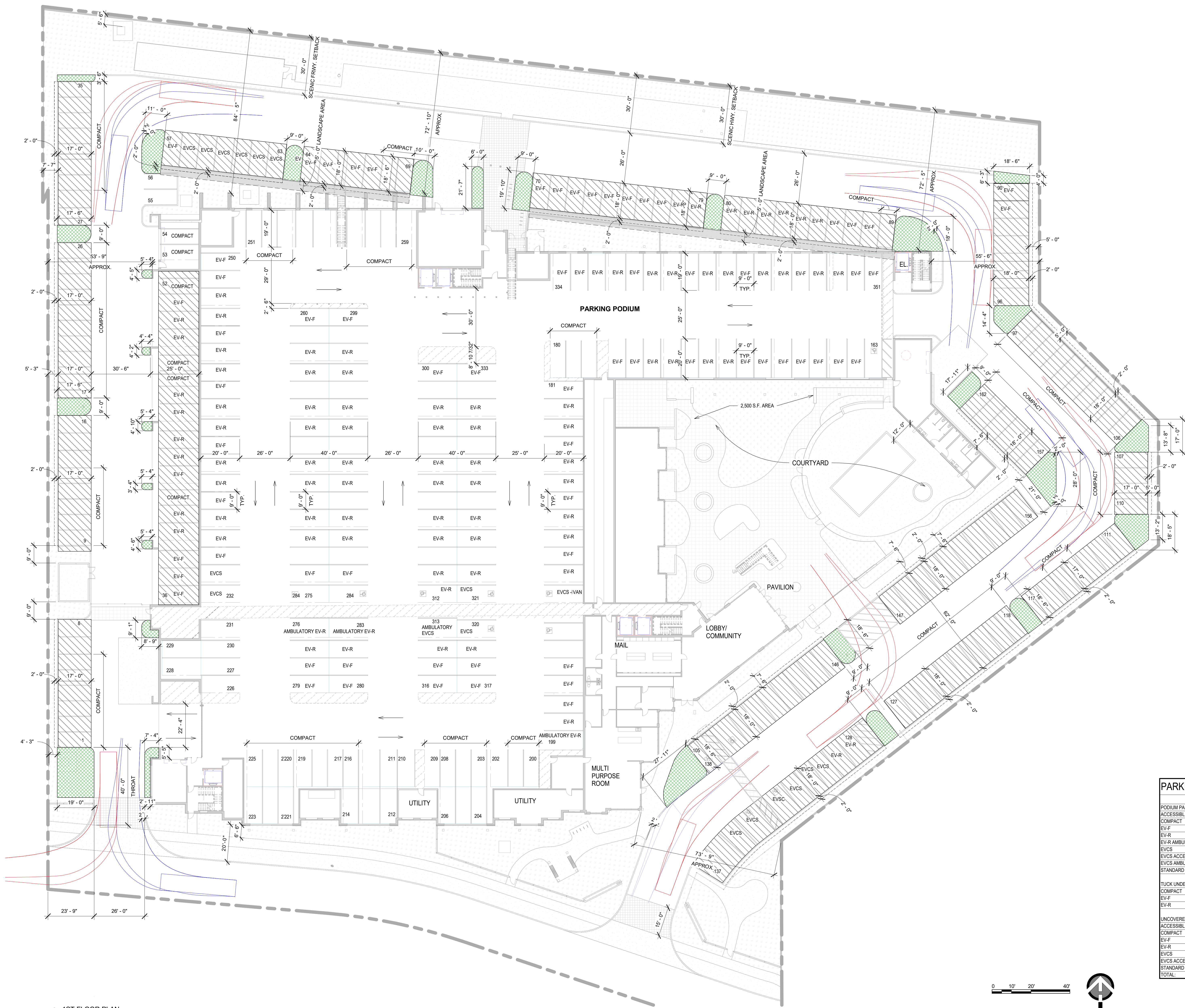
OVERALL TOTAL		34,304
	AREA (S.F.)	% OF LOT
LOT SIZE	225,348	100 %
REQUIRED	67,604	30 %
PROVIDED	34,304	15.2%

GENERAL NOTES

1. EACH LOT SHALL PROVIDE FOR INTERIOR YARD SPACE IN AN AREA EQUAL TO AT LEAST 30 PERCENT OF THE LOT AREA.
2. THIS INTERIOR YARD SPACE SHALL BE COMPLETELY OPEN FROM GROUND TO SKY EXCEPT FOR A PATIO OR PERGOLA OR THE PROJECTIONS OF THOSE ITEMS REFERRED TO IN SECTIONS 16-304 THROUGH 16-307. THE INTERIOR YARD SPACE AREA SHALL HAVE A MINIMUM DIMENSION OF 15 BY 15 FEET.
3. THE INTERIOR YARD SPACE SHALL BE COMPLETELY SEPERATE FROM ANY ARE REQUIRED FOR AUTOMOBILE CIRCULATION.

LEGEND

	INTERIOR YARD SPACE AREA TOTAL: 34,304 S.F.
	AMENITY AREAS BUILDING TOTAL: 32,963 S.F.



LEGEND	
	LANDSCAPE AREA: 4,403 S.F.
	PARKING AREA: 25,766 S.F.
REQUIRED PARKING LANDSCAPE: 5% OF PARKING AREA	
PROVIDED: 4,403 / 25,766 = 17%	

PARKING SCHEDULE		
PARKING TYPE	PARKING SIZE	COUNT
PODIUM PARKING		
ACCESSIBLE	9'x19' MIN.	4
COMPACT	8'x19' MIN.	30
EV-F	9'x19' MIN.	46
EV-R	9'x19' MIN.	67
EV-R AMBULATORY	10'x19' MIN.	3
EVCS	9'x19' MIN.	2
EVCS ACCESSIBLE	9'x19' MIN.	3
EVCS AMBULATORY	10'x19' MIN.	1
STANDARD	9'x19' MIN.	33
TUCK UNDER PARKING		
COMPACT	8'x19' MIN.	6
EV-F	9'x19' MIN.	5
EV-R	9'x19' MIN.	8
UNCOVERED PARKING		
ACCESSIBLE	9'x19' MIN.	2
COMPACT	8'x19' MIN.	65
EV-F	9'x19' MIN.	16
EV-R	9'x19' MIN.	10
EVCS	9'x19' MIN.	9
EVCS ACCESSIBLE	9'x19' MIN.	3
STANDARD	9'x19' MIN.	36
TOTAL		351

1 1ST FLOOR PLAN
1" = 20'-0"

PARKING & LANDSCAPE AREAS

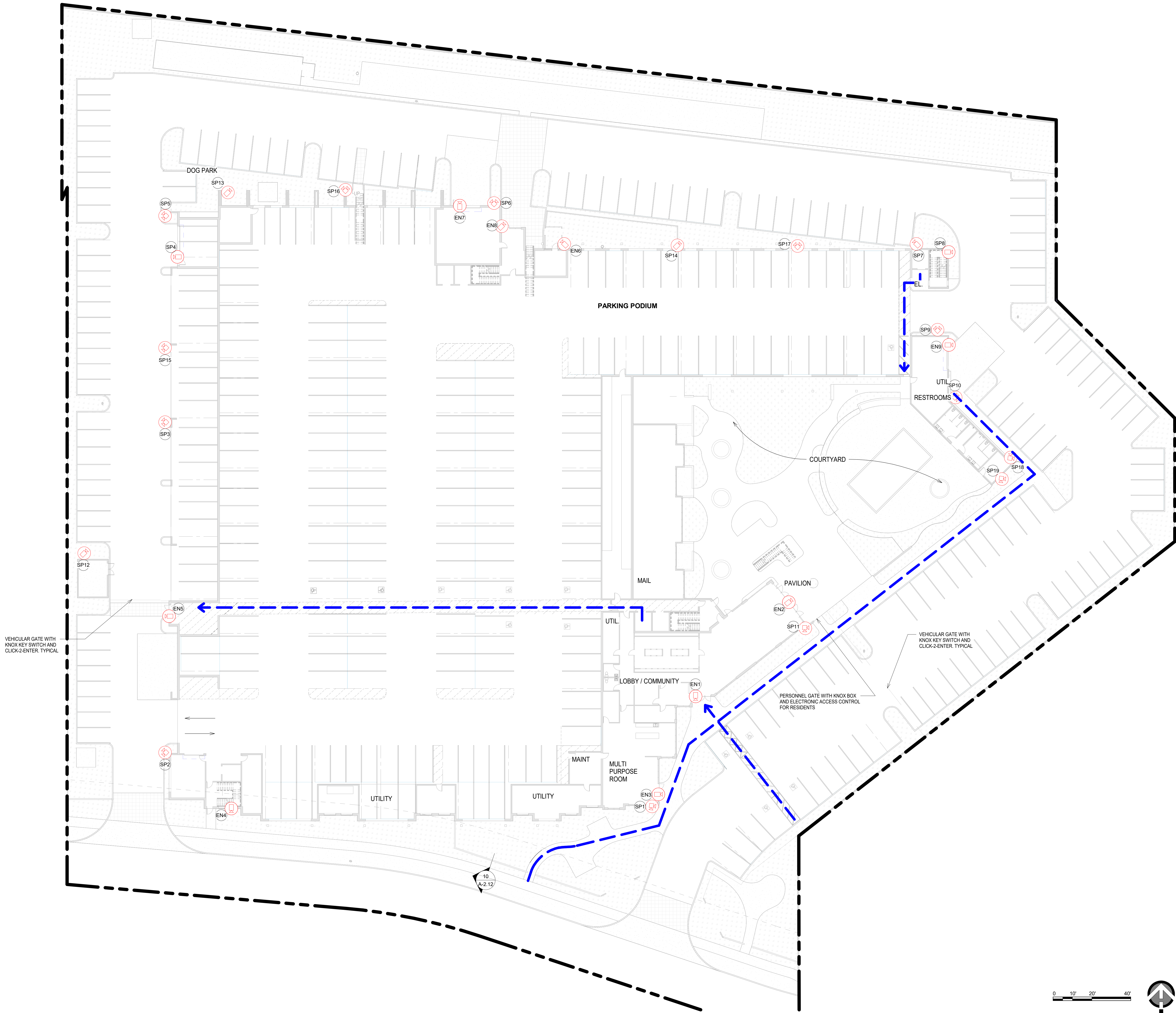
LOCKWOOD III APARTMENTS
2151 LOCKWOOD STREET, OXNARD,
CALIFORNIA, 93036

LOCKWOOD III APARTMENTS
SVM LOCKWOOD, LLC
3855 E. THOUSAND OAKS BLVD. #250, THOUSAND OAKS, CA 91320

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SECURITY PLAN - SITE		
MARK	PURPOSE	COMMENTS
COMMUNITY ROOM		
EN3	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
DOG PARK		
EN6	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
LOBBY		
EN1	FACE CAPTURE	LOBBY ENTRANCE
EN2	FACE CAPTURE	LOBBY ENTRANCE
PODIUM PARKING		
EN5	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
SITE PERIMETER		
SP1	GENERAL SURVEILLANCE	MOUNTED 6-FT ABOVE GRADE
SP2	GENERAL SURVEILLANCE	MOUNTED 6-FT ABOVE GRADE
SP3	GENERAL SURVEILLANCE	BUILDING WEST
SP4	GENERAL SURVEILLANCE	BUILDING WEST
SP5	GENERAL SURVEILLANCE	BUILDING NORTH
SP6	GENERAL SURVEILLANCE	BUILDING NORTH
SP7	GENERAL SURVEILLANCE	BUILDING NORTH
SP8	GENERAL SURVEILLANCE	BUILDING EAST
SP9	GENERAL SURVEILLANCE	BUILDING EAST
SP10	GENERAL SURVEILLANCE	BUILDING EAST
SP11	GENERAL SURVEILLANCE	BUILDING EAST
SP12	GENERAL SURVEILLANCE	BUILDING WEST
SP13	GENERAL SURVEILLANCE	BUILDING NORTH
SP14	GENERAL SURVEILLANCE	BUILDING NORTH
SP15	GENERAL SURVEILLANCE	BUILDING WEST
SP16	GENERAL SURVEILLANCE	BUILDING NORTH
SP17	GENERAL SURVEILLANCE	BUILDING NORTH
SP18	GENERAL SURVEILLANCE	BUILDING EAST
SP19	GENERAL SURVEILLANCE	BUILDING EAST
STAIRS		
EN4	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
EN8	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
TRASH ROOM		
EN7	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
EN9	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR

GENERAL NOTES

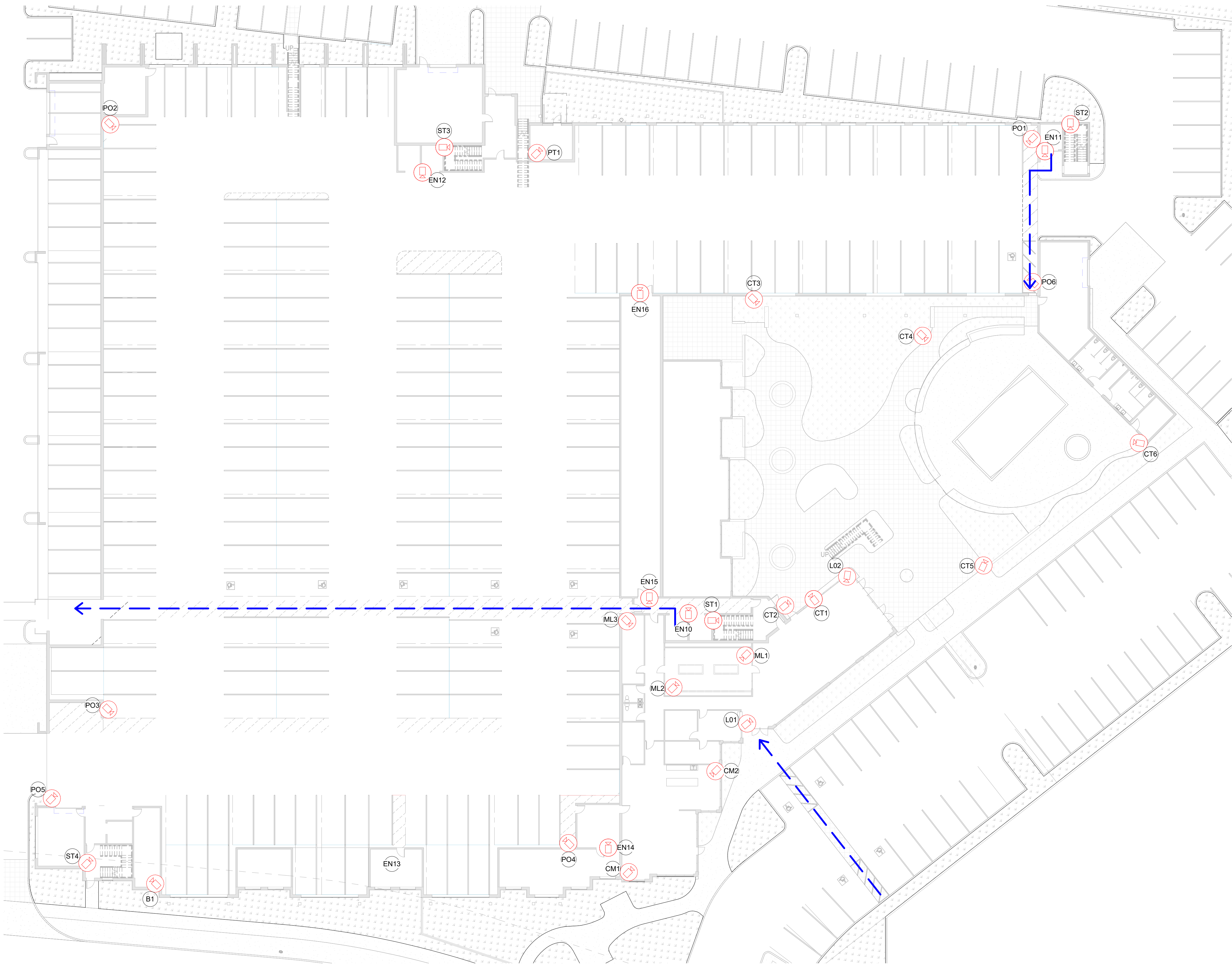
1. PROVIDE KNOX BOX KEY AT ENTRY DOORS.
2. PROJECT WILL CONFORM TO OXNARD FIRE DEPARTMENT "LIFE SAFETY PLANNING GUIDE".
3. CAMERAS IN STAIRWELLS SHOULD BE PLACED 7FT ABOVE THE LANDING.

LEGEND	
	CAMERA LOCATION
	CAMERA NAME (REFER TO SECURITY CAMERA SCHEDULE)
	ACCESSIBLE PATH OF TRAVEL
	EMERGENCY EGRESS PATH OF TRAVEL

1 SECURITY PLAN - SITE & DRIVEWAYS
1" = 20'-0"

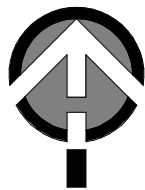
SECURITY PLAN - SITE & DRIVEWAYS





1 SECURITY PLAN - 1ST FLOOR
1" = 20'-0"

0 10' 20' 40'



SECURITY PLAN - 1ST FL.		
MARK	PURPOSE	COMMENTS
BIKE STORAGE		
B1	GENERAL VIEW	CEILING MOUNTED
COMMUNITY ROOM		
CM1	GENERAL VIEW	CEILING MOUNTED 12' ABOVE FLOOR
CM2	GENERAL VIEW	CEILING MOUNTED 12' ABOVE FLOOR
COURTYARD		
CT1	GENERAL VIEW	BUILDING EAST
CT2	GENERAL VIEW	BUILDING EAST
CT3	GENERAL VIEW	BUILDING EAST
CT4	GENERAL VIEW	BUILDING EAST
CT5	GENERAL VIEW	BUILDING EAST
CT6	GENERAL VIEW	BUILDING EAST
ELEVATOR		
EN10	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
EN11	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
EN12	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
LOBBY		
L01	GENERAL VIEW	CEILING MOUNTED 12' ABOVE FLOOR
L02	GENERAL VIEW	CEILING MOUNTED 12' ABOVE FLOOR
MAIL ROOM		
ML1	GENERAL VIEW	CEILING MOUNTED 12' ABOVE FLOOR
ML2	GENERAL VIEW	CEILING MOUNTED 12' ABOVE FLOOR
ML3	GENERAL VIEW	CEILING MOUNTED 12' ABOVE FLOOR
PET GROOMING		
PT1	GENERAL VIEW	CEILING MOUNTED
PODIUM PARKING		
PO1	GENERAL VIEW	CEILING MOUNTED
PO2	GENERAL SURVEILLANCE	CEILING MOUNTED
PO3	GENERAL SURVEILLANCE	CEILING MOUNTED
PO4	GENERAL SURVEILLANCE	CEILING MOUNTED
PO5	GENERAL SURVEILLANCE	CEILING MOUNTED
PO6	GENERAL SURVEILLANCE	CEILING MOUNTED
STAIRS		
ST1	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING
ST2	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING
ST3	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING
ST4	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING
STORAGE		
EN15	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
EN16	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
UTILITY ROOM		
EN13	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
EN14	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR

GENERAL NOTES	
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2. PROJECT WILL CONFORM TO OXNARD FIRE DEPARTMENT "LIFE SAFETY PLANNING GUIDE".	
3. CAMERAS IN STAIRWELLS SHOULD BE PLACED 7FT ABOVE THE LANDING.	

LEGEND	
	CAMERA LOCATION
	CAMERA NAME (REFER TO SECURITY CAMERA SCHEDULE)
	ACCESSIBLE PATH OF TRAVEL
	EMERGENCY EGRESS PATH OF TRAVEL

SECURITY PLAN - 1ST FLOOR

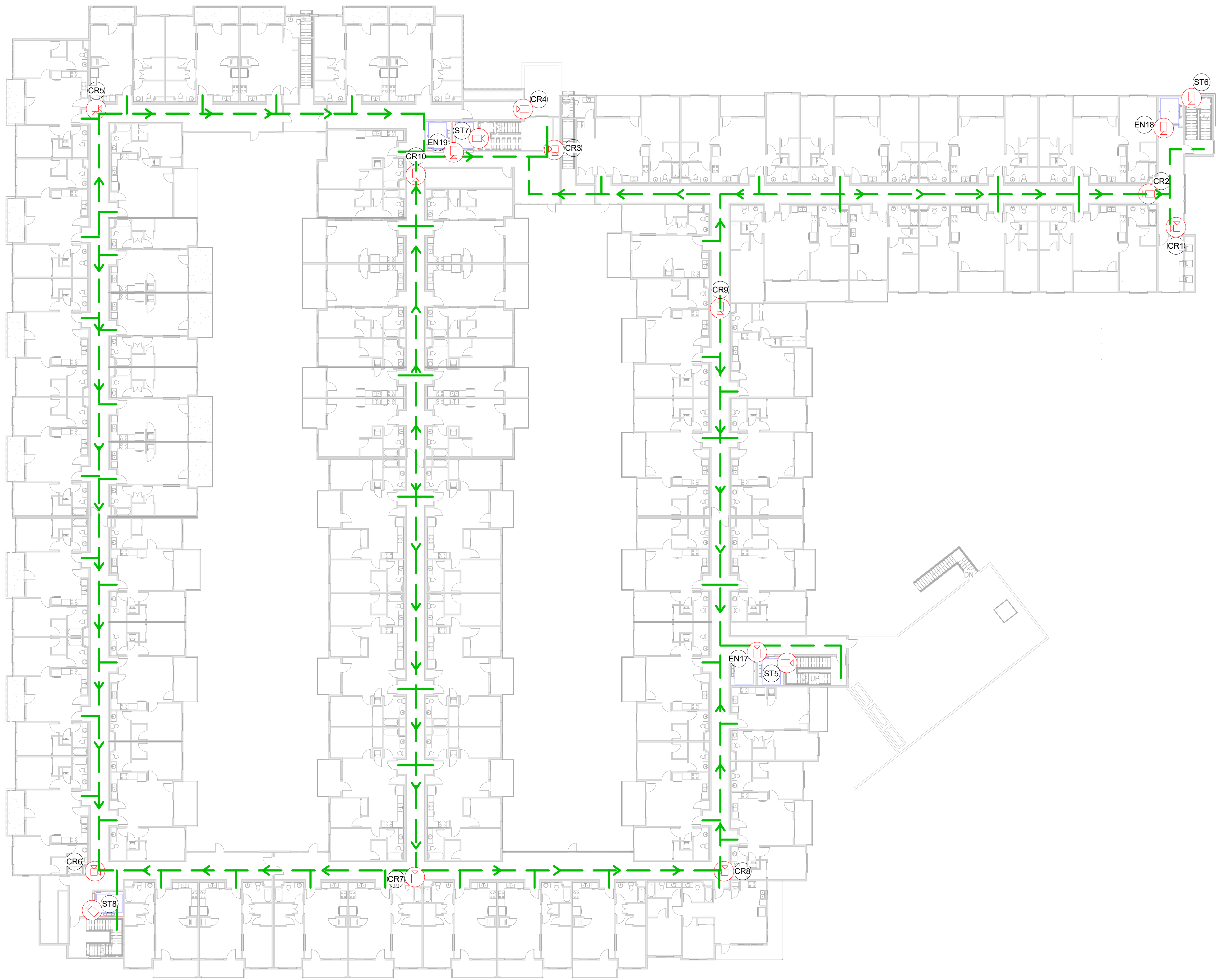
LOCKWOOD III APARTMENTS
2151 LOCKWOOD STREET, OXNARD,
CALIFORNIA, 93036

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SVM LOCKWOOD, LLC
3855 E. THOUSAND OAKS BLVD. #250, THOUSAND OAKS, CA 91320

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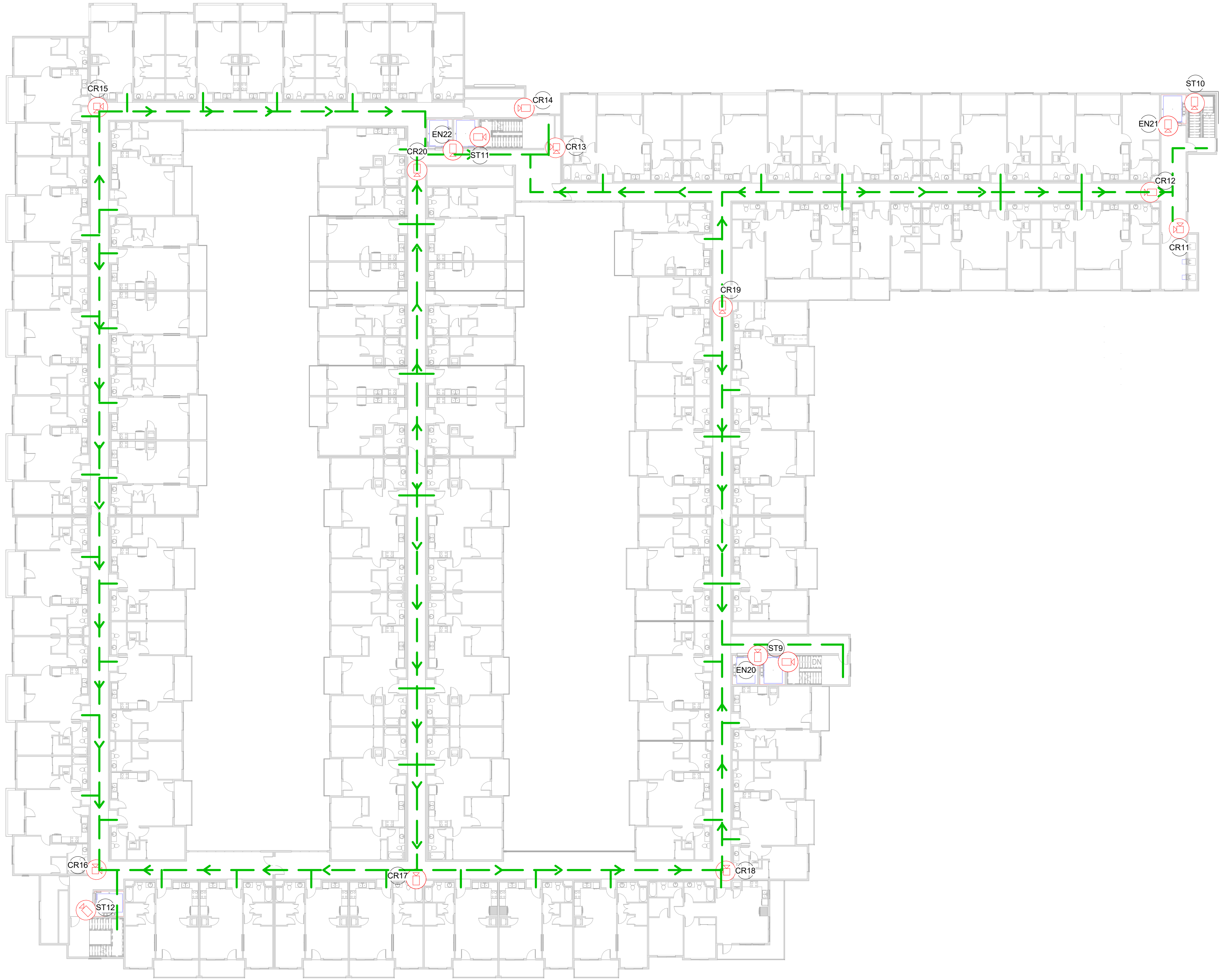


1 SECURITY PLAN - 2ND FLOOR
1" = 20'-0"

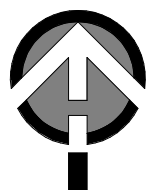
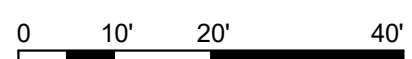
SECURITY PLAN - 2ND FL.		
MARK	PURPOSE	COMMENTS
CORRIDOR		
CR1	GENERAL VIEW	BUILDING EAST
CR2	GENERAL VIEW	BUILDING EAST
CR3	GENERAL VIEW	BUILDING NORTH
CR4	GENERAL VIEW	BUILDING NORTH
CR5	GENERAL VIEW	BUILDING NORTH
CR6	GENERAL VIEW	BUILDING SOUTH
CR7	GENERAL VIEW	BUILDING SOUTH
CR8	GENERAL VIEW	BUILDING SOUTH
CR9	GENERAL VIEW	BUILDING NORTH
CR10	GENERAL VIEW	BUILDING NORTH
ELEVATOR		
EN17	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
EN18	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
EN19	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
STAIRS		
ST5	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING
ST6	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING
ST7	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING
ST8	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING

GENERAL NOTES	
1. PROVIDE KNOX BOX KEY AT ENTRY DOORS.	
2. PROJECT WILL CONFORM TO OXNARD FIRE DEPARTMENT "LIFE SAFETY PLANNING GUIDE"	
3. CAMERAS IN STAIRWELLS SHOULD BE PLACED 7FT ABOVE THE LANDING.	

LEGEND	
	CAMERA LOCATION
	CAMERA NAME (REFER TO SECURITY CAMERA SCHEDULE)
	ACCESSIBLE PATH OF TRAVEL
	EMERGENCY EGRESS PATH OF TRAVEL



1 SECURITY PLAN - 3RD FLOOR
1" = 20'-0"



SECURITY PLAN - 3RD FL.		
MARK	PURPOSE	COMMENTS
CORRIDOR		
CR11	GENERAL VIEW	BUILDING EAST
CR12	GENERAL VIEW	BUILDING EAST
CR13	GENERAL VIEW	BUILDING NORTH
CR14	GENERAL VIEW	BUILDING NORTH
CR15	GENERAL VIEW	BUILDING NORTH
CR16	GENERAL VIEW	BUILDING WEST
CR17	GENERAL VIEW	BUILDING SOUTH
CR18	GENERAL VIEW	BUILDING EAST
CR19	GENERAL VIEW	BUILDING EAST
CR20	GENERAL VIEW	BUILDING EAST
ELEVATOR		
EN20	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
EN21	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
EN22	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
STAIRS		
ST9	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING
ST10	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING
ST11	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING
ST12	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING

GENERAL NOTES		
1. PROVIDE KNOX BOX KEY AT ENTRY DOORS.		
2. PROJECT WILL CONFORM TO OXNARD FIRE DEPARTMENT "LIFE SAFETY PLANNING GUIDE"		
3. CAMERAS IN STAIRWELLS SHOULD BE PLACED 7FT ABOVE THE LANDING.		

LEGEND	
	CAMERA LOCATION
	CAMERA NAME (REFER TO SECURITY CAMERA SCHEDULE)
	ACCESSIBLE PATH OF TRAVEL
	EMERGENCY EGRESS PATH OF TRAVEL



1 4TH FLOOR PLAN
1" = 20'-0"

0 10' 20' 40'



SECURITY PLAN - 4TH FL.		
MARK	PURPOSE	COMMENTS
CORRIDOR		
CR21	GENERAL VIEW	BUILDING EAST
CR22	GENERAL VIEW	BUILDING EAST
CR23	GENERAL VIEW	BUILDING NORTH
CR24	GENERAL VIEW	BUILDING NORTH
CR25	GENERAL VIEW	BUILDING NORTH
CR26	GENERAL VIEW	BUILDING WEST
CR27	GENERAL VIEW	BUILDING SOUTH
CR28	GENERAL VIEW	BUILDING SOUTH
CR29	GENERAL VIEW	BUILDING EAST
CR30	GENERAL VIEW	BUILDING NORTH
ELEVATOR		
EN23	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
EN24	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
EN25	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
STAIRS		
ST13	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING
ST14	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING
ST15	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING
ST16	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING

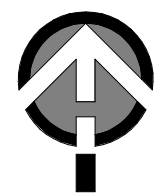
GENERAL NOTES	
1. PROVIDE KNOX BOX KEY AT ENTRY DOORS.	
2. PROJECT WILL CONFORM TO OXNARD FIRE DEPARTMENT "LIFE SAFETY PLANNING GUIDE".	
3. CAMERAS IN STAIRWELLS SHOULD BE PLACED 7FT ABOVE THE LANDING.	

LEGEND	
	CAMERA LOCATION
	CAMERA NAME (REFER TO SECURITY CAMERA SCHEDULE)
	ACCESSIBLE PATH OF TRAVEL
	EMERGENCY EGRESS PATH OF TRAVEL



1 5TH FLOOR PLAN
1" = 20'-0"

0 10' 20' 40'

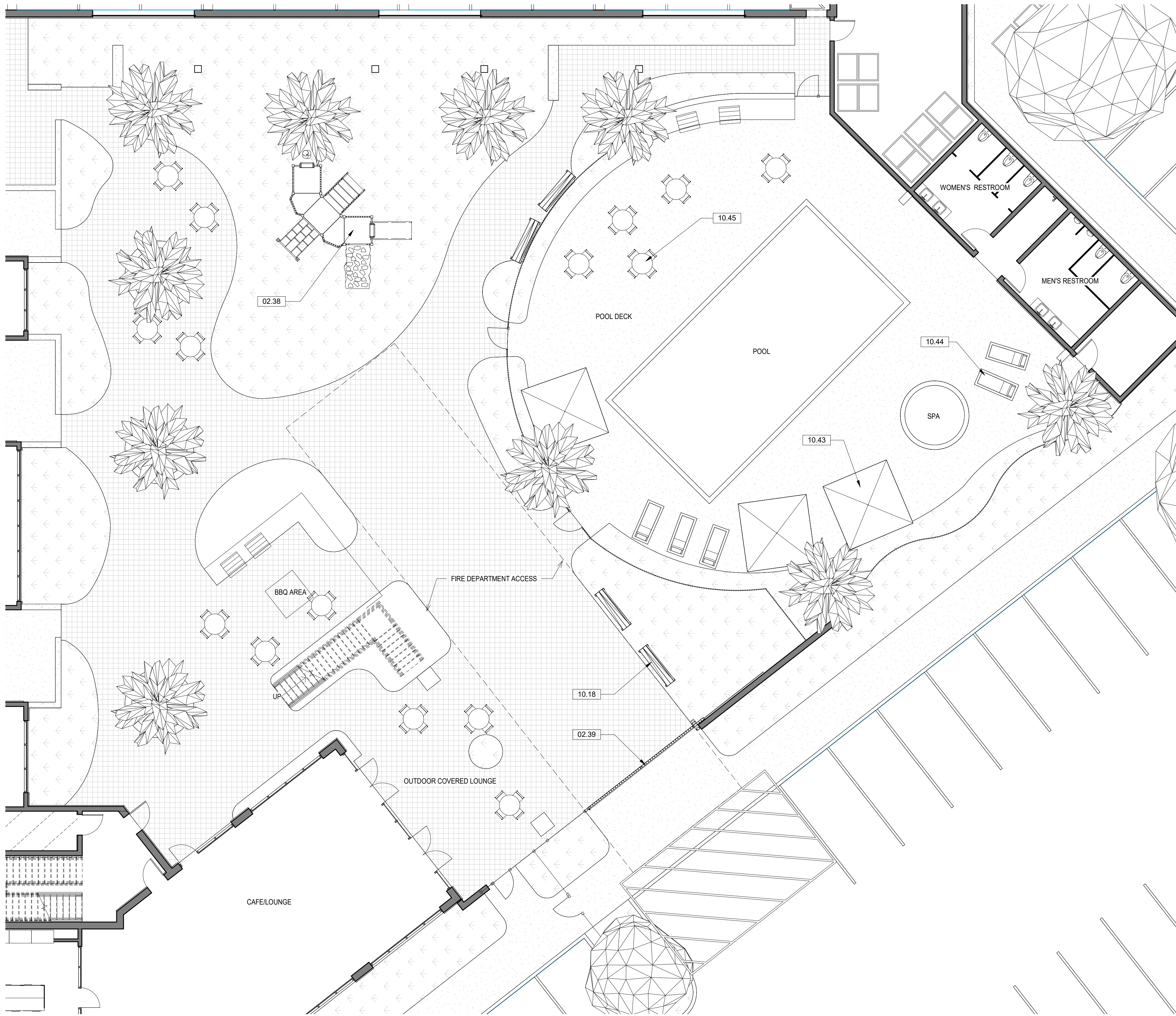


SECURITY PLAN - 5TH FL.		
MARK	PURPOSE	COMMENTS
CORRIDOR		
CR31	GENERAL VIEW	BUILDING EAST
CR32	GENERAL VIEW	BUILDING NORTH
CR33	GENERAL VIEW	BUILDING NORTH
CR34	GENERAL VIEW	BUILDING SOUTH
CR35	GENERAL VIEW	BUILDING WEST
CR36	GENERAL VIEW	BUILDING SOUTH
CR37	GENERAL VIEW	BUILDING EAST
CR38	GENERAL VIEW	BUILDING EAST
CR39	GENERAL VIEW	BUILDING NORTH
CR40	GENERAL VIEW	BUILDING EAST
ELEVATOR		
EN26	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
EN27	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
EN28	FACE CAPTURE	MOUNTED 7-FT ABOVE FLOOR
PATIO		
P1	GENERAL VIEW	BUILDING SOUTH
P2	GENERAL VIEW	BUILDING SOUTH
STAIRS		
ST17	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING
ST18	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING
ST19	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING
ST20	GENERAL VIEW	STAIRWELL MOUNTED 7-FT ABOVE LANDING

GENERAL NOTES	
1. PROVIDE KNOX BOX KEY AT ENTRY DOORS.	
2. PROJECT WILL CONFORM TO OXNARD FIRE DEPARTMENT "LIFE SAFETY PLANNING GUIDE".	
3. CAMERAS IN STAIRWELLS SHOULD BE PLACED 7'FT ABOVE THE LANDING.	

LEGEND	
	CAMERA LOCATION
	CAMERA NAME (REFER TO SECURITY CAMERA SCHEDULE)
	ACCESSIBLE PATH OF TRAVEL
	EMERGENCY EGRESS PATH OF TRAVEL

KEYNOTES	
02.38	PLAY STRUCTURE
02.39	VEHICULAR GATE WITH KNOX KEY SWITCH AND CLICK-2-ENTER, TYPICAL
10.18	BENCH. SEE LANDSCAPE PLANS.
10.43	CABANA
10.44	LOUNGE CHAIR
10.45	TABLE AND CHAIRS



1 SITE PLAN AMENITIES - POOL AREA
1/8" = 1'-0"



2 VIEW FROM PAVILION

LAUTERBACH & ASSOCIATES
A R C H I T E C T S
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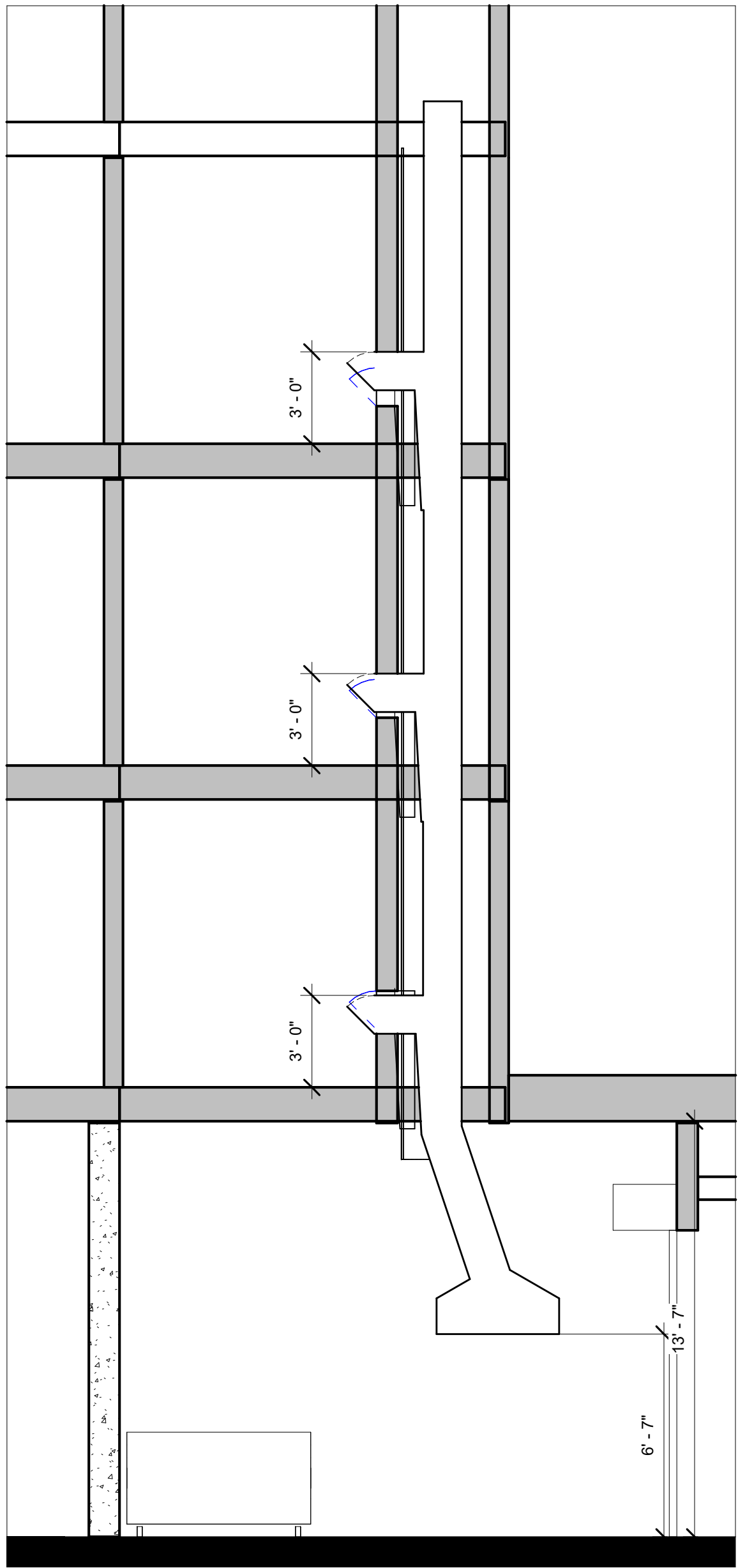
LOCKWOOD III APARTMENTS
SVM LOCKWOOD, LLC
3855 E. THOUSAND OAKS BLVD. #254, THOUSAND OAKS, CA 91322

SITE AMENITIES

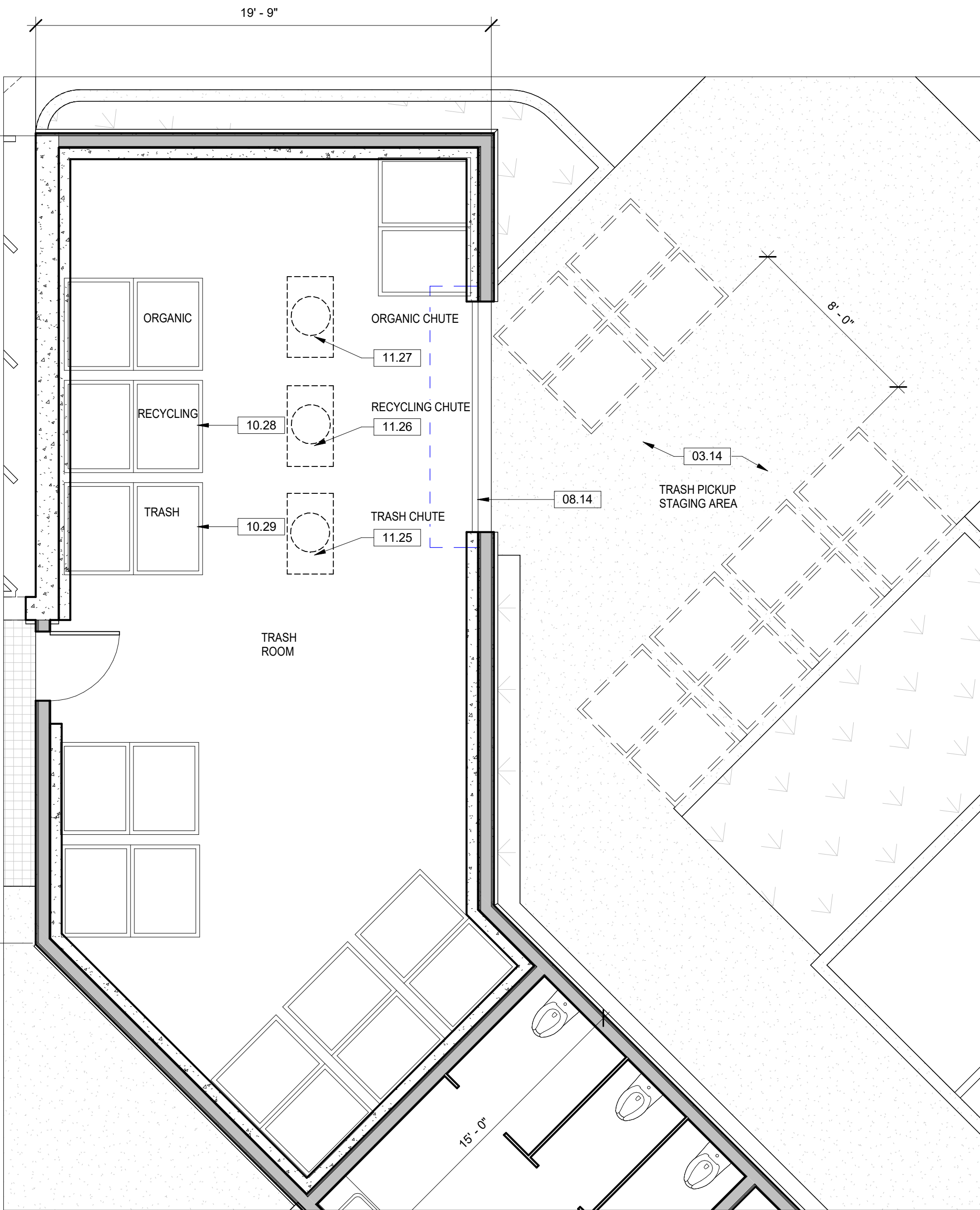
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LOCKWOOD III APARTMENTS
2151 LOCKWOOD STREET, OXNARD,
CALIFORNIA, 93036

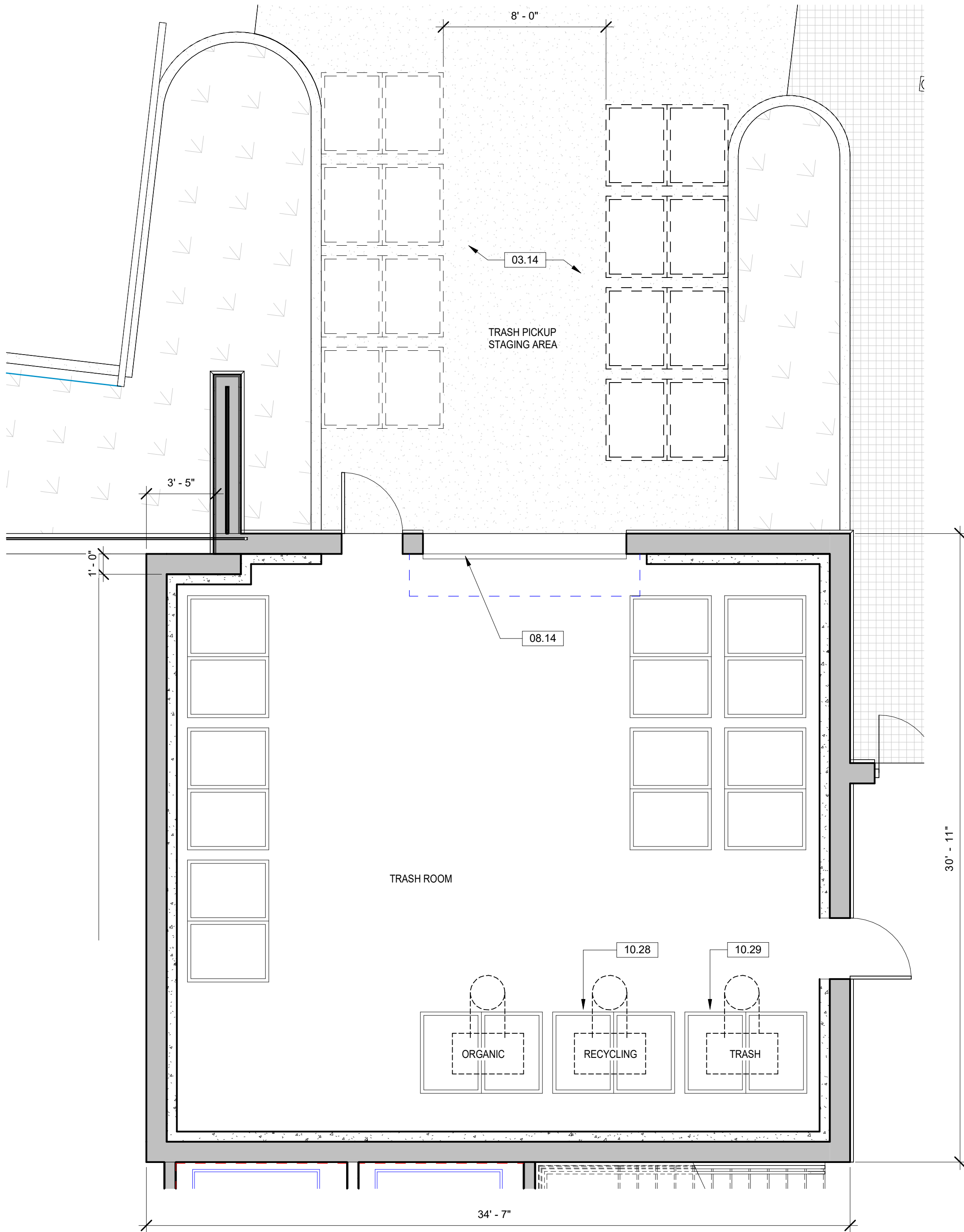
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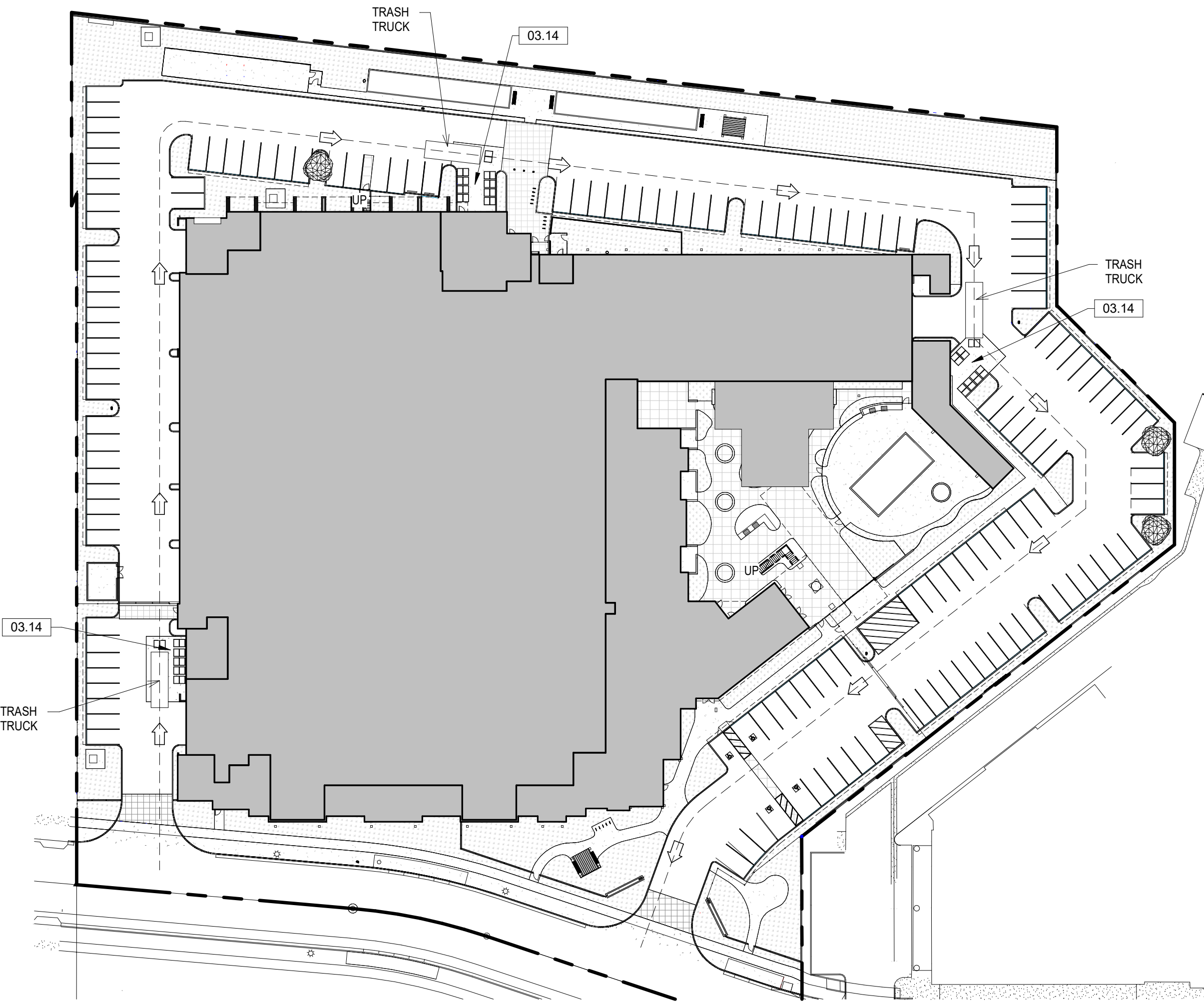
4 TRASH CHUTE CROSS SECTION (TYPICAL)
1/4" = 1'-0"



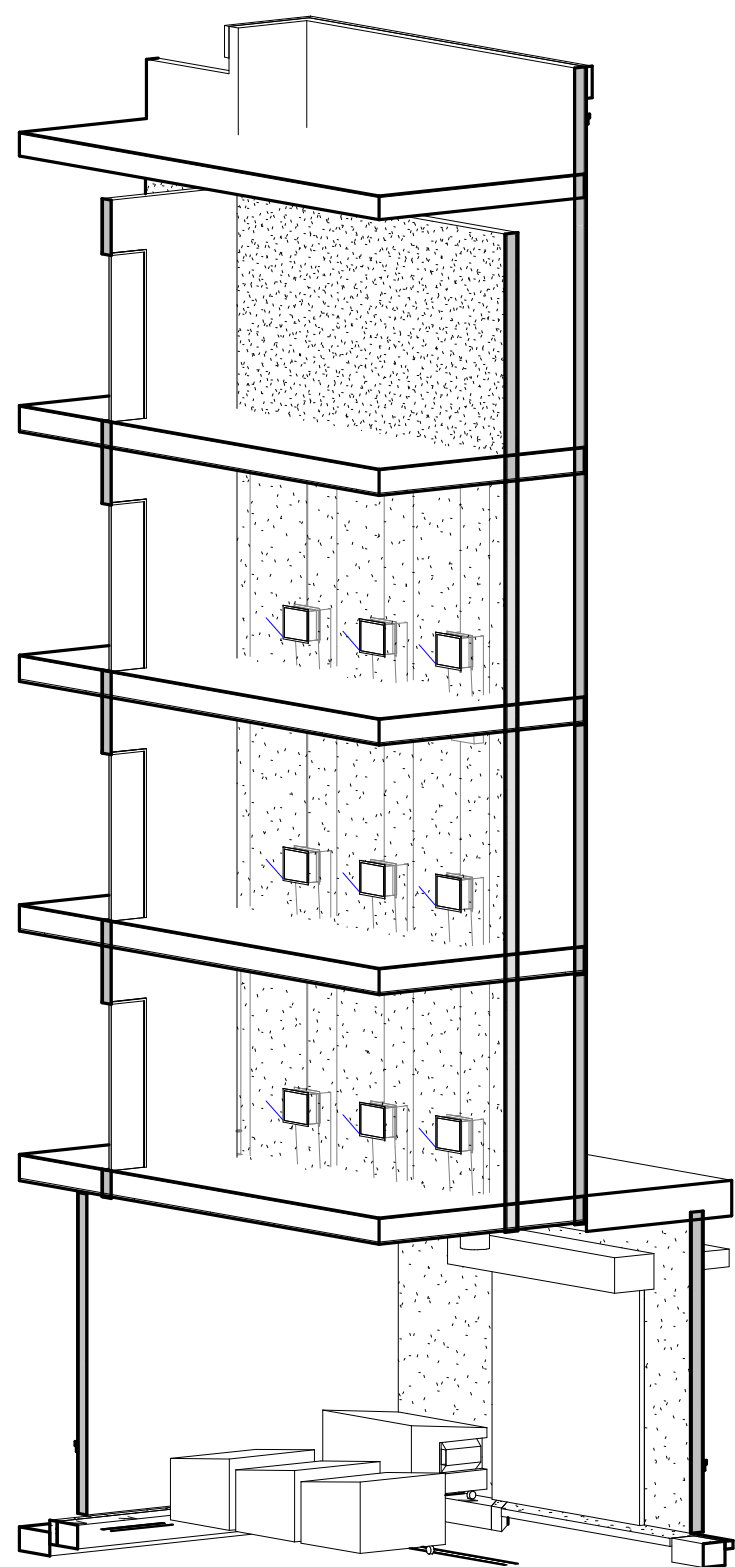
3 TRASH COLLECTION EAST
1/4" = 1'-0"



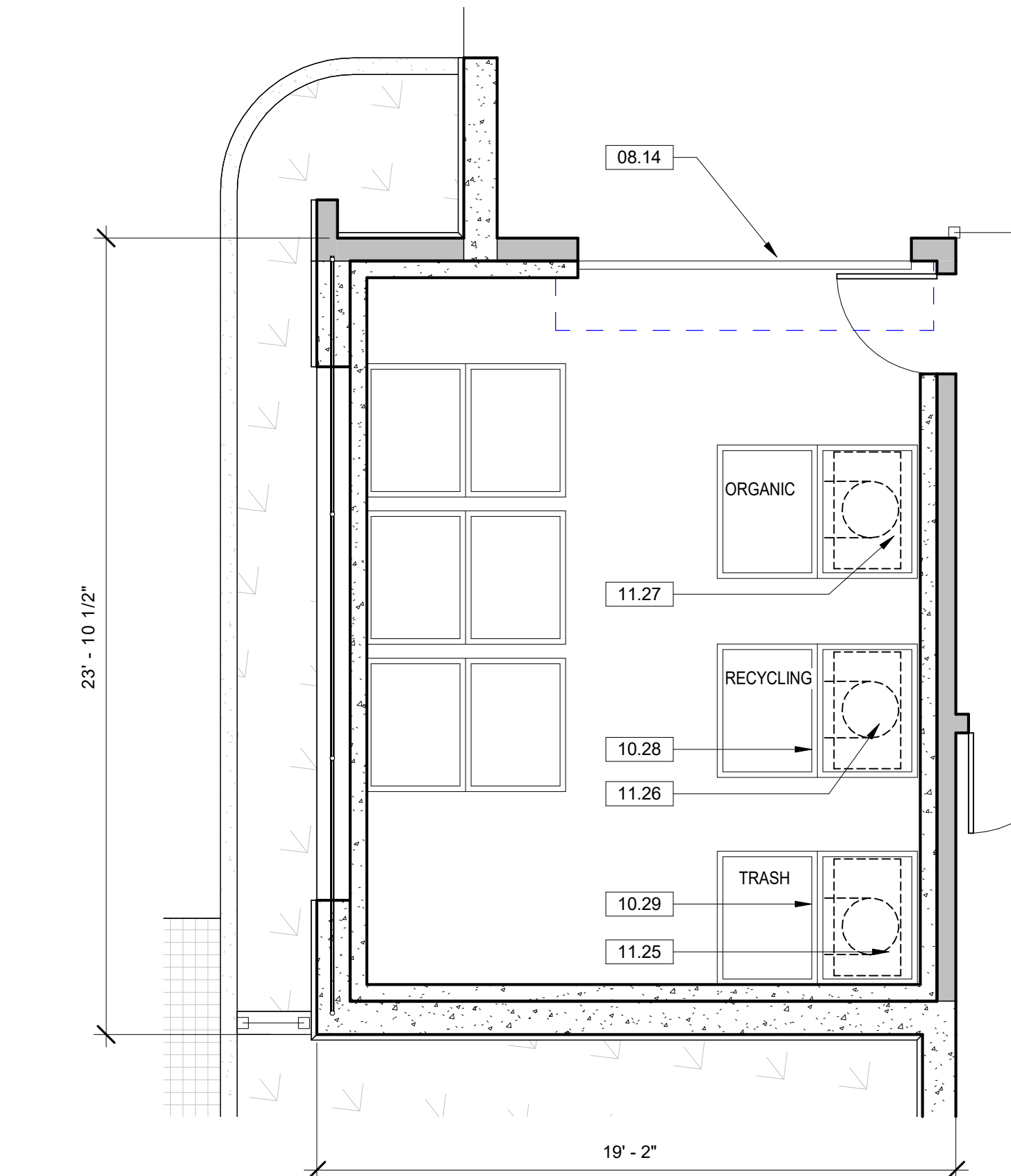
2 TRASH COLLECTION NORTH
1/4" = 1'-0"



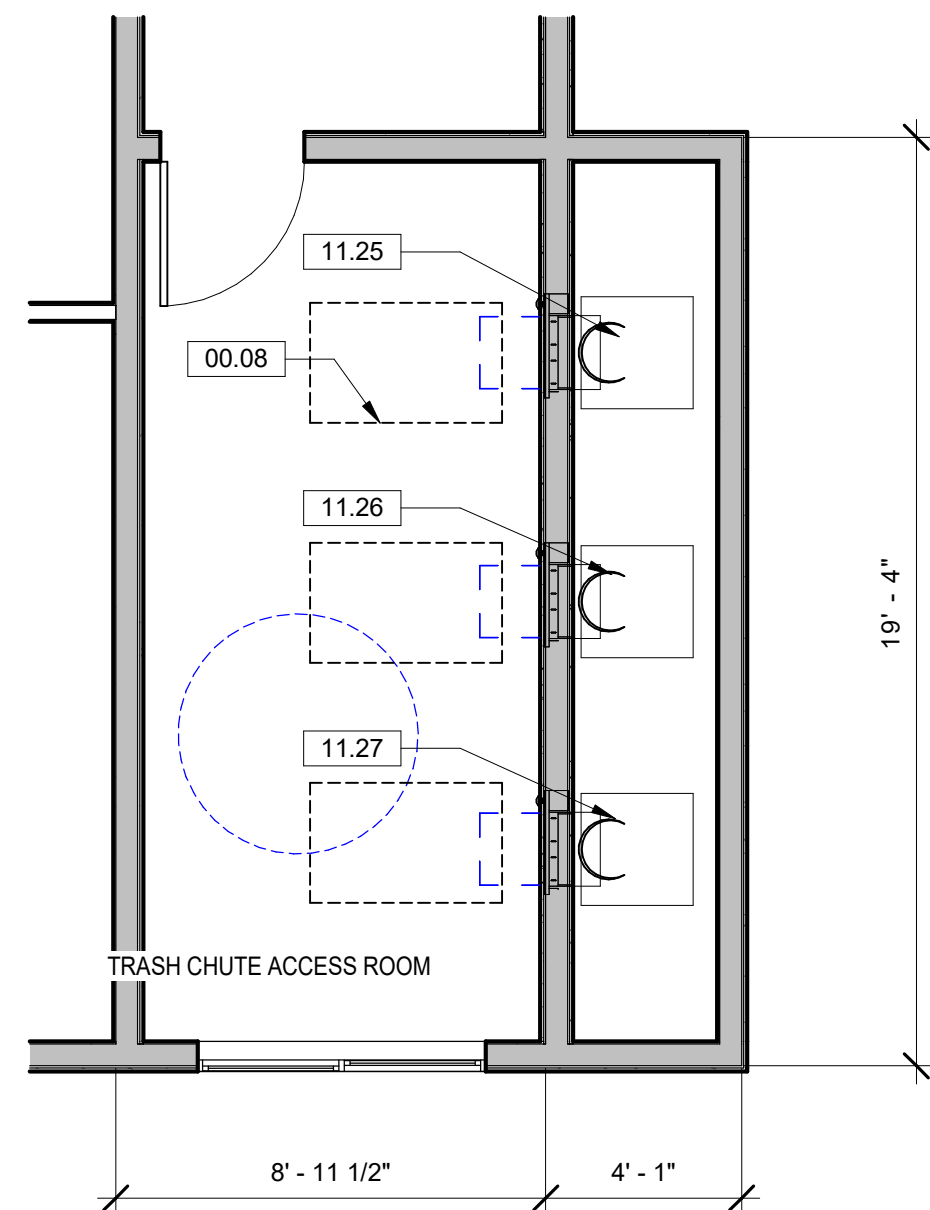
8 TRASH TRUCK PICK UP ROUTE
1" = 50'-0"



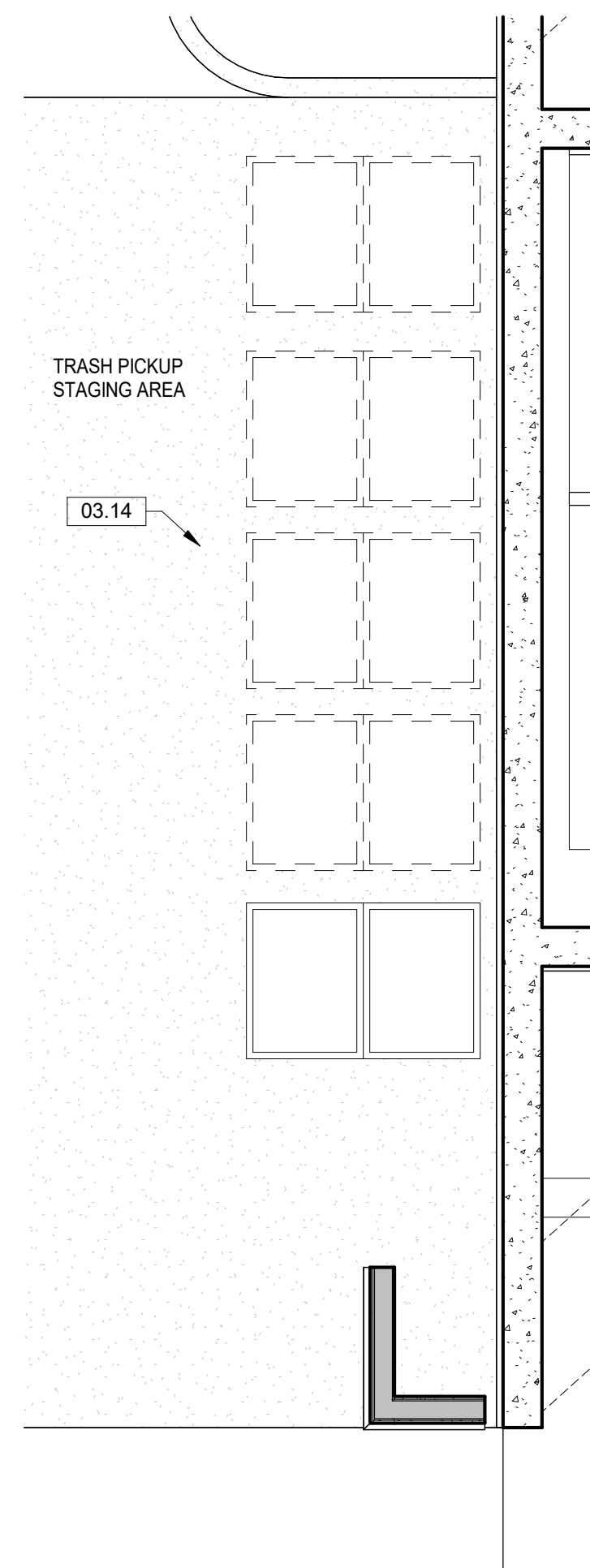
6 TRASH CHUTE SHAFT DIAGRAM (TYPICAL)



1 TRASH COLLECTION SOUTH WEST
1/4" = 1'-0"



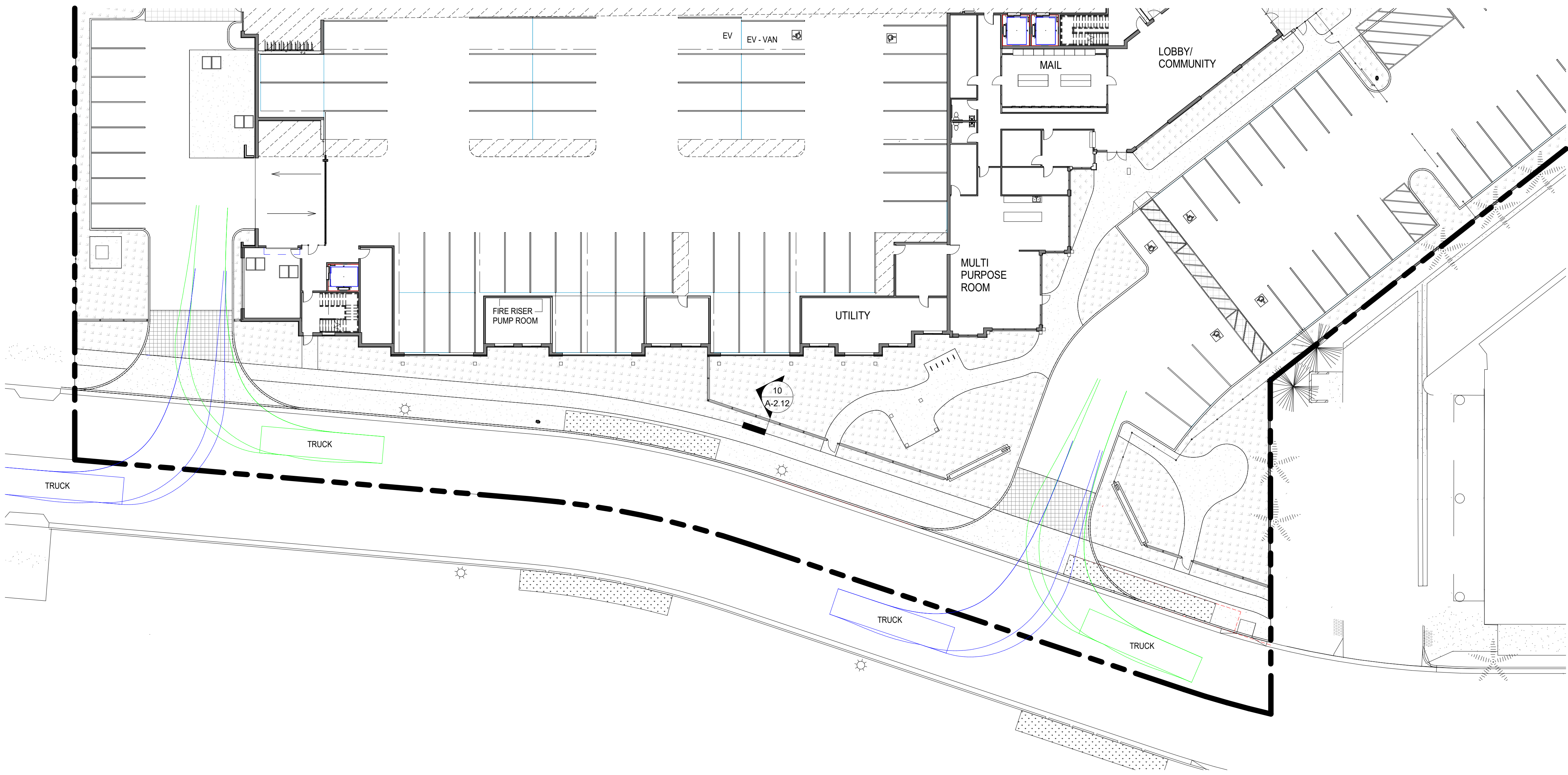
5 TRASH CHUTE (TYPICAL ALL FLOORS)
1/4" = 1'-0"



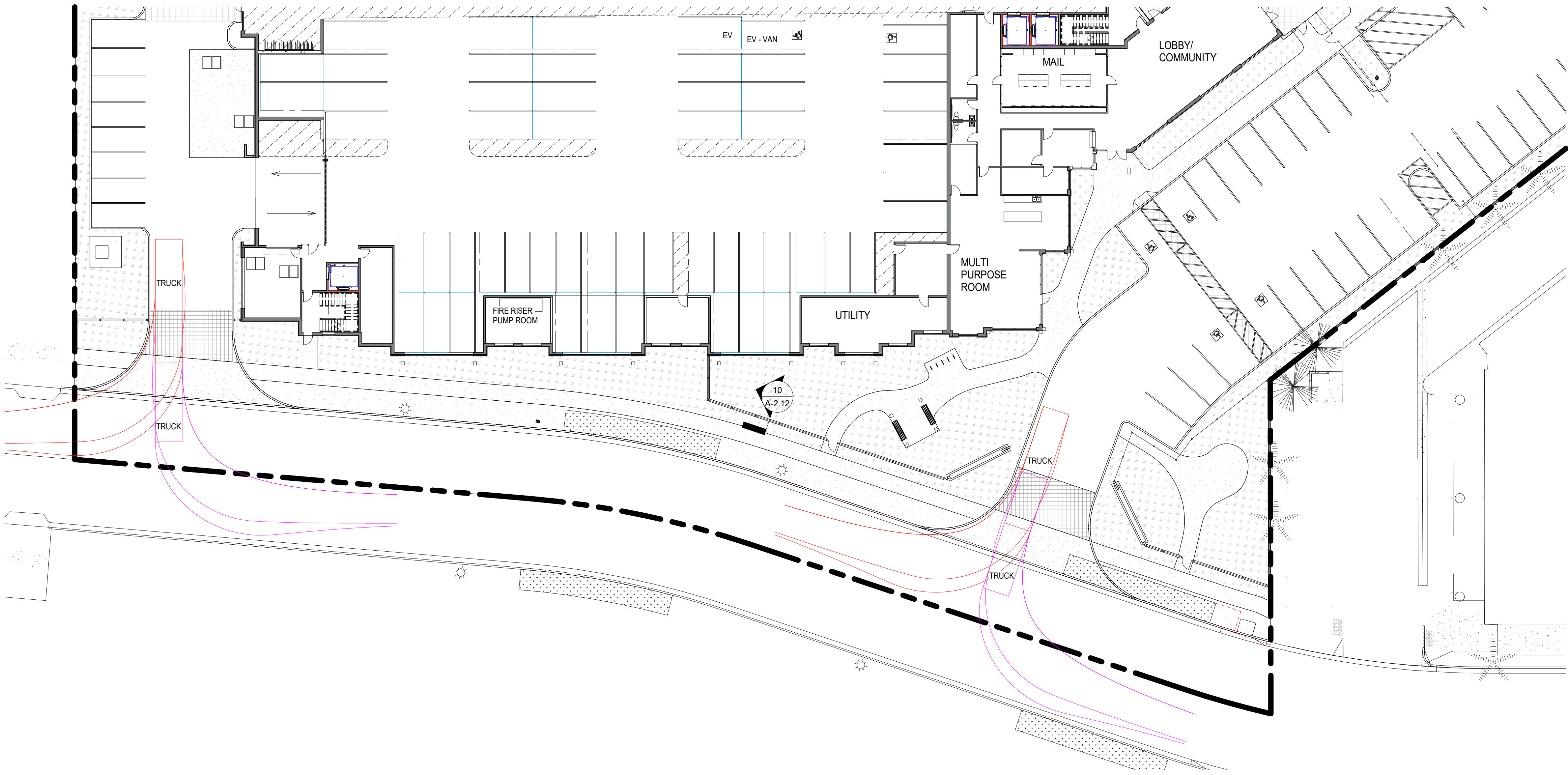
7 TRASH STAGING AREA - SOUTH WEST
1/4" = 1'-0"

KEYNOTES	
00.08	30" x 48" CLEAR FLOOR SPACE
03.14	REINFORCED CONCRETE APRON AND TRASH STAGING AREA, 2% MAX SLOPE IN ANY DIRECTION
08.14	10' x 10' ROLL-UP DOOR
10.28	RECYCLING CONTAINERS: 4-YARD FRONT LOADING
10.29	TRASH CONTAINERS: 4-YARD FRONT LOADING
11.25	TRASH CHUTE
11.26	RECYCLE CHUTE
11.27	ORGANIC WASTE CHUTE

- GENERAL NOTES**
- CONTAINERS USED EXCLUSIVELY FOR RECYCLING SHALL BE CLEARLY IDENTIFIED AS "RECYCLING ONLY" WITH CLEAR ICONS OR OTHER GRAPHICS ON EACH CONTAINER APPROPRIATE TO THE CONTAINER'S CONTENT.
 - TO BE CONSISTENT WITH CITY COLLECTION STANDARDS, CONTAINERS FOR RECYCLING SHALL BE IN BLUE COLOR.
 - THE LOCATION MAY BE SUBJECT TO APPLICABLE SOLID WASTE MANAGEMENT ORDINANCES, INCLUDING FUTURE ORDINANCE CREATION AND/OR REVISIONS. THESE CURRENTLY INCLUDE: AB 939, AB 341, AB 1626, SB 1383, AND AB 927. OCCUPANTS OF THIS PROPERTY MAY BE REQUIRED TO MAKE PROVISIONS TO MANAGE THREE MATERIAL STREAMS (ORGANICS, RECYCLING, AND TRASH) IN ANY WASTE ENCLOSURES) CONSTRUCTED SUBJECT TO THE CITY'S STANDARD COLLECTION EQUIPMENT.
 - THE ROOM WHERE CONTAINERS ARE STORED MUST HAVE ADEQUATE VENTILATION AND BE PROTECTED BY AN APPROVED AUTOMATIC FIRE SPRINKLER SYSTEM.
 - CONTAINERS NEED TO BE MADE ACCESSIBLE TO COLLECTION VEHICLES ON ACTUAL SERVICE DAYS.
 - APARTMENT STAFF TO MANAGE AND MAINTAIN GROUND FLOOR BINS, EMPTY BINS TO APPROPRIATE 4-YD BINS, AND ASSIST COLLECTION VEHICLES ON SERVICE DAYS.



① FIRE / TRASH TRUCK ENTRY
1" = 20'-0"



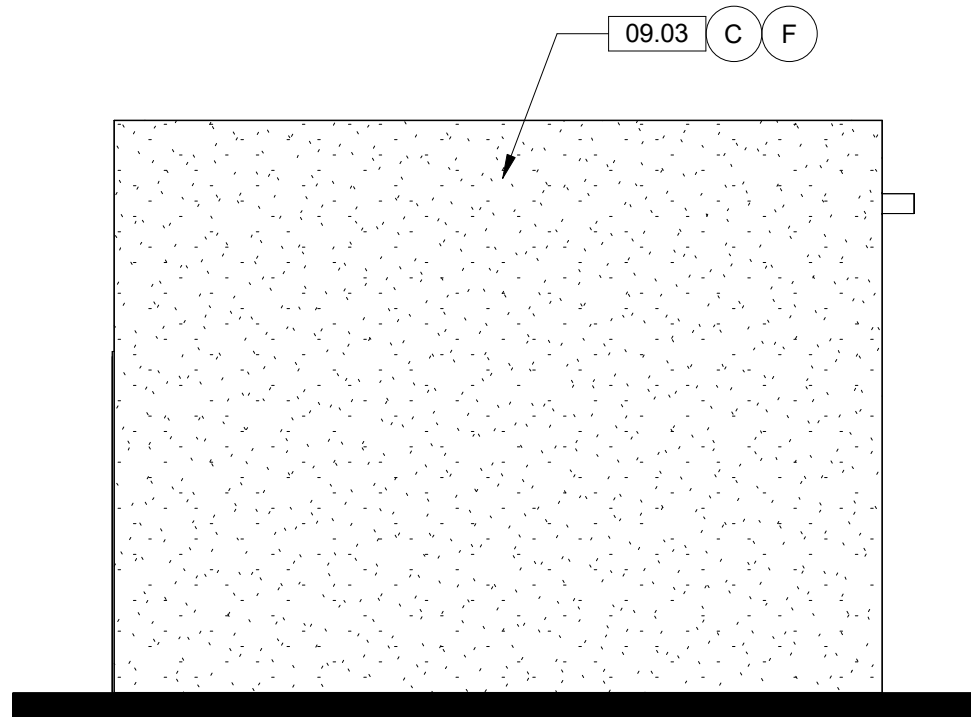
② FIRE / TRASH TRUCK EXIT
1" = 20'-0"

FIRE & TRASH TRUCK EXHIBIT

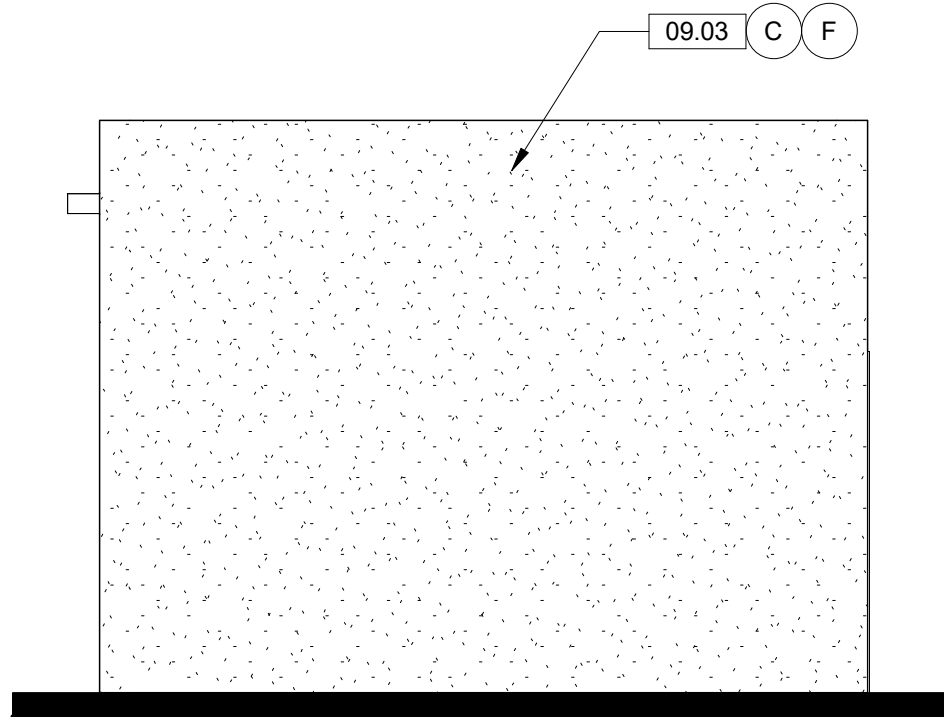
KEYNOTES	
08.11	UTILITY DOOR
09.03	WALL FINISH: CEMENT PLASTER, MEDIUM SAND FLOAT FINISH

LEGEND	
(A)	PAINT: DUNN EDWARDS DEW380 WARM WHITE
(B)	PAINT: DUNN EDWARDS DE6333 HAMILTON BLUE
(C)	PAINT: DUNN EDWARDS DET513 CALIFORNIA SAGEBUSH
(D)	PAINT: DUNN EDWARDS DE6334 LONG LAKE
(E)	PAINT: DUNN EDWARDS DEA002 BLACK
(F)	EXTERIOR CEMENT PLASTER
(G)	JAMES HARDIE: FIBER CEMENT LAP SIDING KHAKI BROWN
(H)	PERFORATED PANEL RAILING
(J)	JAMES HARDIE: HARDIE ARCHITECTURAL PANEL
(K)	ACCURATE PERFORATING ALUMINUM PANELS

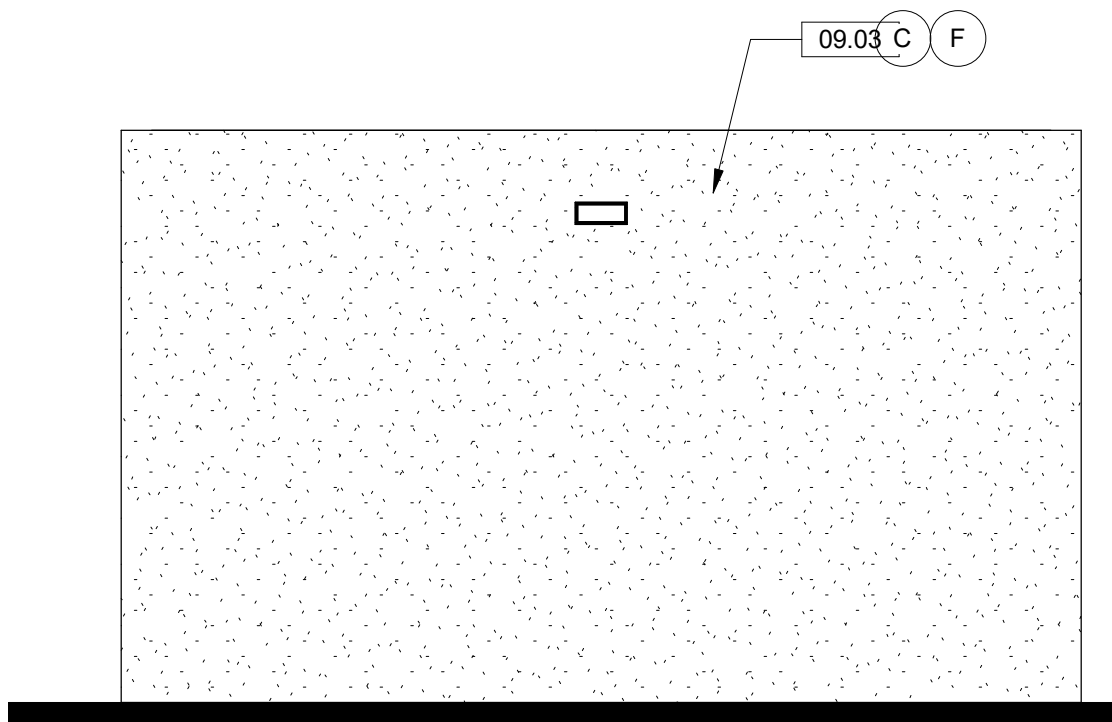
NOTE: NOT ALL MATERIALS SHOWN ON SHEET



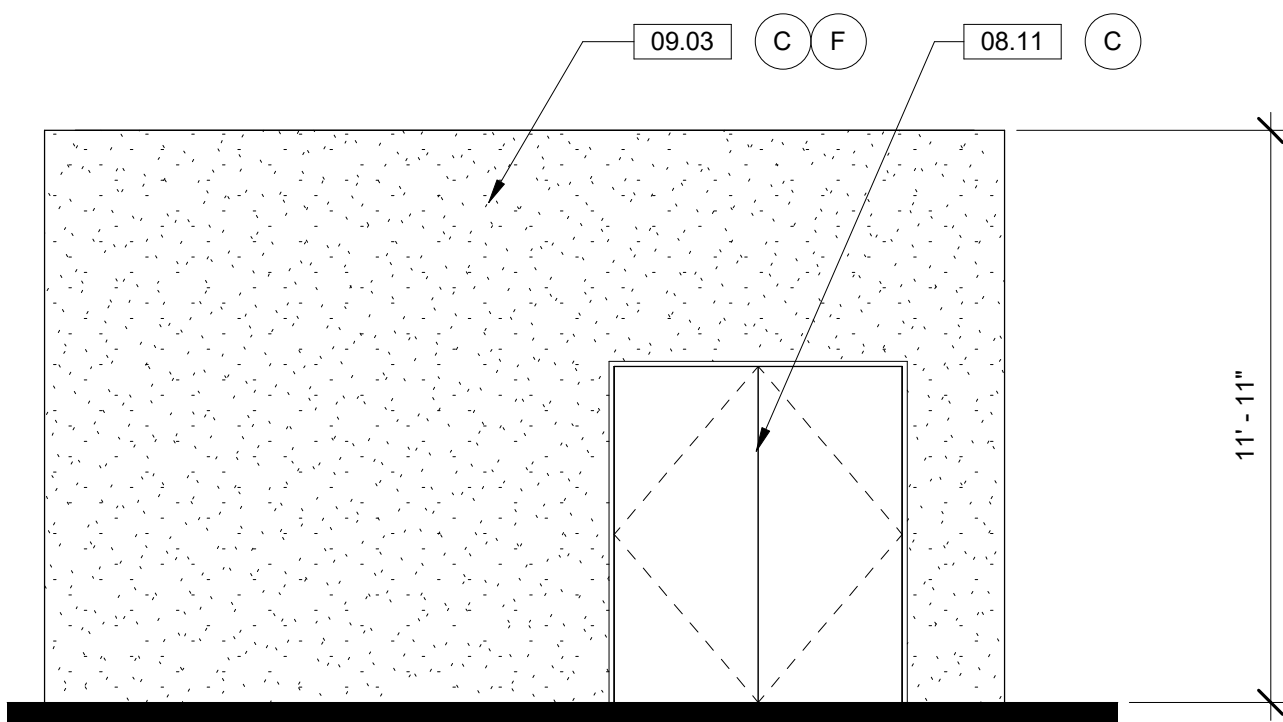
④ FIRE PUMP NORTH
1/4" = 1'-0"



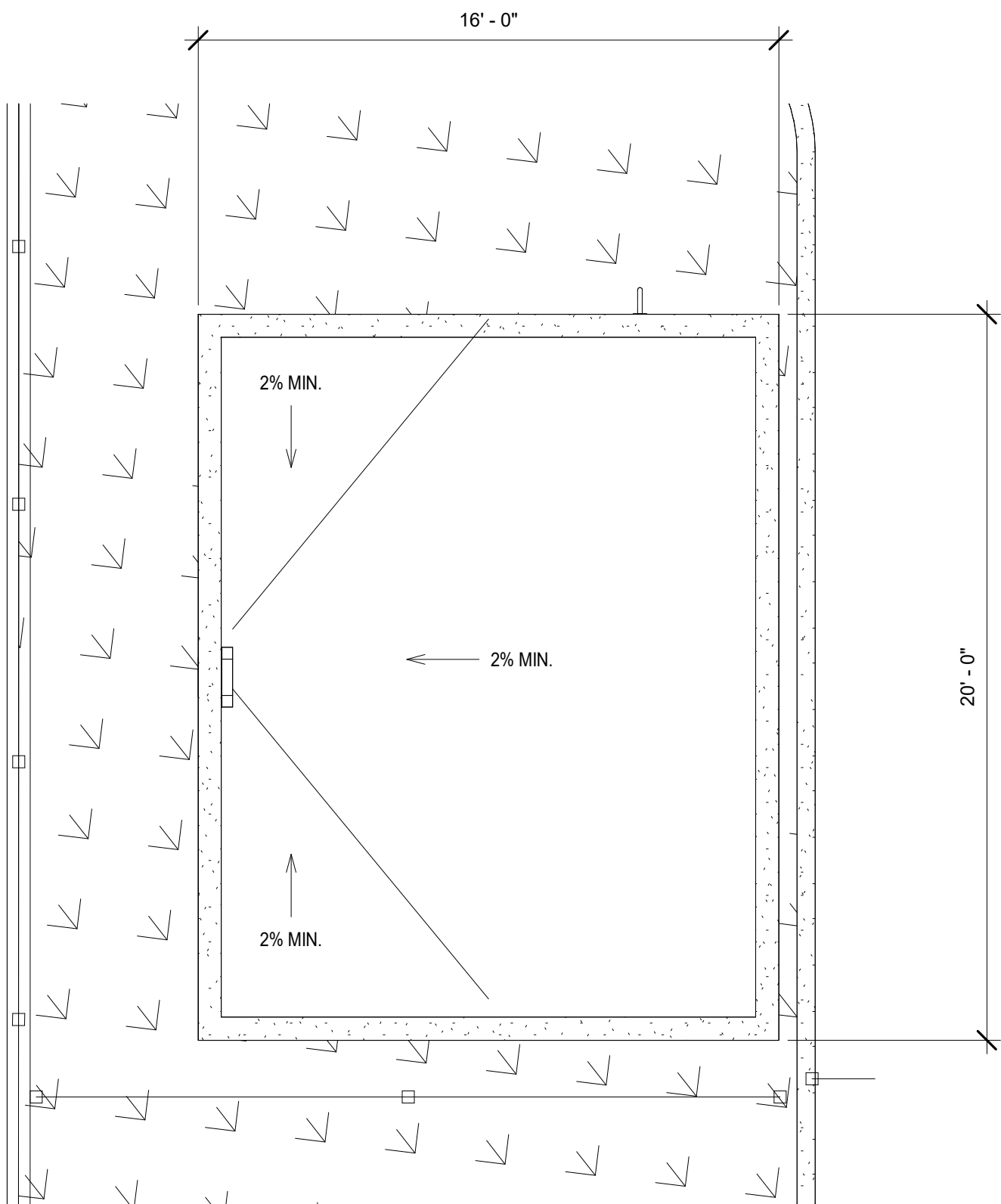
③ FIRE PUMP SOUTH
1/4" = 1'-0"



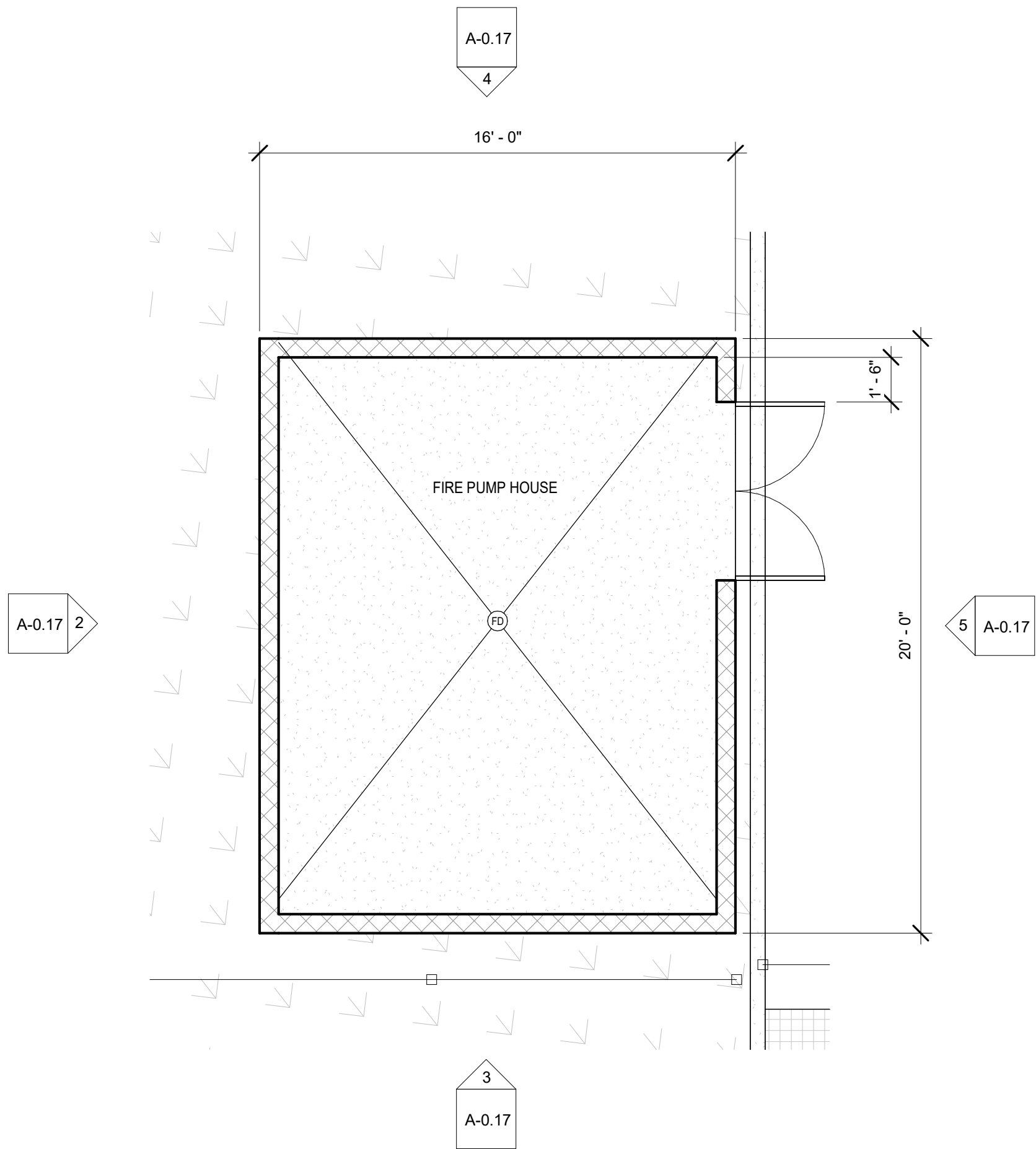
② FIRE PUMP WEST
1/4" = 1'-0"



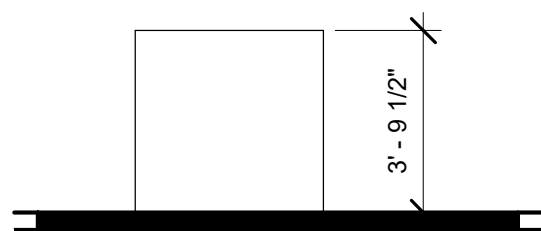
⑤ FIRE PUMP EAST
1/4" = 1'-0"



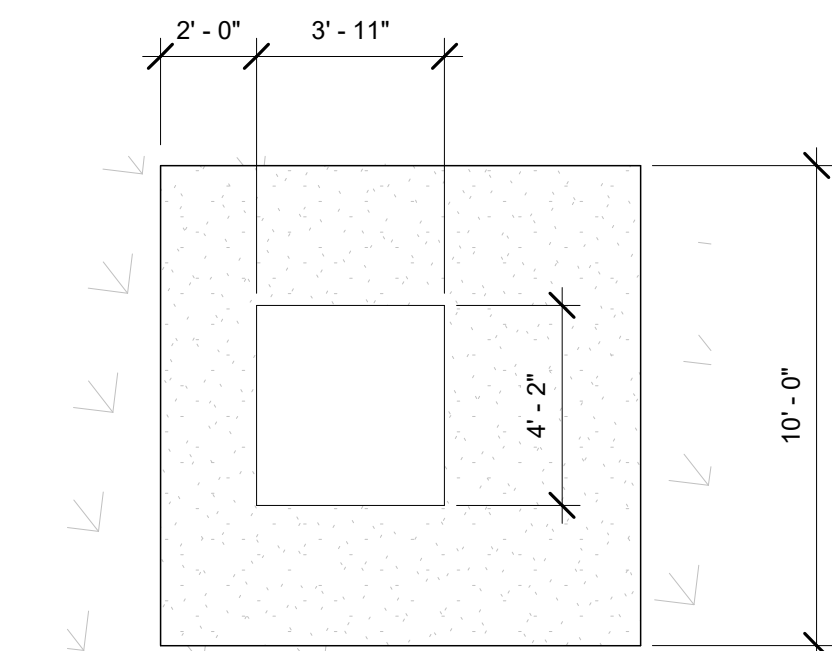
⑥ ROOF PLAN - FIRE PUMP ROOM
1/4" = 1'-0"



① FLOOR PLAN - FIRE PUMP ROOM
1/4" = 1'-0"



⑧ ELEVATION - TRANSFORMER TYP.
1/4" = 1'-0"

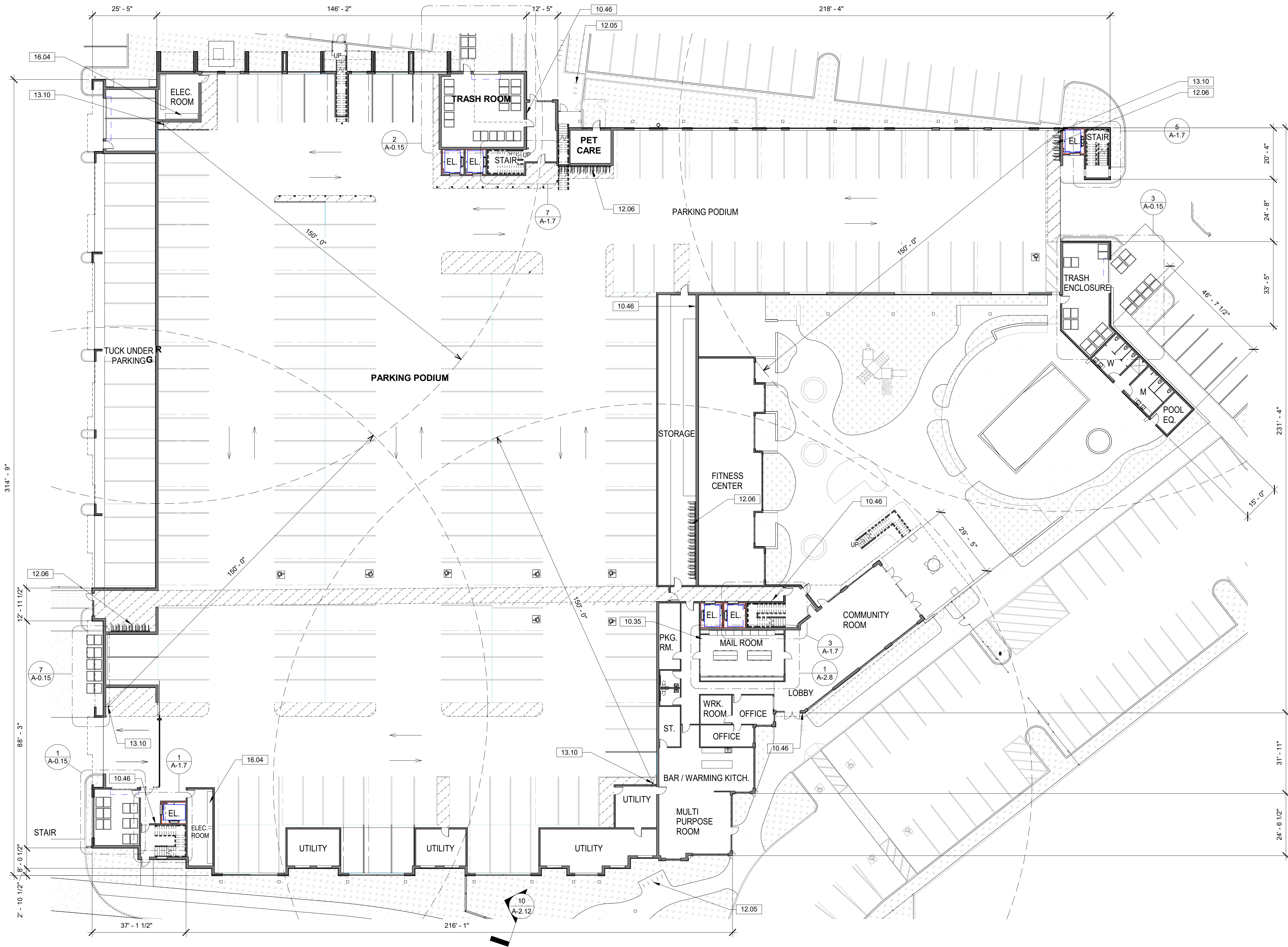


GENERAL NOTE:
ALL EQUIPMENT SHALL BE SCREEN OR CAMOUFLAGED USING LANDSCAPING

⑦ FLOOR PLAN - TRANSFORMER TYP.
1/4" = 1'-0"

FIRE PUMP ROOM

LOCKWOOD III APARTMENTS
2151 LOCKWOOD STREET, OXNARD,
CALIFORNIA, 93036



1 1ST FLOOR PLAN
1" = 20'-0"

KEYNOTES	
10.35	MAILBOXES, MINIMUM OF 40 LINEAR FEET.
10.46	WAYFINDING SIGN TYP.
12.05	BICYCLE RACK (SHORT TERM)
12.06	WALL MOUNTED BICYCLE RACK (LONG TERM)
13.10	STANDPIPE
16.04	ELECTRICAL METER, SEE ELECTRICAL PLANS

1ST. FL. BLDG. AREAS...	
NAME	AREA
BICYCLE STORAGE	374 SF
CORRIDOR	1245 SF
COVERED WALKWAY	6934 SF
ELECTRICAL ROOM	689 SF
ELEVATOR 1	91 SF
ELEVATOR 2	192 SF
ELEVATOR 3	94 SF
ELEVATOR 4	190 SF
FIRE PUMP HOUSE	320 SF
FITNESS CENTER	2980 SF
LOBBY	1752 SF
MAIL ROOM	700 SF
MAINTENANCE	292 SF
MULTI PURPOSE ROOM	1522 SF
OFFICE	547 SF
PARCEL ROOM	243 SF
PATIO	244 SF
PET GROOMING	209 SF
POOL EQ.	154 SF
RESIDENT STORAGE	1773 SF
RESTROOM	621 SF
STAIR 1	259 SF
STAIR 2	226 SF
STAIR 3	207 SF
STAIR 4	164 SF
STORAGE	147 SF
TRASH COLLECTION	2273 SF
TUCK UNDER PARKING	4591 SF
UTILITY	2479 SF
Grand total	94976 SF

TOTAL UNIT COUNT		
BDRMS.	COUNT	AVE. AREA
(02) LEVEL 2 (F.F.)		
1 BD.	22	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	558.56 SF
(03) LEVEL 3 (F.F.)		
1 BD.	22	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	558.56 SF
(04) LEVEL 4 (F.F.)		
1 BD.	23	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	558.56 SF
(05) LEVEL 5 (F.F.)		
1 BD.	19	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	558.56 SF
Grand total	234	

BALCONY AREA	
BUILDING	AREA
(02) LEVEL 2 (F.F.)	
BALCONY	6201 SF
(03) LEVEL 3 (F.F.)	
BALCONY	5533 SF
(04) LEVEL 4 (F.F.)	
BALCONY	5621 SF
(05) LEVEL 5 (F.F.)	
BALCONY	5255 SF
Grand total	22610 SF



KEYNOTES	
05.02	GUARDRAIL, PERFORATED METAL PANEL 42" HT.
08.19	10" H X 1/2" THICK VIEW RAIL GLAZING ON TOP OF 42" HIGH SOLID GUARDRAIL
13.03	FIRE RISER

2ND. FL. BLDG. AREAS	
TOTAL BUILDING AREA	AREA
BALCONY	6201 SF
COMMUNITY SPACE	685 SF
CORRIDOR	10122 SF
RESIDENTIAL	50621 SF
UTILITY	2379 SF
Grand total	70607 SF

UNIT COUNT 2ND FLOOR		
Name	Count	AVERAGE AREA
1 BD.		
TYPE A1	1	559 SF
TYPE A2	19	709 SF
TYPE A3	2	709 SF
2 BD.		
TYPE B2	26	976 SF
TYPE B3	1	976 SF
3 BD.		
TYPE C1	6	1106 SF
STUDIO		
TYPE D1	4	559 SF
Grand total: 59	59	

TOTAL UNIT COUNT		
BDRMS.	COUNT	AVE. AREA
(02) LEVEL 2 (F.F.)		
1 BD.	22	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	559.56 SF
(03) LEVEL 3 (F.F.)		
1 BD.	22	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	559.56 SF
(04) LEVEL 4 (F.F.)		
1 BD.	23	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	559.56 SF
(05) LEVEL 5 (F.F.)		
1 BD.	19	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	559.56 SF
Grand total	234	

LEGEND	
	AFFORDABLE UNITS LOCATIONS



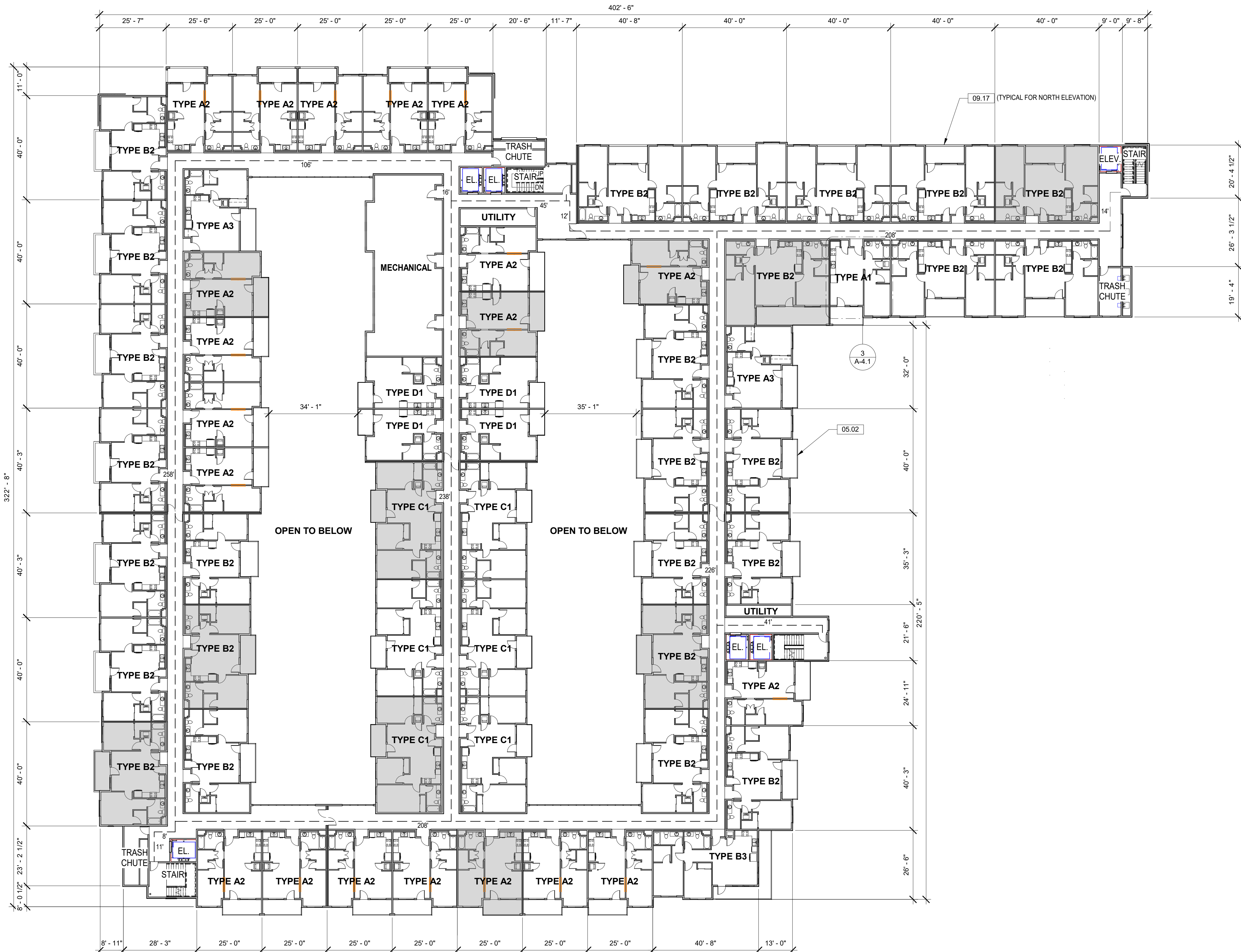
KEYNOTES	
05.02	GUARDRAIL, PERFORATED METAL PANEL 42" HT.
09.17	42" BALCONY WALL
13.03	FIRE RISER

3RD. FL. BLDG. AREAS	
BUILDING	AREA
BALCONY	5533 SF
COMMUNITY SPACE	685 SF
CORRIDOR	10125 SF
RESIDENTIAL	50621 SF
UTILITY	2079 SF
Grand total	69943 SF

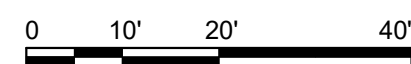
UNIT COUNT 3RD FLOOR		
Name	Count	AVERAGE AREA
1 BD.		
TYPE A1	1	559 SF
TYPE A2	19	709 SF
TYPE A3	2	709 SF
2 BD.		
TYPE B2	26	976 SF
TYPE B3	1	976 SF
3 BD.		
TYPE C1	6	1106 SF
TYPE D1	4	559 SF
Grand total: 59	59	

TOTAL UNIT COUNT		
BDRMS.	COUNT	AVE. AREA
(02) LEVEL 2 (F.F.)		
1 BD.	22	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	558.56 SF
(03) LEVEL 3 (F.F.)		
1 BD.	22	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	558.56 SF
(04) LEVEL 4 (F.F.)		
1 BD.	23	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	558.56 SF
(05) LEVEL 5 (F.F.)		
1 BD.	19	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	558.56 SF
Grand total	234	

LEGEND	
	AFFORDABLE UNITS LOCATIONS



② 4TH FLOOR PLAN
1" = 20'-0"



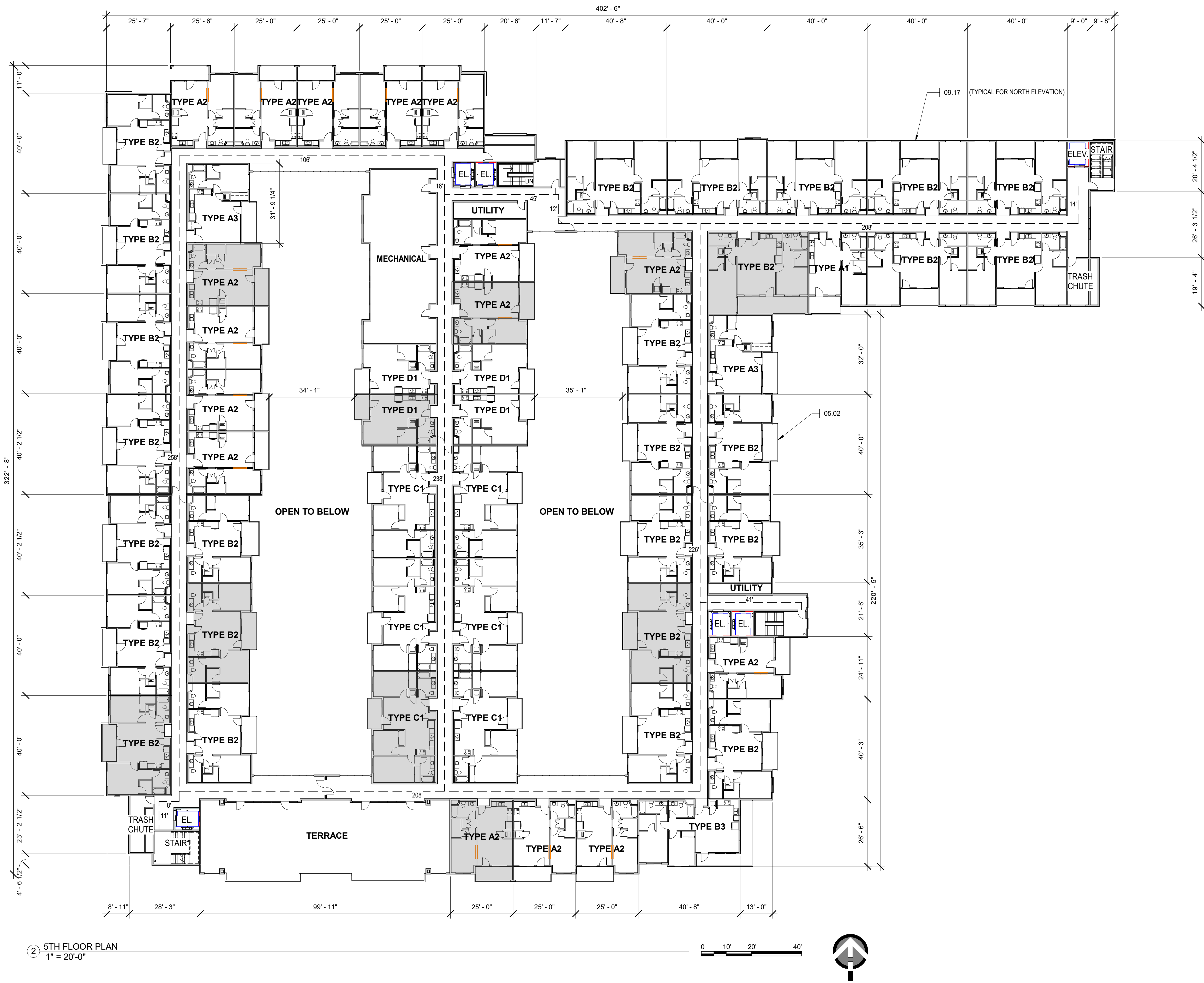
KEYNOTES	
05.02	GUARDRAIL, PERFORATED METAL PANEL 42" HT.
09.17	42" BALCONY WALL

4TH. FL. BLDG. AREAS	
BUILDING	AREA
BALCONY	5621 SF
COMMUNITY SPACE	685 SF
CORRIDOR	10127 SF
RESIDENTIAL	51317 SF
UTILITY	2363 SF
Grand total	70032 SF

UNIT COUNT 4TH FLOOR		
Name	Count	AVERAGE AREA
1 BD.		
TYPE A1	1	559 SF
TYPE A2	20	709 SF
TYPE A3	2	709 SF
2 BD.		
TYPE B2	26	976 SF
TYPE B3	1	976 SF
3 BD.		
TYPE C1	6	1106 SF
STUDIO		
TYPE D1	4	559 SF
Grand total: 60	60	

TOTAL UNIT COUNT		
BDRMS.	COUNT	AVE. AREA
(02) LEVEL 2 (F.F.)		
1 BD.	22	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	558.56 SF
(03) LEVEL 3 (F.F.)		
1 BD.	22	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	558.56 SF
(04) LEVEL 4 (F.F.)		
1 BD.	23	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	558.56 SF
(05) LEVEL 5 (F.F.)		
1 BD.	19	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	558.56 SF
Grand total	234	

LEGEND	
	AFFORDABLE UNITS LOCATIONS



KEYNOTES	
05.02	GUARDRAIL, PERFORATED METAL PANEL 42" HT.
09.17	42" BALCONY WALL

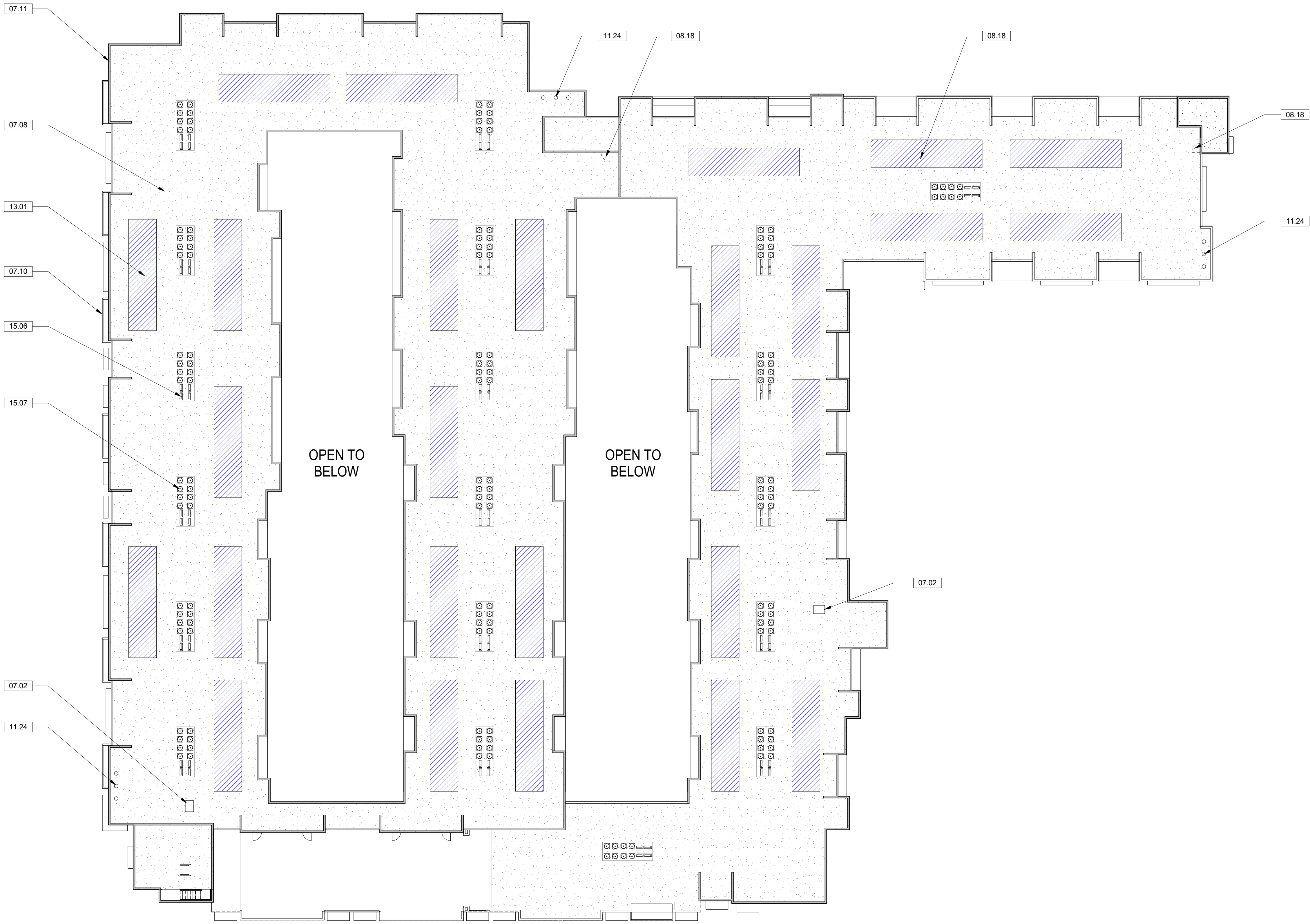
5TH. FL. BLDG. AREAS	
BUILDING	AREA
BALCONY	5255 SF
COMMUNITY SPACE	1277 SF
CORRIDOR	10122 SF
RESIDENTIAL	48556 SF
UTILITY	2282 SF
Grand total	67493 SF

UNIT COUNT 5TH FLOOR		
Name	Count	AVERAGE AREA
1 BD.		
TYPE A1	1	559 SF
TYPE A2	16	709 SF
TYPE A3	2	709 SF
2 BD.		
TYPE B2	26	976 SF
TYPE B3	1	976 SF
3 BD.		
TYPE C1	6	1106 SF
STUDIO		
TYPE D1	14	559 SF
Grand total: 56	56	

TOTAL UNIT COUNT		
BDRMS.	COUNT	AVE. AREA
(02) LEVEL 2 (F.F.)		
1 BD.	22	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	558.56 SF
(03) LEVEL 3 (F.F.)		
1 BD.	22	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	558.56 SF
(04) LEVEL 4 (F.F.)		
1 BD.	23	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	558.56 SF
(05) LEVEL 5 (F.F.)		
1 BD.	19	692.98 SF
2 BD.	27	981.62 SF
3 BD.	6	1106.83 SF
STUDIO	4	558.56 SF
Grand total	234	

LEGEND	
	AFFORDABLE UNITS LOCATIONS

KEYNOTES	
07.02	ROOF HATCH AND LADDER
07.08	CLASS 'B' - WHITE TPO SINGLE PLY 60 MIL (COOL ROOF) SLOPED 2% MIN.
07.10	ROOF EAVE
07.11	PARAPET ROOF
08.18	ROOF ACCESS DOOR
11.24	TRASH CHUTE VENT THRU ROOF
13.01	SOLAR PANEL AREAS, SIZE & LOCATION TBD.
15.06	WATER HEATERS
15.07	CONDENSING UNIT



1 (06) ROOF (F.F.)
1" = 20'-0"

0 10' 20' 40'



LAUTERBACH & ASSOCIATES
ARCHITECTS
389 MONTGOMERY AVENUE, OXNARD, CALIFORNIA 93051 | 805-888-4912 | FAX 805-981-1410 | www.la-arch.com



LOCKWOOD III APARTMENTS
SVM LOCKWOOD, LLC
3895 E. THOUSAND OAKS BLVD. #250, THOUSAND OAKS, CA 91320

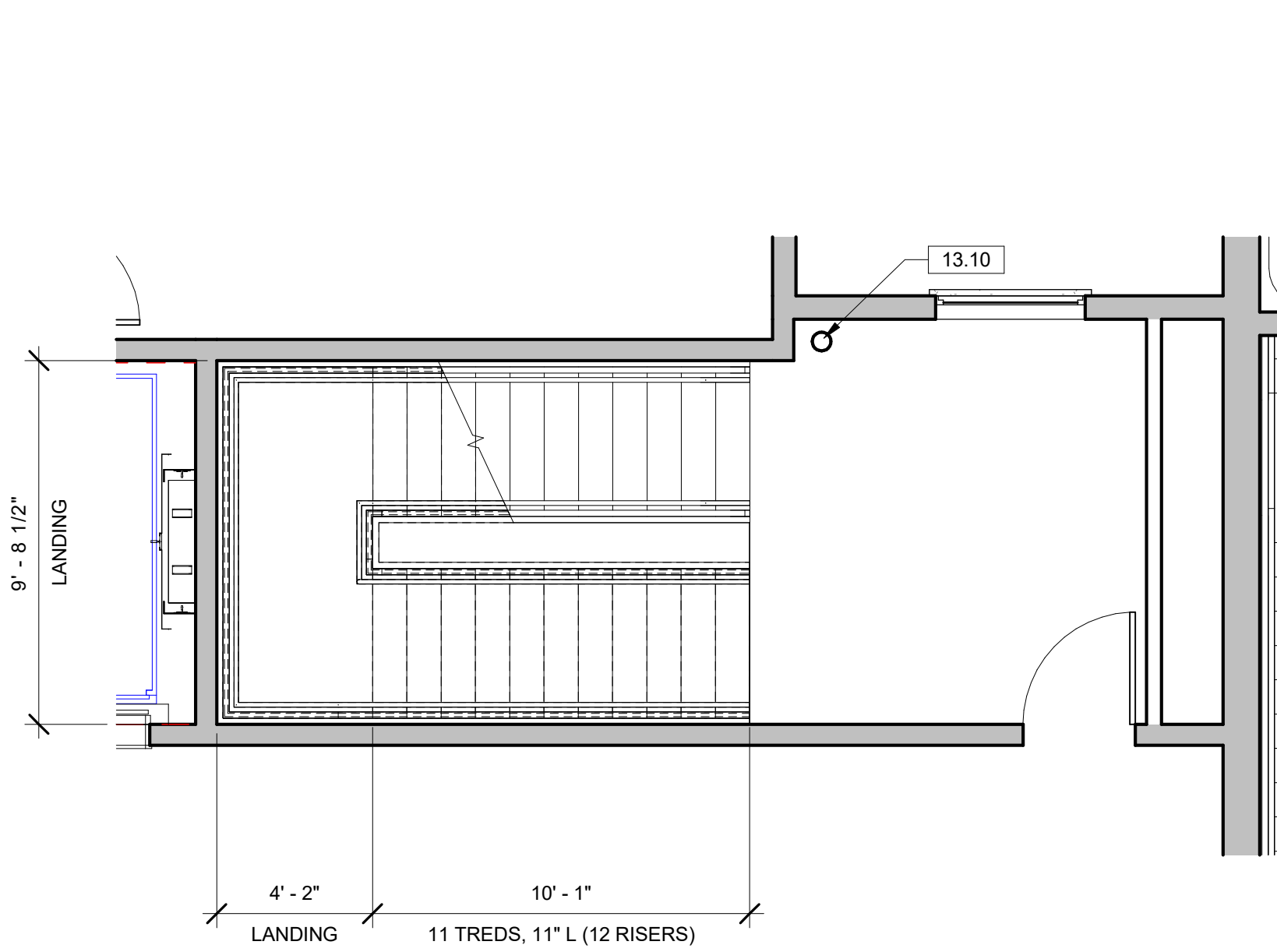
ROOF PLAN

LOCKWOOD III APARTMENTS
2151 LOCKWOOD STREET, OXNARD,
CALIFORNIA, 93036

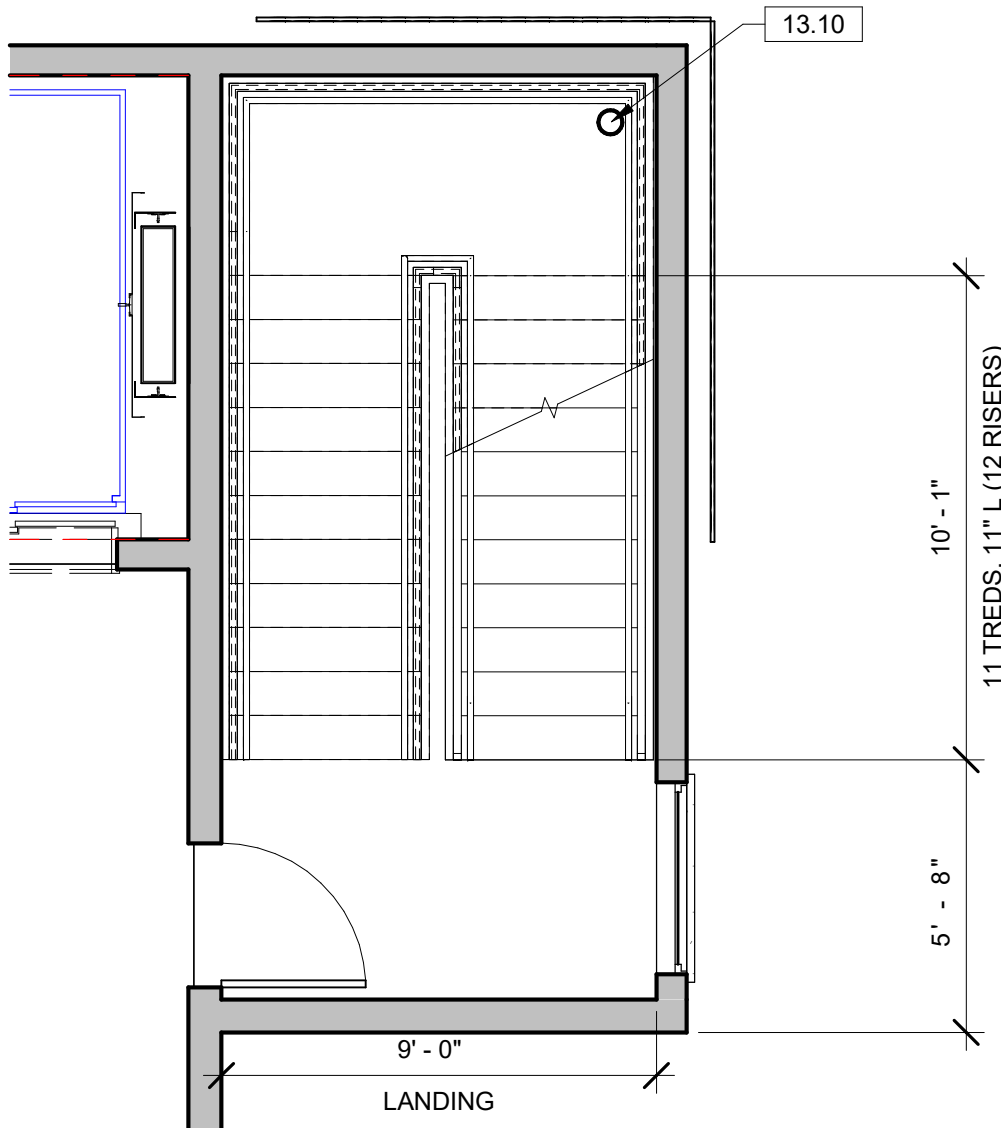
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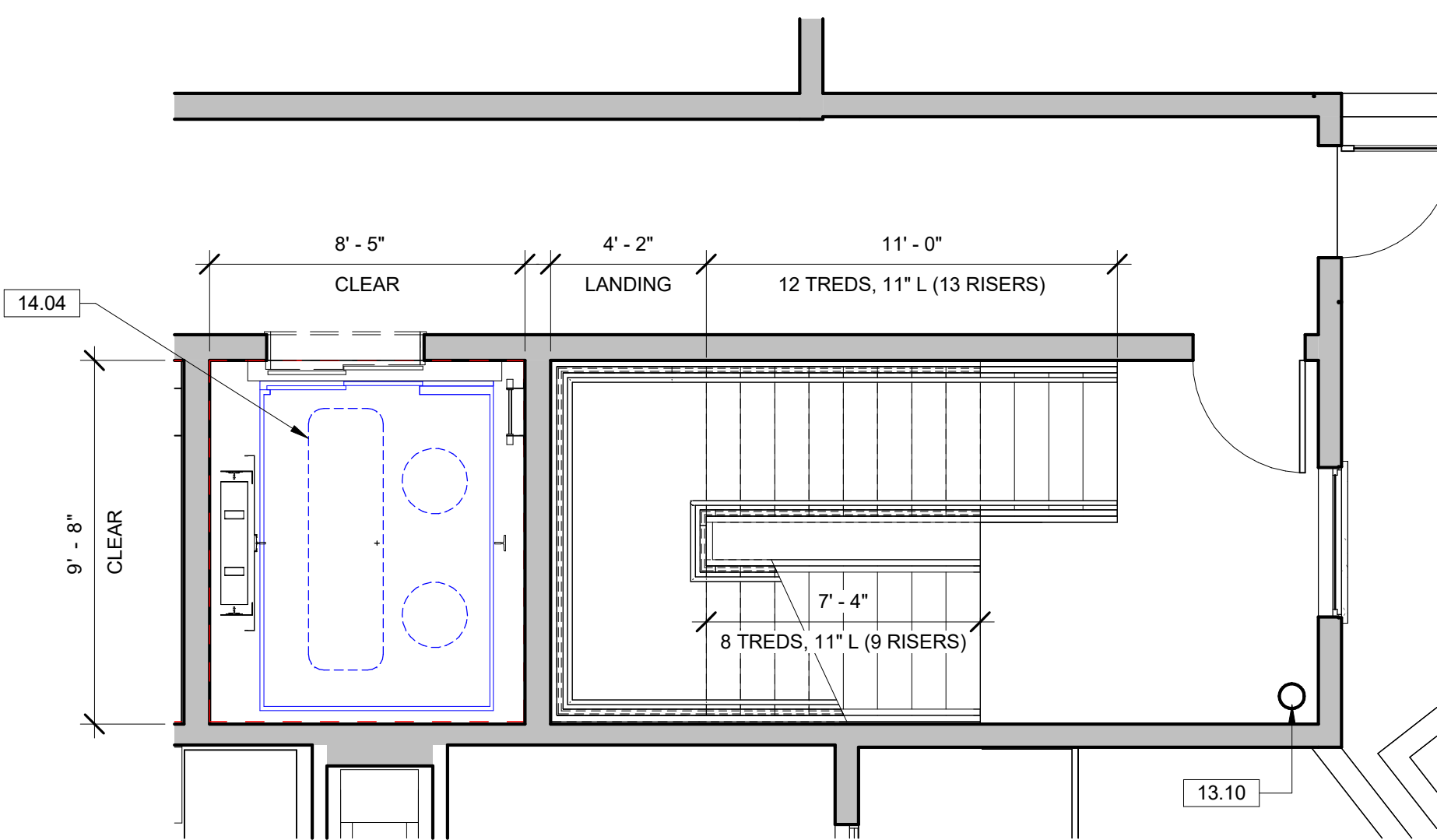
KEYNOTES	
13.10	STANDPIPE
14.04	CLEARANCE (MEDICAL GURNERY): 24"x84" WITH 5" MAX RADIUS AT CORNERS
14.05	21" DIAMETER EMERGENCY PERSONNEL SPACE



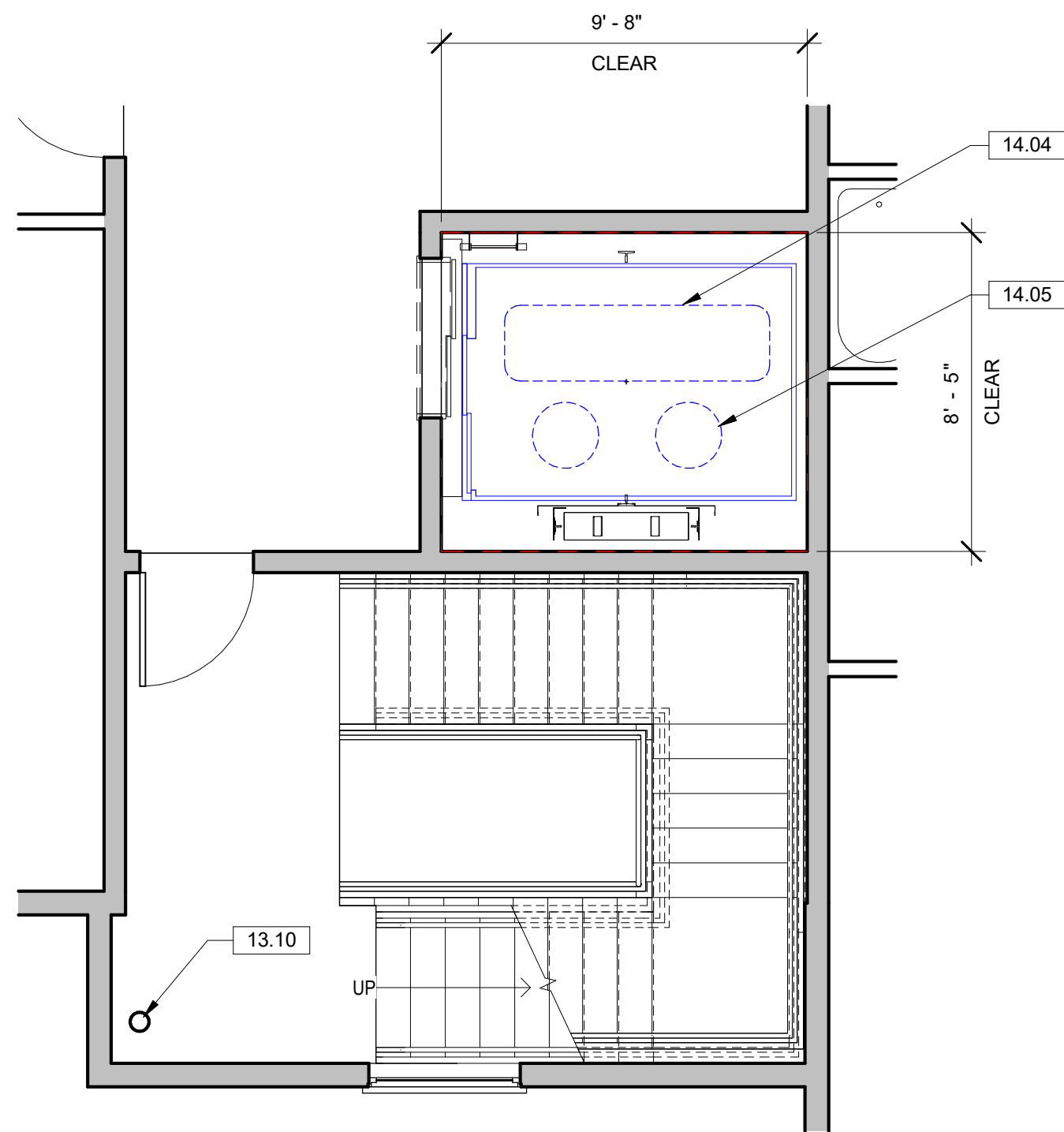
8 STAIR 4 - UPPER FLOORS TYPICAL
1/4" = 1'-0"



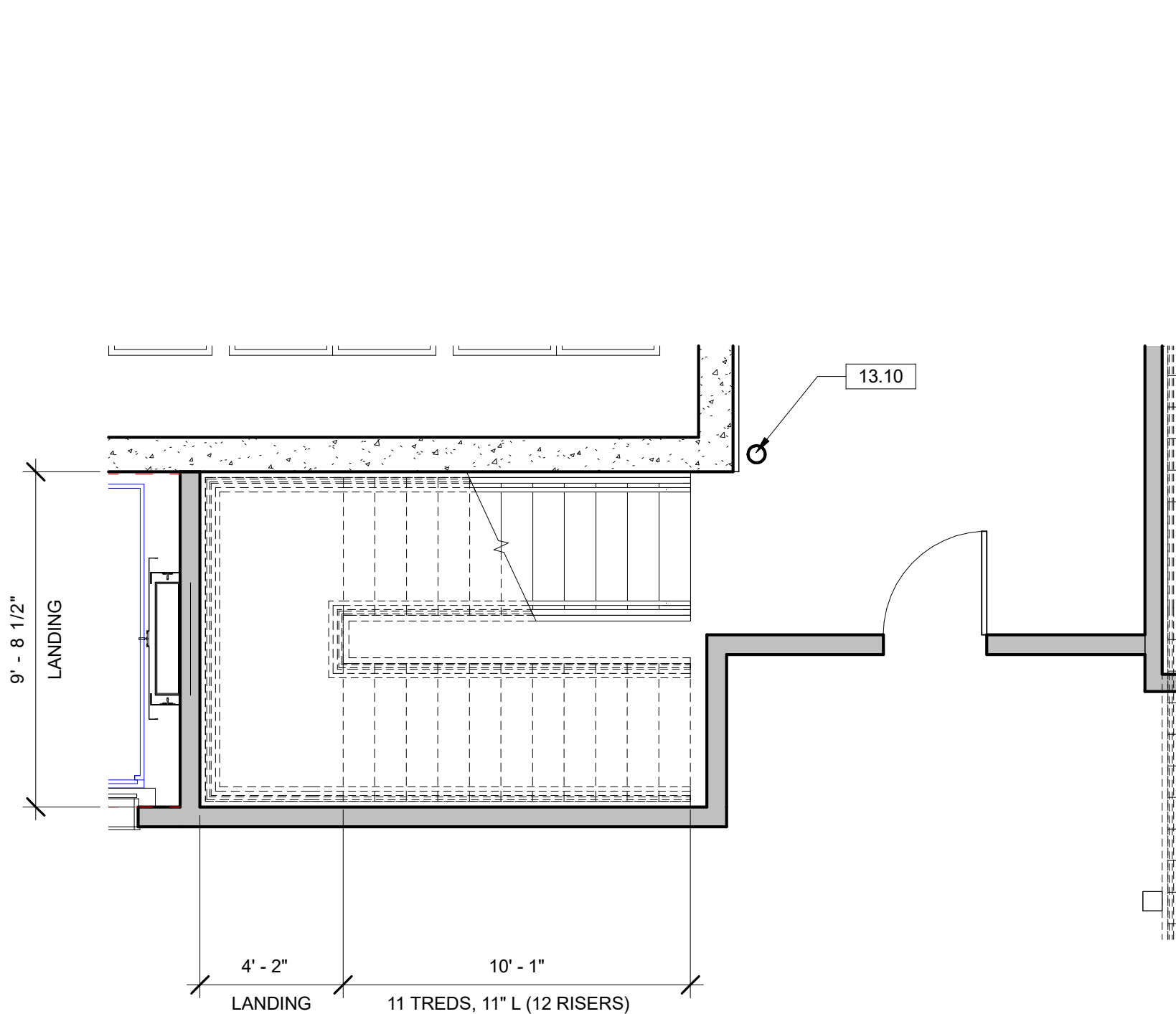
6 STAIR 3 - UPPER FLOORS TYPICAL
1/4" = 1'-0"



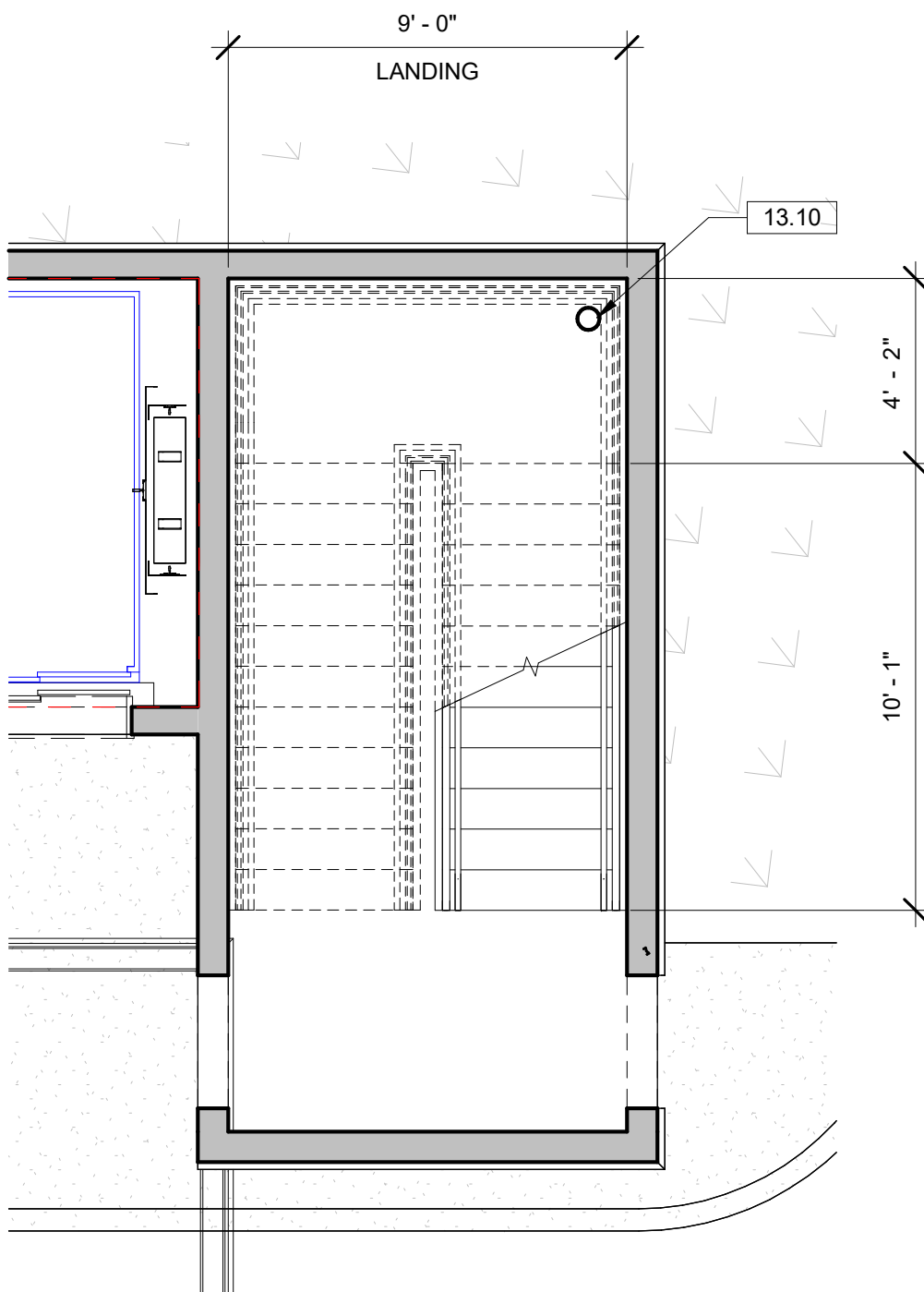
4 STAIR 2 - UPPER FLOORS TYPICAL
1/4" = 1'-0"



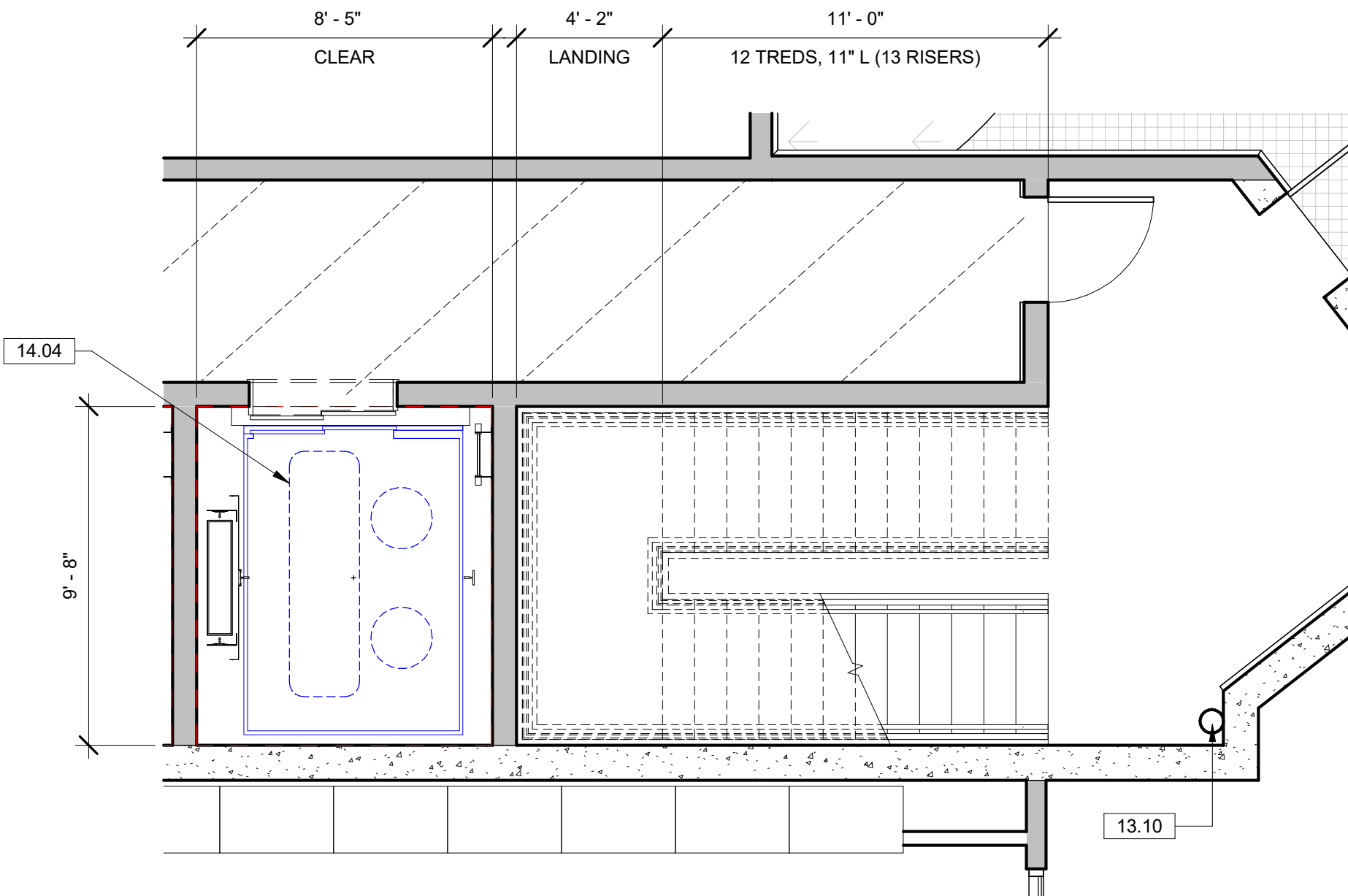
2 STAIR 1 - UPPER FLOORS TYPICAL
1/4" = 1'-0"



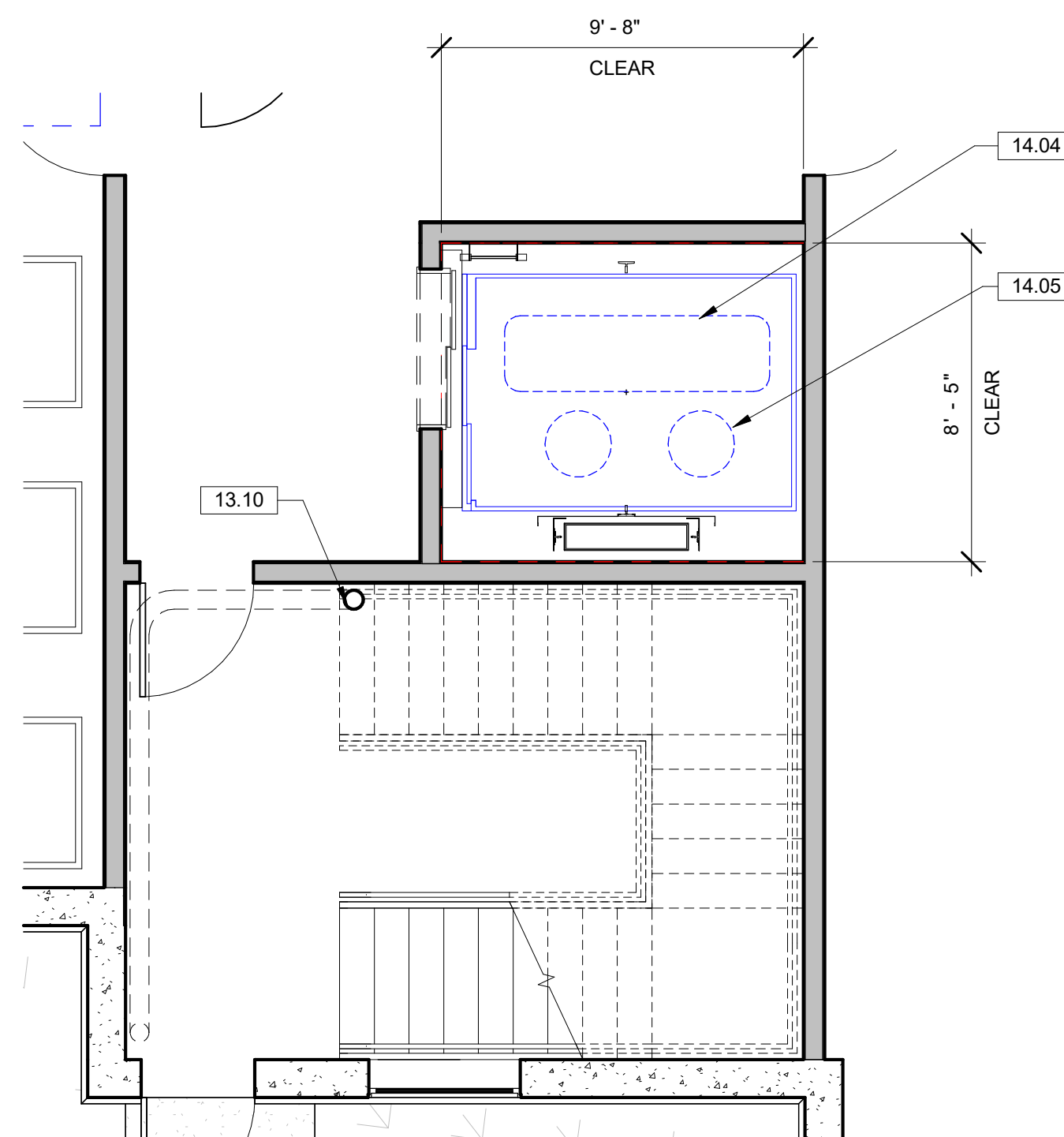
7 STAIR 4 - 1ST FLOOR
1/4" = 1'-0"



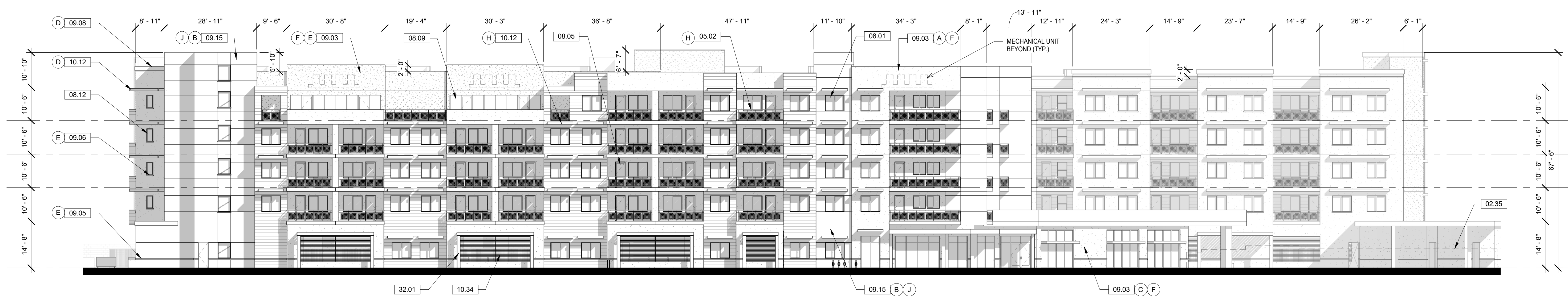
5 STAIR 3 - 1ST FLOOR
1/4" = 1'-0"



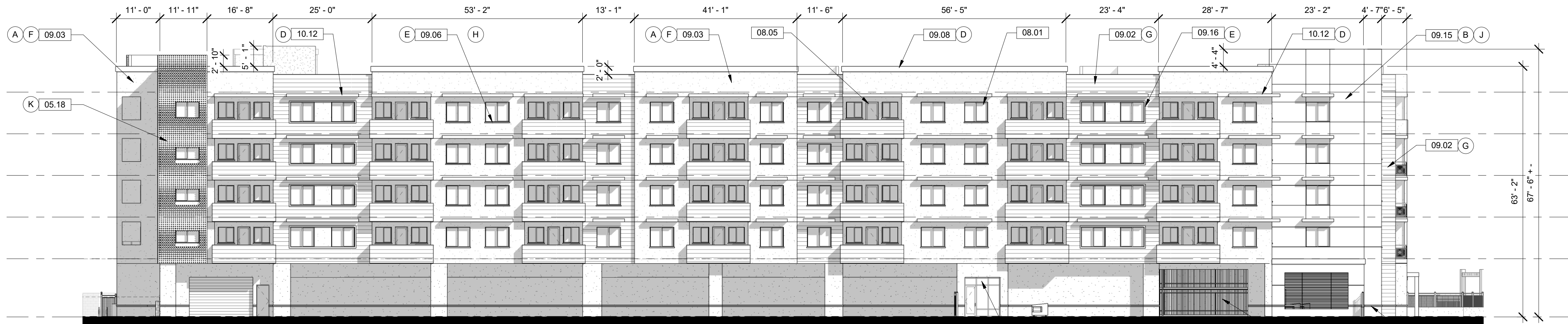
3 STAIR 2 - 1ST FLOOR
1/4" = 1'-0"



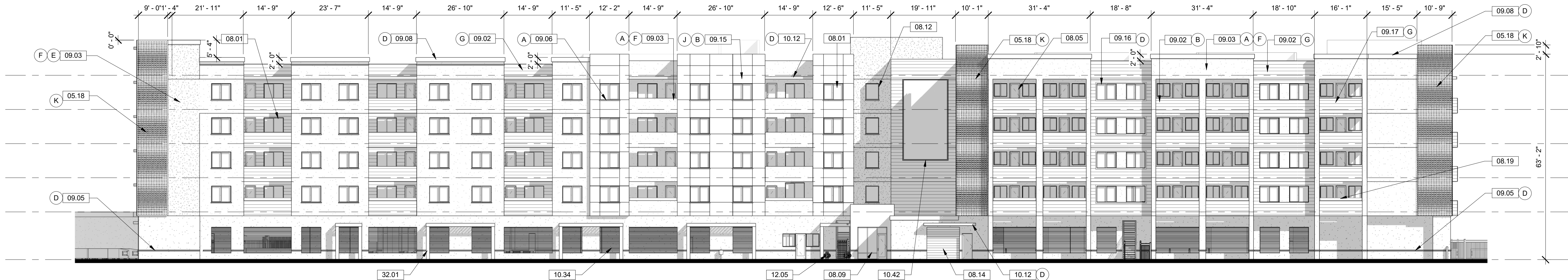
1 STAIR 1 - 1ST FLOOR
1/4" = 1'-0"



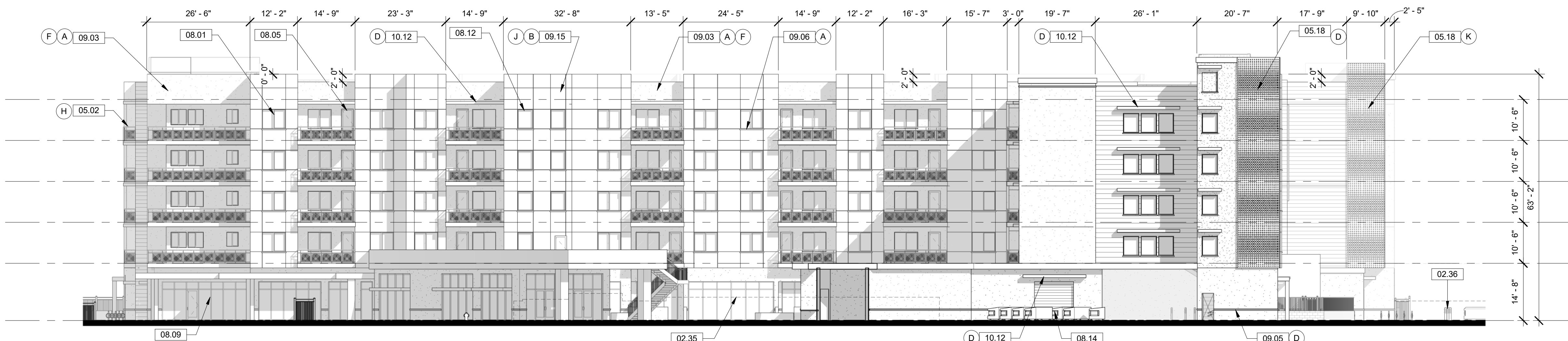
1 SOUTH (FRONT)
1/16" = 1'-0"



2 WEST (LEFT)
1/16" = 1'-0"



3 NORTH (REAR)
1/16" = 1'-0"



4 EAST (RIGHT)
1/16" = 1'-0"

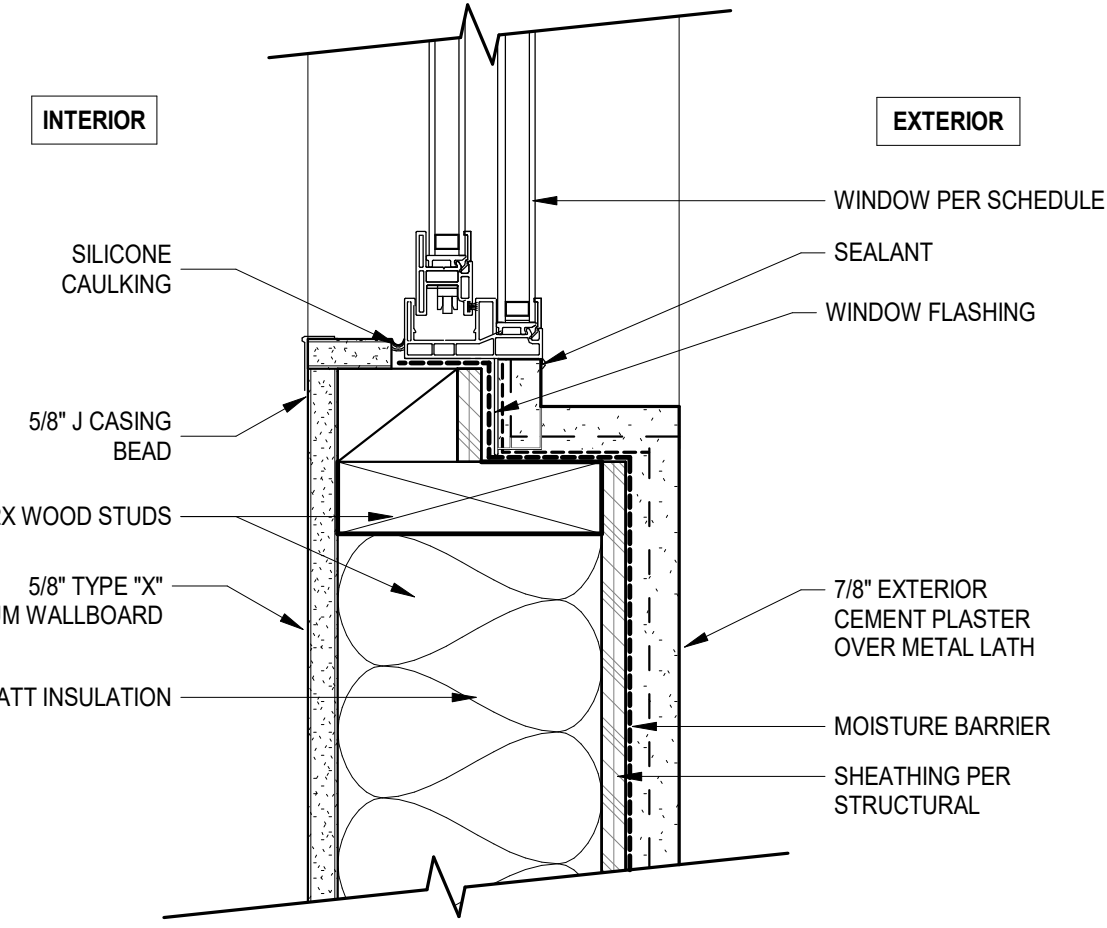
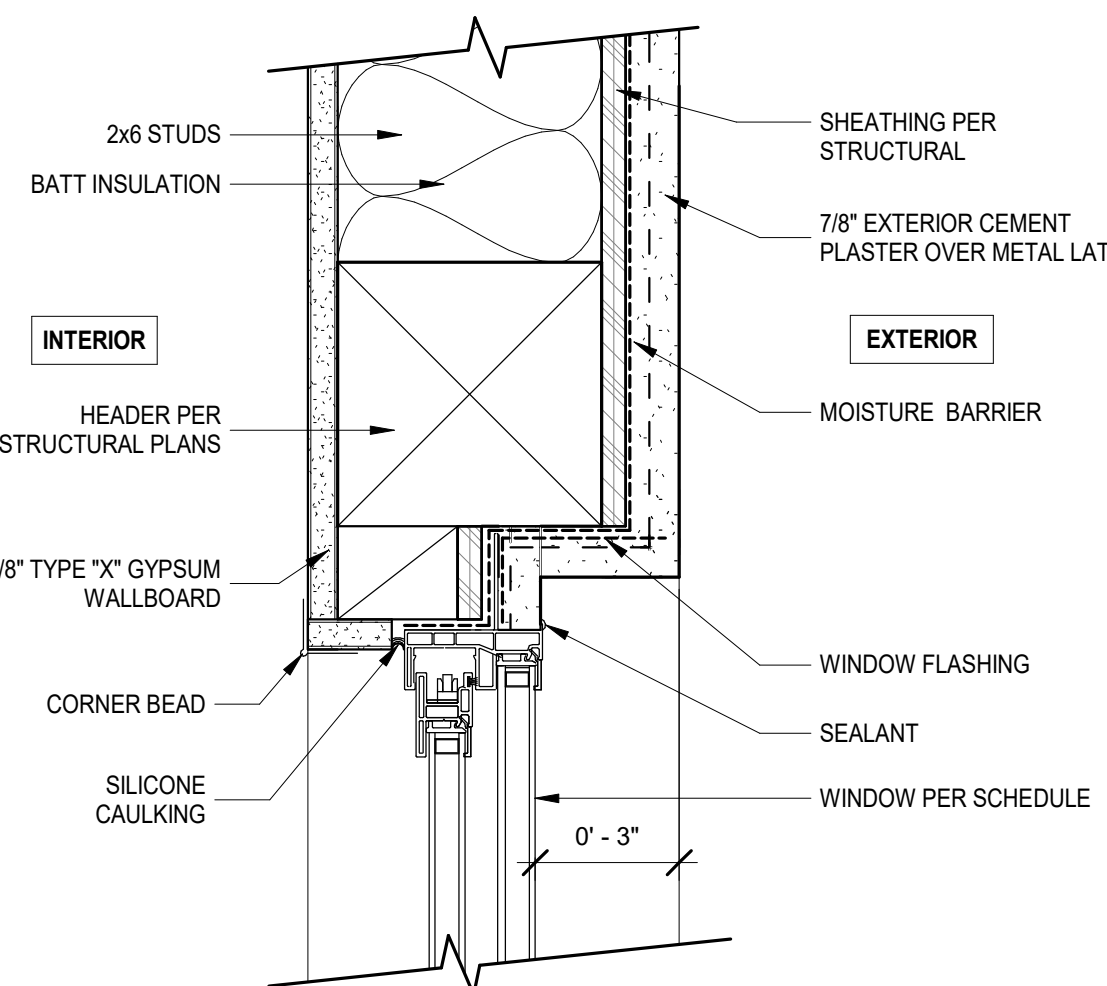
KEYNOTES	
02.35	FENCING LOCATION
02.36	SAFETY BOLLARD
05.02	GUARDRAIL, PERFORATED METAL PANEL 42" HT.
05.03	SLIDING SECURITY GATE: METAL WROUGHT IRON STYLE 6" HT. TO MATCH SITE FENCING; AUTOMATIC OPENER WITH FIRE DEPARTMENT "KNOX BOX" AS REQUIRED
06.18	PERFORATED METAL PANELS
08.01	WINDOW VINYL FRAME, TINTED GLAZING (AS REQUIRED)
08.05	PATIO DOORS, SINGLE-LIGHT FRENCH, PAINT,
08.09	STOREFRONT WINDOW SYSTEMS, TINTED GLAZING, ANODIZED COLORED FRAMES
08.12	FIXED WINDOW VINYL FRAME
08.14	10' x 10' ROLL-UP DOOR
08.19	10 1/4" x 12" THICK VIEW RAIL GLAZING ON TOP OF 42" HIGH SOLID GUARDRAIL
09.02	WALL FINISH: COMPOSITE CEMENT BOARD SIDING
09.03	WALL FINISH: CEMENT PLASTER, MEDIUM SAND FLOAT FINISH
09.05	WALL ACCENT: FOAM TRIM WITH CEMENT PLASTER FINISH
09.06	WINDOW SILL TRIM: FOAM WITH CEMENT PLASTER FINISH
09.08	CORNICE: FOAM WITH CEMENT PLASTER FINISH
09.15	COMPOSITE CEMENT BOARD PANELS
09.16	WINDOW TRIM: FOAM WITH CEMENT PLASTER FINISH
09.17	42" BALCONY WALL
10.12	METAL AWNING
10.34	METAL SCREEN VEENT
10.42	VISUAL DISPLAY ART SCREEN
12.05	BICYCLE RACK (SHORT TERM)
32.01	TRELLIS STRUCTURE

LEGEND

- (A) PAINT: DUNN EDWARDS DEW380 WARM WHITE
- (B) PAINT: DUNN EDWARDS DE6333 HAMILTON BLUE
- (C) PAINT: DUNN EDWARDS DET513 CALIFORNIA SAGEBUSH
- (D) PAINT: DUNN EDWARDS DE6334 LONG LAKE
- (E) PAINT: DUNN EDWARDS DEA002 BLACK
- (F) EXTERIOR CEMENT PLASTER
- (G) JAMES HARDIE: FIBER CEMENT LAP SIDING KHAKI BROWN
- (H) PERFORATED PANEL RAILING
- (J) JAMES HARDIE: HARDIE ARCHITECTURAL PANEL
- (K) ACCURATE PERFORATING ALUMINUM PANELS

GENERAL NOTES

- EACH BUILDING COVERS A MINIMUM OF 20% OF THE BUILDING FRONTAGE
- SEE FLOOR PLANS FOR PATIO LAYOUTS
- A MINIMUM ONE-FOOT OFFSET IS PROVIDED FOR ANY WALL PLANES THAT EXCEED 30 FEET IN LENGTH
- ARCHITECTURAL ARTICULATION RHYTHMS FOLLOW ADJACENT EXISTING DEVELOPMENTS
- NORTH FACING WINDOWS AND DOORS TO MEET SOUND DEADENING REQUIREMENTS AND REMAIN OPERABLE



5 WINDOW - EXTERIOR PLASTER RECESSED
3" = 1'-0"

EXTERIOR ELEVATIONS

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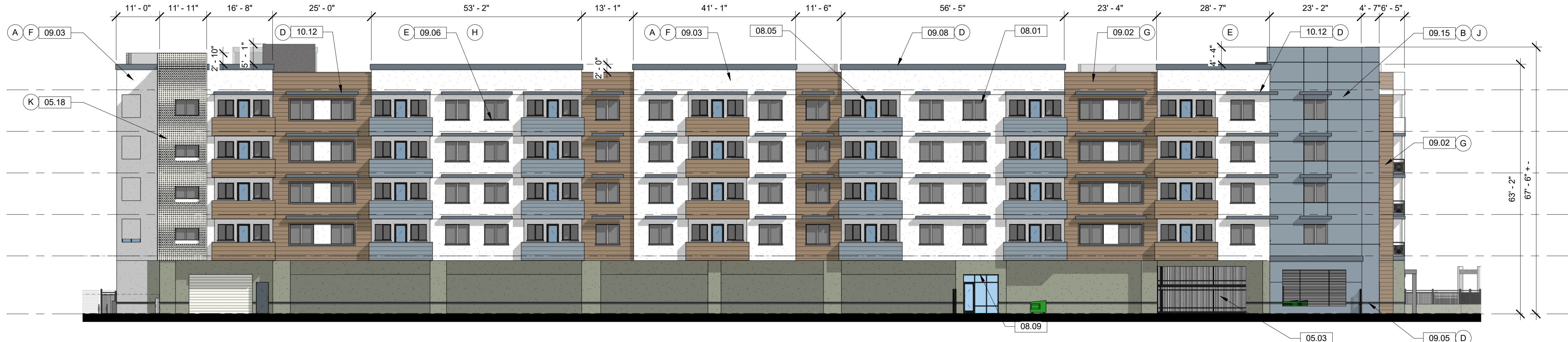


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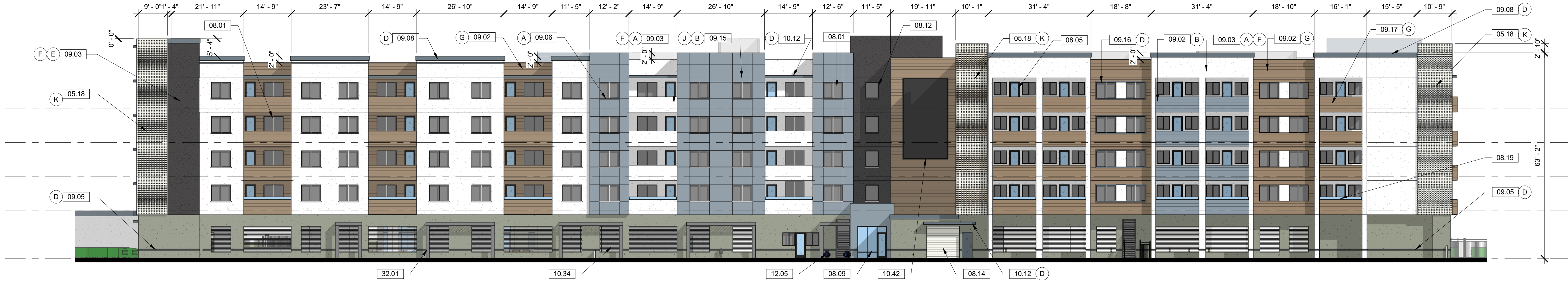
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1 SOUTH COLOR
1/16" = 1'-0"



2 WEST COLOR
1/16" = 1'-0"



3 NORTH
1/16" = 1'-0"



4 EAST
1/16" = 1'-0"

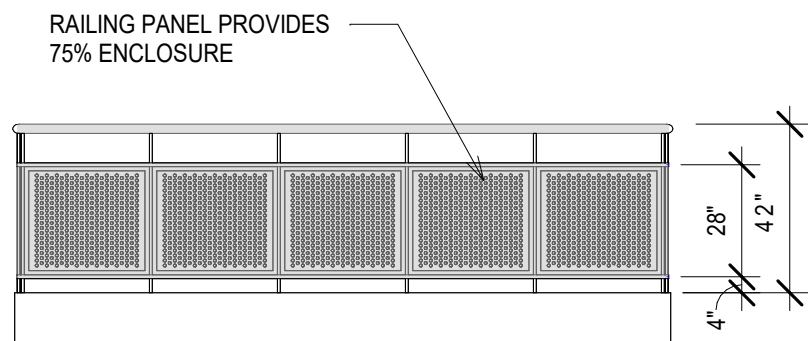
KEYNOTES	
02.35	FENCING LOCATION
02.36	SAFETY BOLLARD
05.02	GUARDRAIL, PERFORATED METAL PANEL 42" HT.
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10.34	METAL SCREEN VENT
10.42	VISUAL DISPLAY ART SCREEN
12.05	BICYCLE RACK (SHORT TERM)
32.01	TRELLIS STRUCTURE

LEGEND

(A)		PAINT: DUNN EDWARDS DEW380 WARM WHITE
(B)		PAINT: DUNN EDWARDS DE6333 HAMILTON BLUE
(C)		PAINT: DUNN EDWARDS DET515 CALIFORNIA SAGEBUSH
(D)		PAINT: DUNN EDWARDS DE6334 LONG LAKE
(E)		PAINT: DUNN EDWARDS DEA002 BLACK
(F)		EXTERIOR CEMENT PLASTER
(G)		JAMES HARDIE: FIBER CEMENT LAP SIDING KHAKI BROWN
(H)		PERFORATED PANEL RAILING
(J)		JAMES HARDIE: HARDIE ARCHITECTURAL PANEL
(K)		ACCURATE PERFORMING ALUMINUM PANELS

GENERAL NOTES

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4. ARCHITECTURAL ARTICULATION RHYTHMS FOLLOW ADJACENT EXISTING DEVELOPMENTS
5. NORTH FACING WINDOWS AND DOORS TO MEET SOUND DEADENING REQUIREMENTS AND REMAIN OPERABLE.



5 GUARDRAIL
1/4" = 1'-0"

EXTERIOR ELEVATIONS - COLOR

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2 VIEW 1

3D VIEWS

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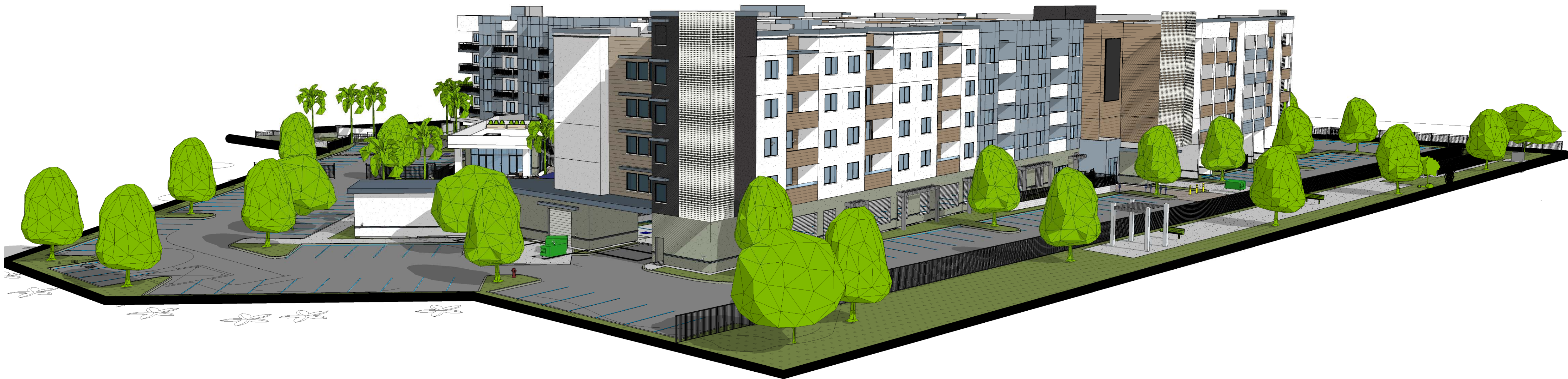
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SVM LOCKWOOD, LLC
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A-2.3



2 VIEW 2

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ARCHITECTS
David C. Lauterbach, Architect • Ilana Scott, Architect • Mark S. Pott, Architect
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LOCKWOOD III APARTMENTS
SVM LOCKWOOD, LLC
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3D VIEWS

LOCKWOOD III APARTMENTS
2151 LOCKWOOD STREET, OXNARD,
CALIFORNIA, 93036

A-2.4

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2 VIEW 3

3D VIEWS

LOCKWOOD III APARTMENTS
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CALIFORNIA, 93036

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ARCHITECTS
David C. Lauterbach, Architect • Ilana Scott, Architect • Mark S. Pottel, Architect
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③ SOUTH EAST PERSPECTIVE
12" = 1'-0"



① EAST PERSPECTIVE
12" = 1'-0"

RENDERINGS

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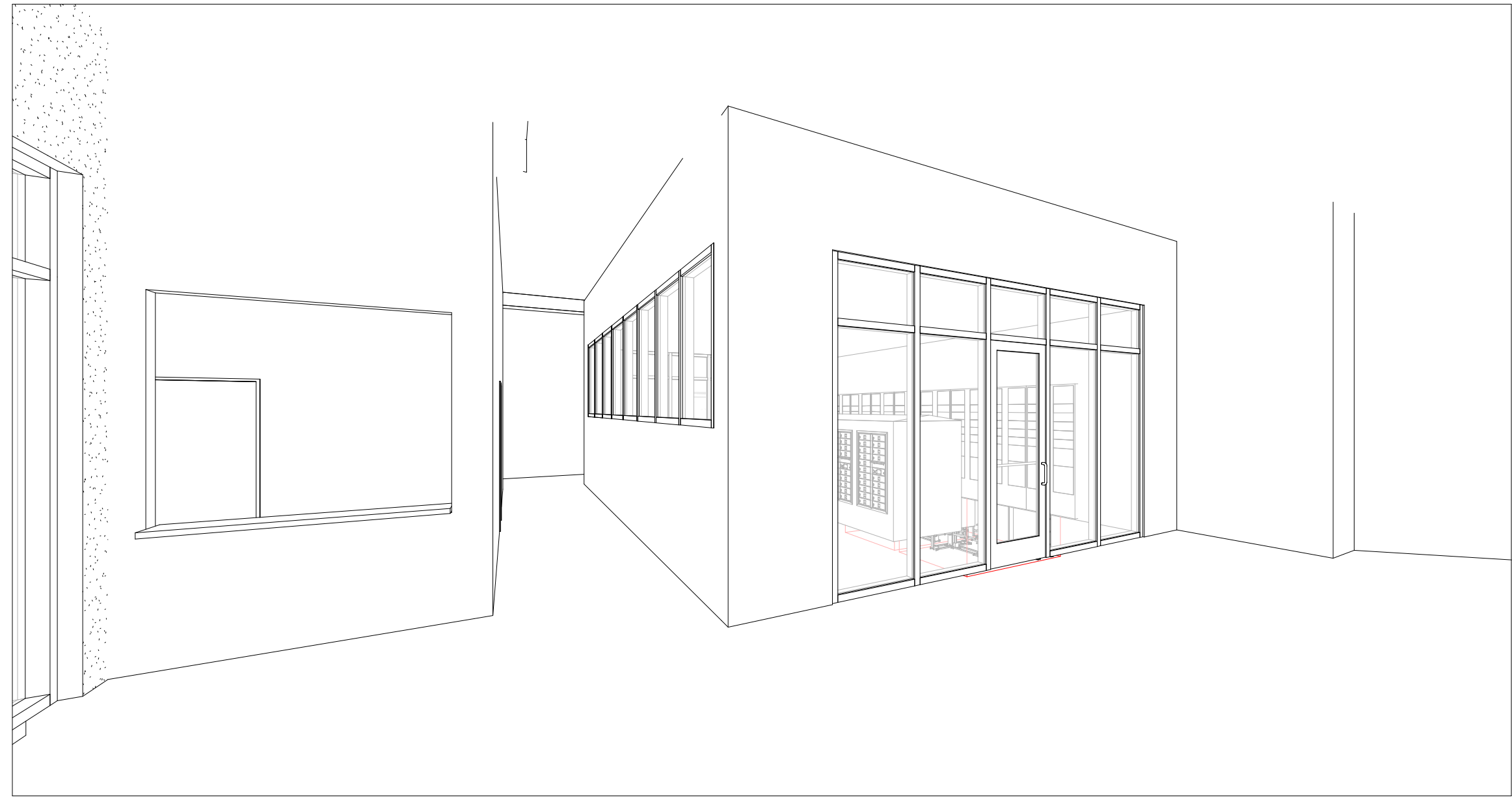
① NORTH EAST PERSPECTIVE
12" = 1'-0"



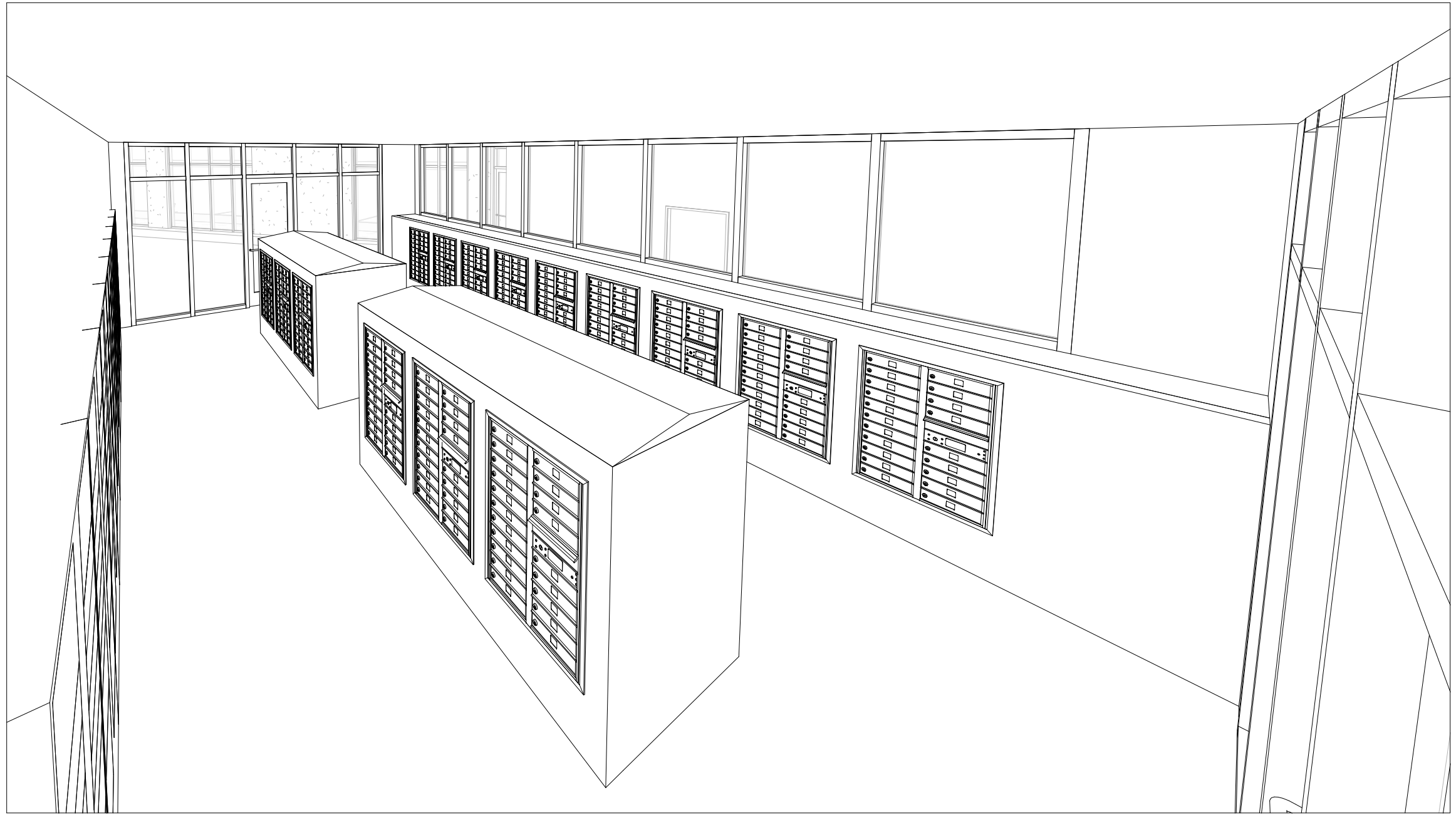
③ NORTH PERSPECTIVE
12" = 1'-0"

RENDERINGS

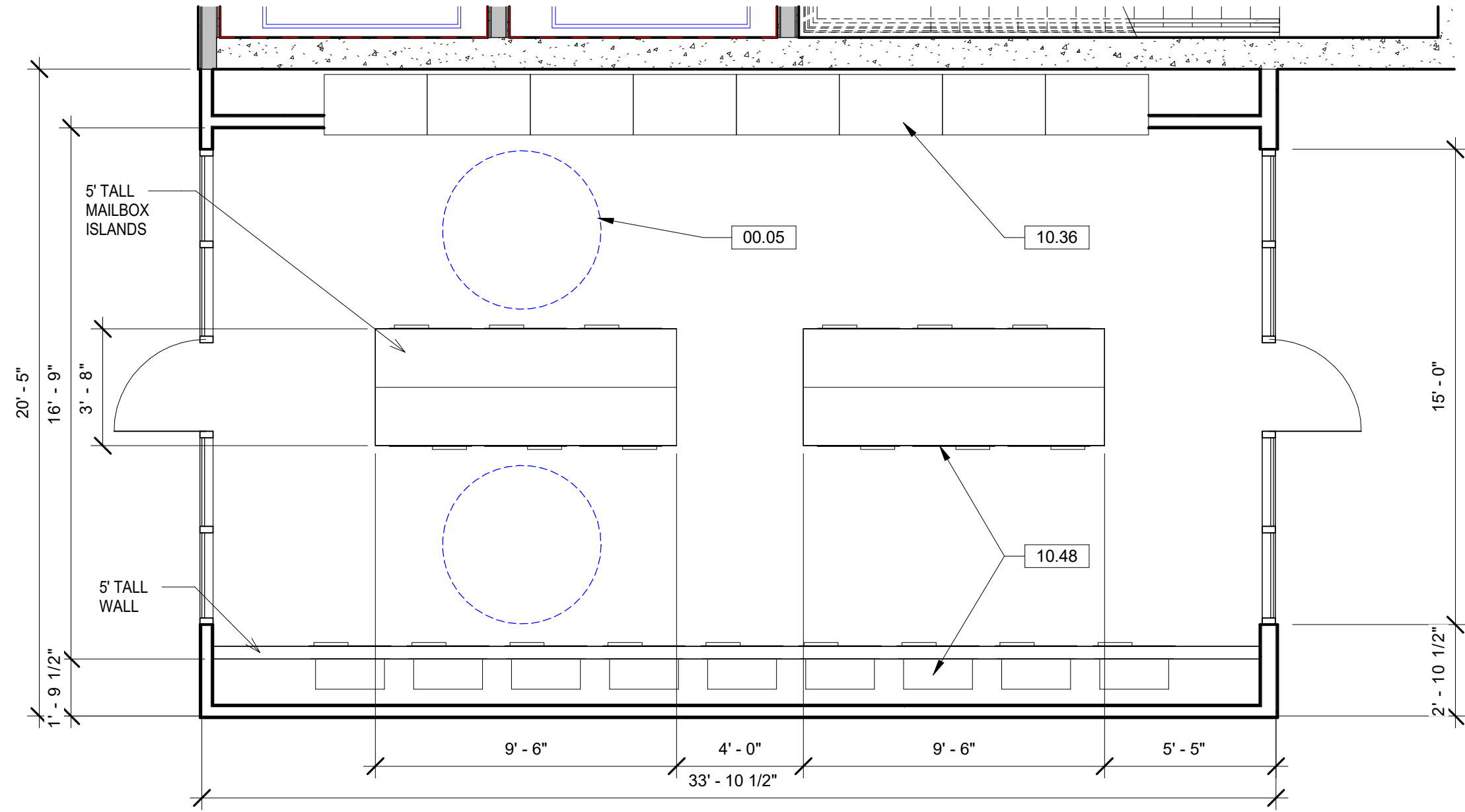
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2 MAIL ROOM - VIEW FROM LOBBY



3 MAIL ROOM - INTERIOR VIEW



1 MAIL ROOM
1/4" = 1'-0"

MAIL ROOM





GAME/ CARD ROOM



MEDIA CENTER



CONFERENCE ROOM



BUSINESS CENTER



PRIVATE PATIOS

WASHER DRYER UNITS AT EA. UNIT



2 Bees in a Pod

COFFEE BAR



FITNESS CENTER



MAIL, PACKAGE AND PARCEL



TRASH CHUTES AT EVERY FLOOR LEVEL



INTERIOR DESIGN ELEMENTS

PUTTING COURSE



POOL AREA



FREEWAY SCREEN WALL
(AT WAGON WHEEL ALONG FREEWAY)



BALCONY GLAZING AT
NORTH ELEVATION



BICYCLE STORAGE



BOCCE BALL



FIREPLACE WITH SEATING



ALUMINUM TRELLIS



LINEAR FIREPIT



OUTDOOR YOGA



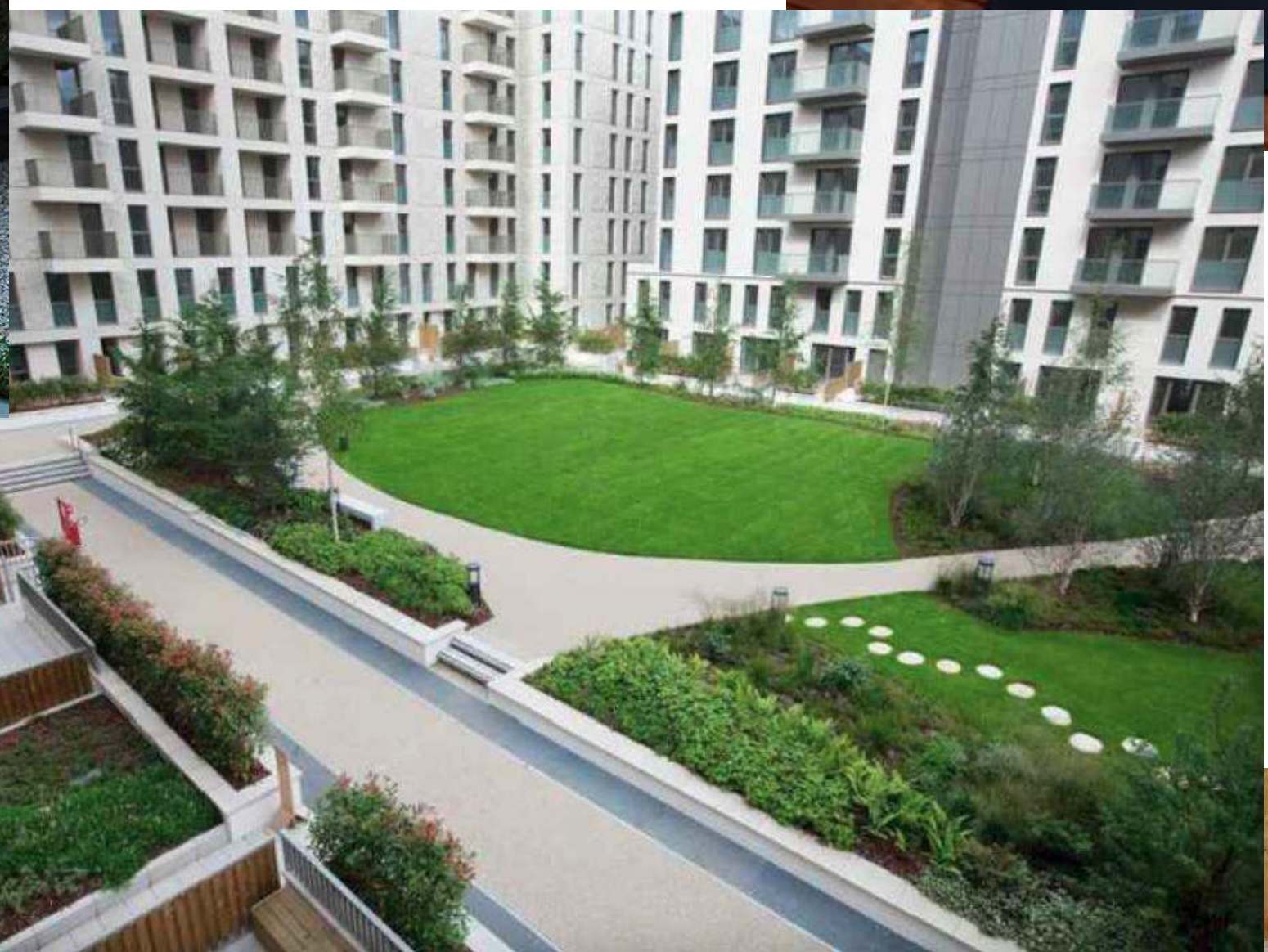
CONCRETE ISLAND WITH BBQ



LINEAR HANGING PLANTERS



ARTIFICIAL TURF



SEAT WALL



DOG PARK



LARGE PLANTERS



OUTDOOR SEATING



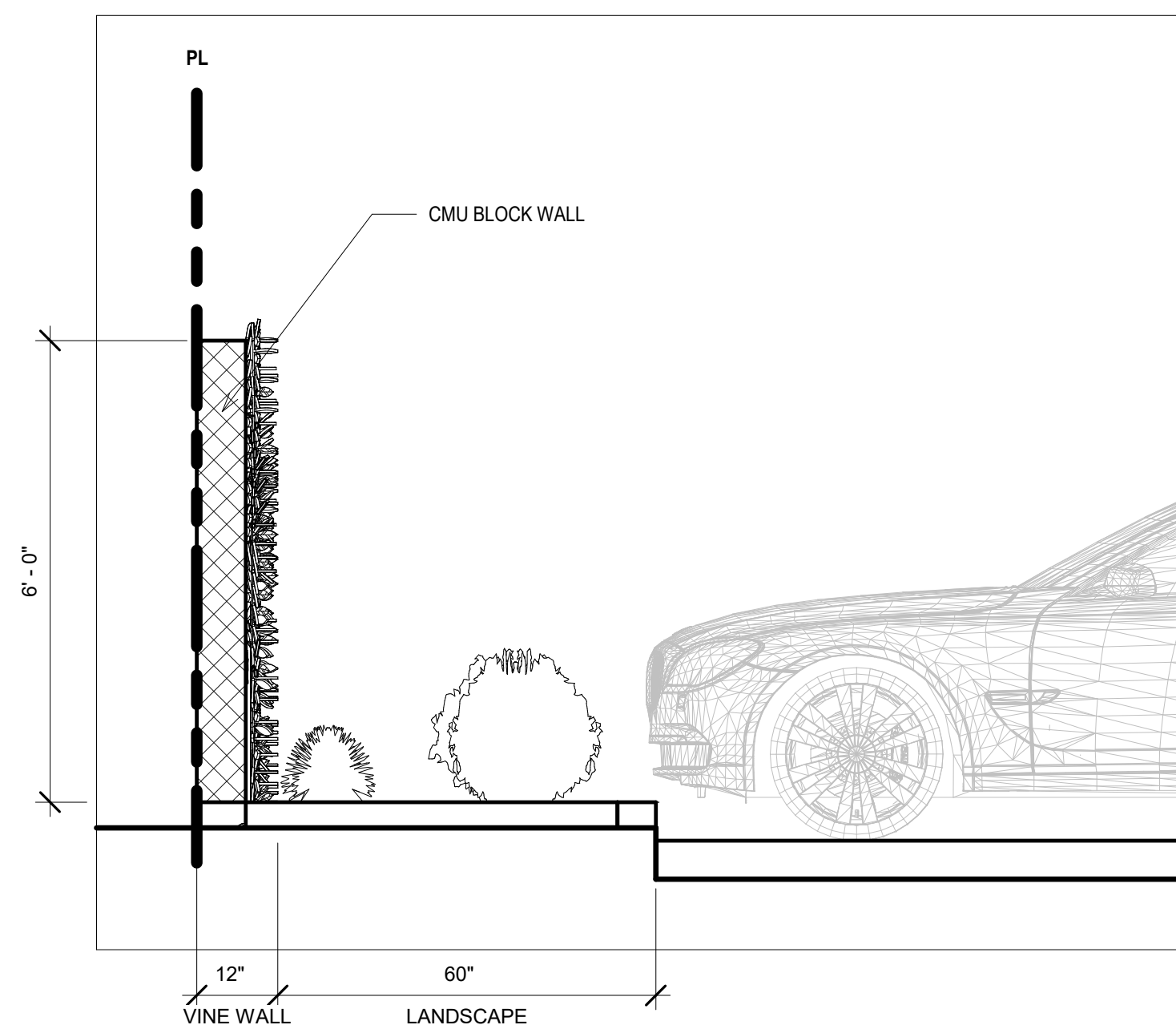
OUTDOOR COVERED DINING

EXTERIOR DESIGN ELEMENTS

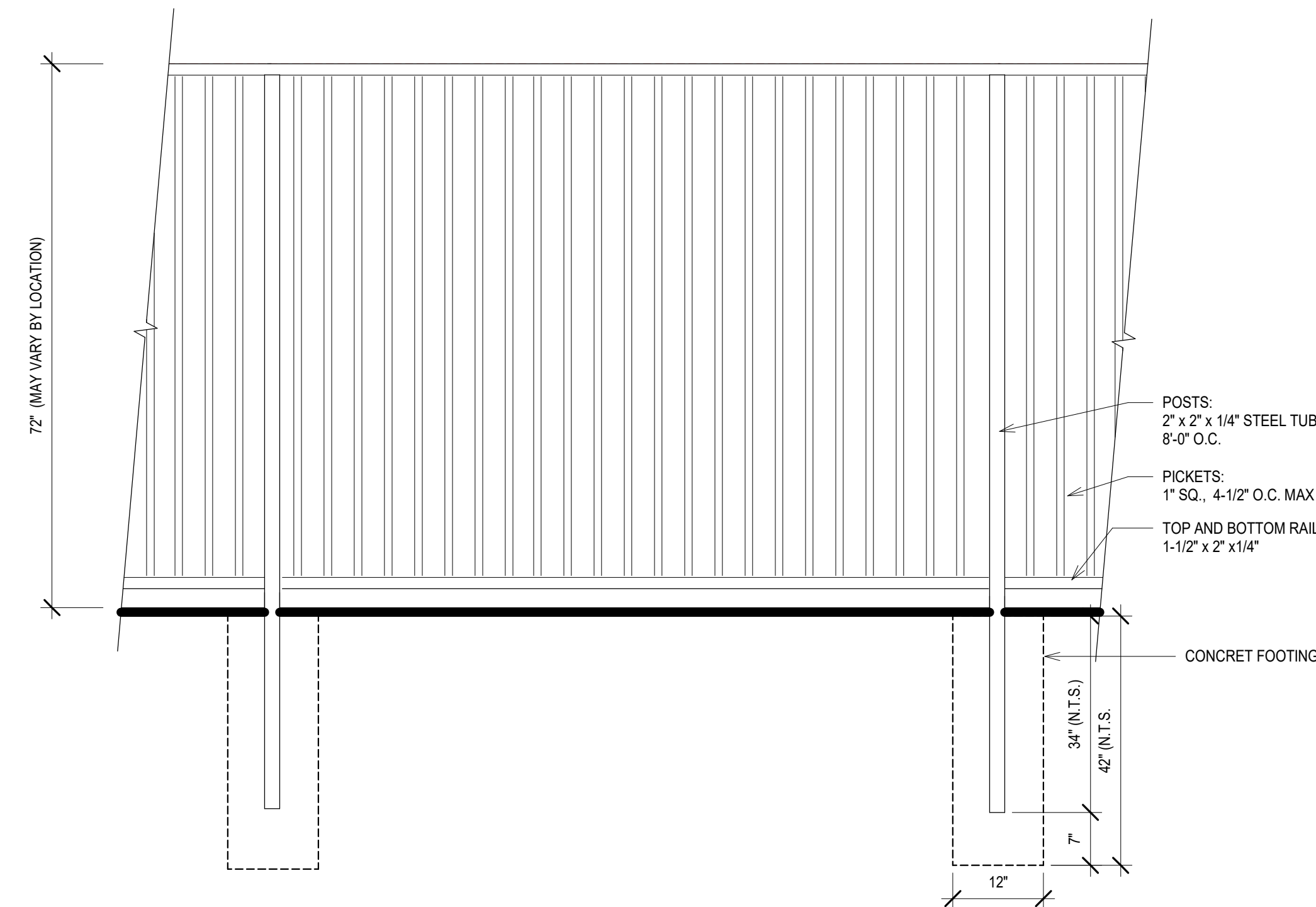


8 CMU WALL ELEVATION
1/2" = 1'-0"

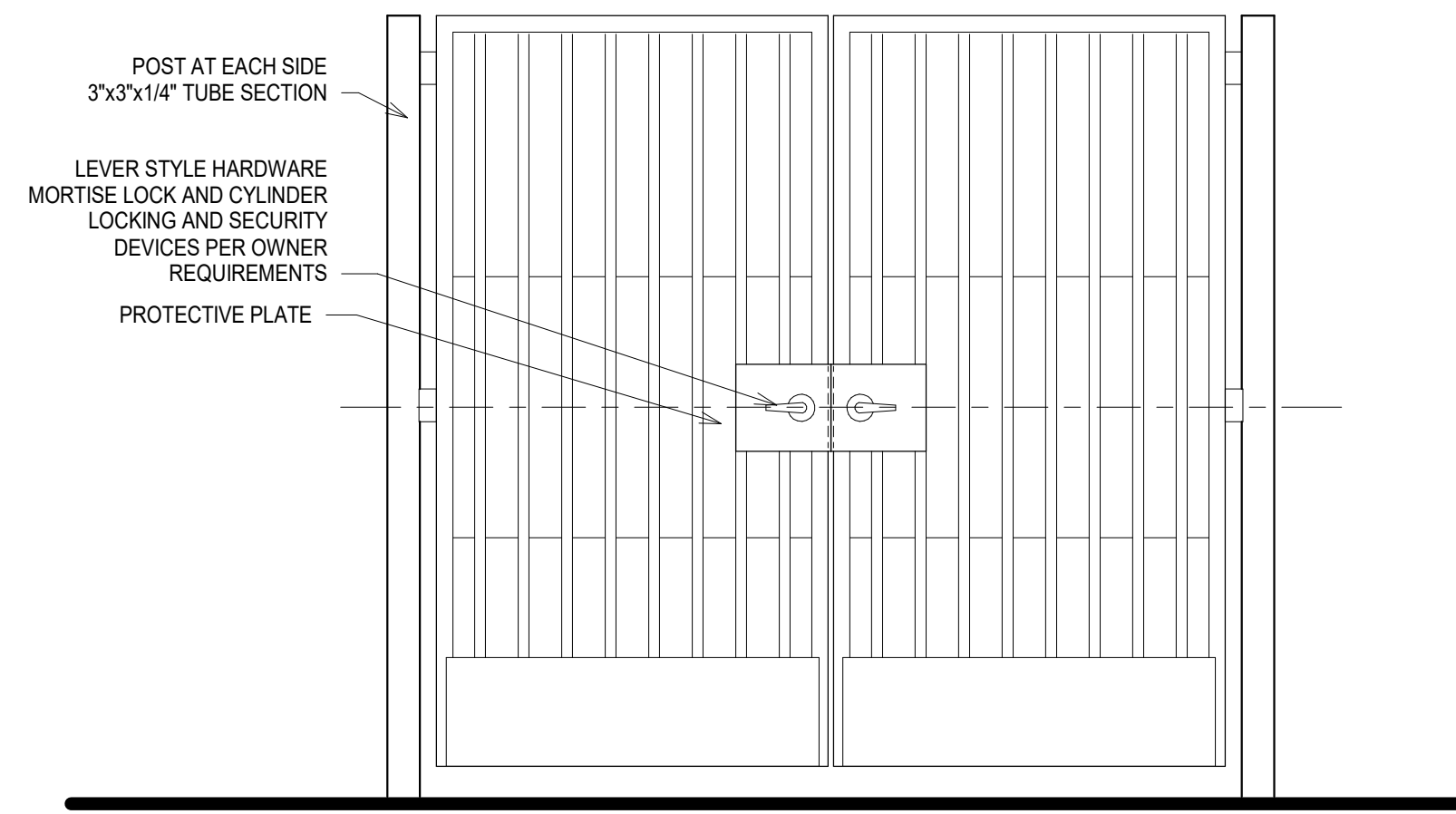
7 FREEWAY WALL SECTION
1/2" = 1'-0"



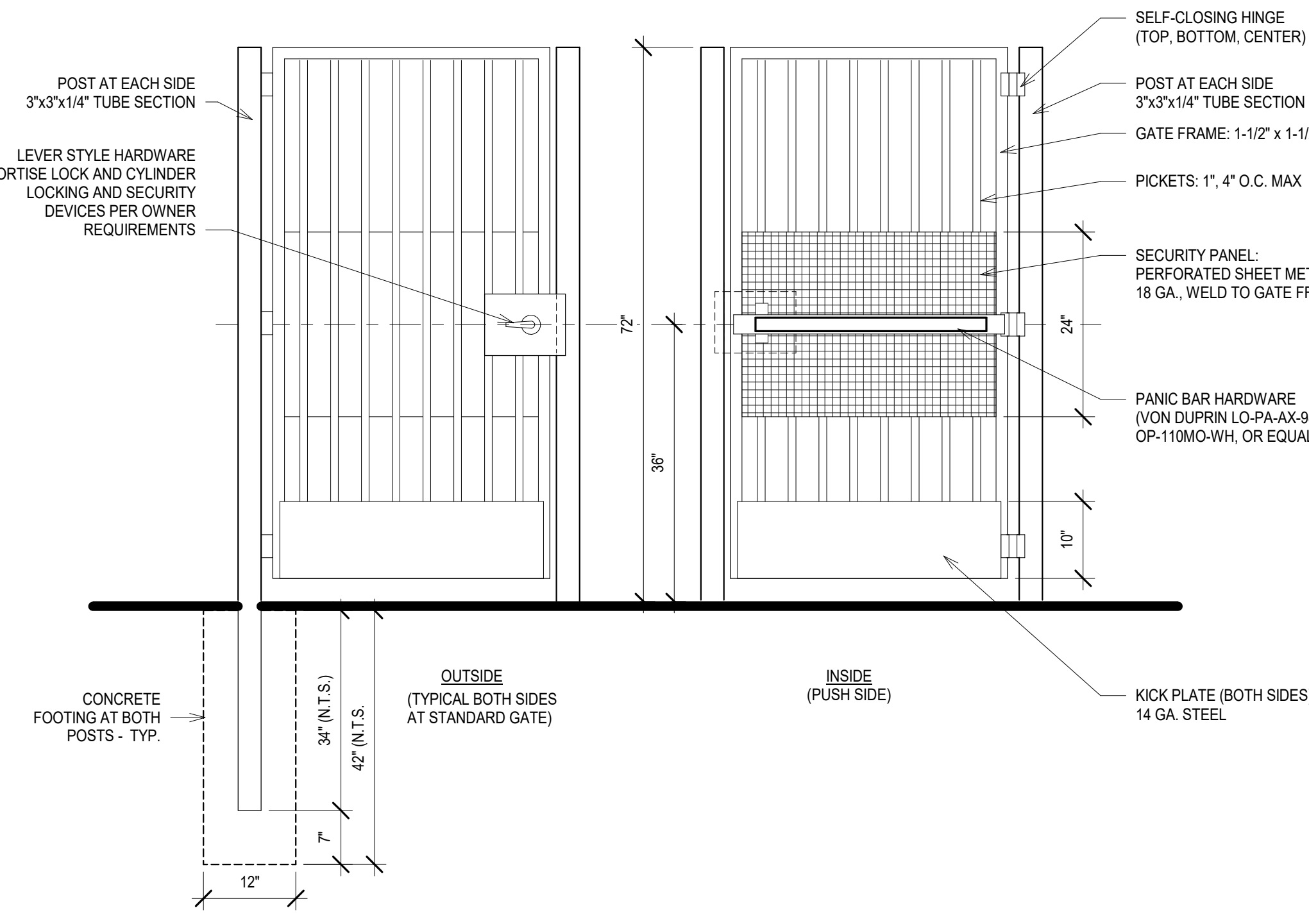
6 SIDE YARD WALL SECTION
1/2" = 1'-0"



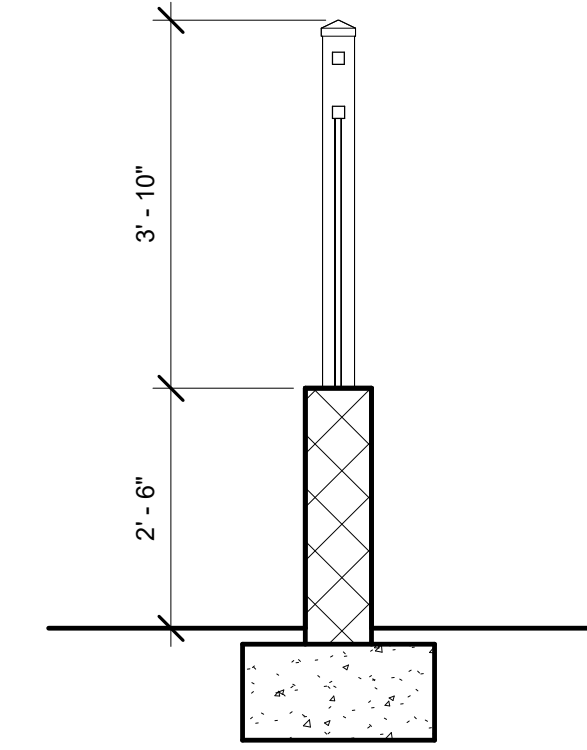
1 SITE FENCE - TYPICAL
3/4" = 1'-0"



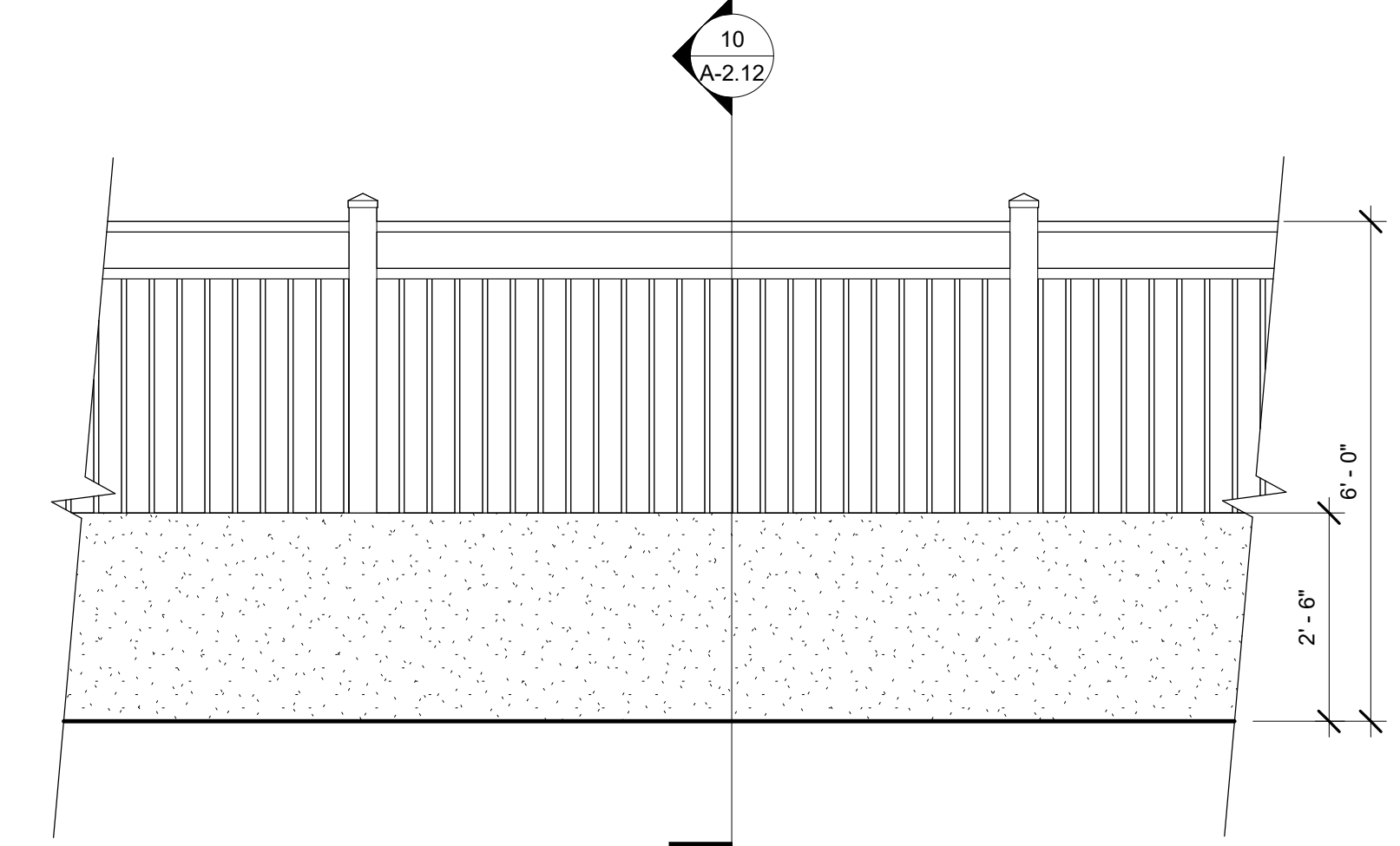
3 PEDESTRIAN GATE WITH PANIC HDWR.
3/4" = 1'-0"



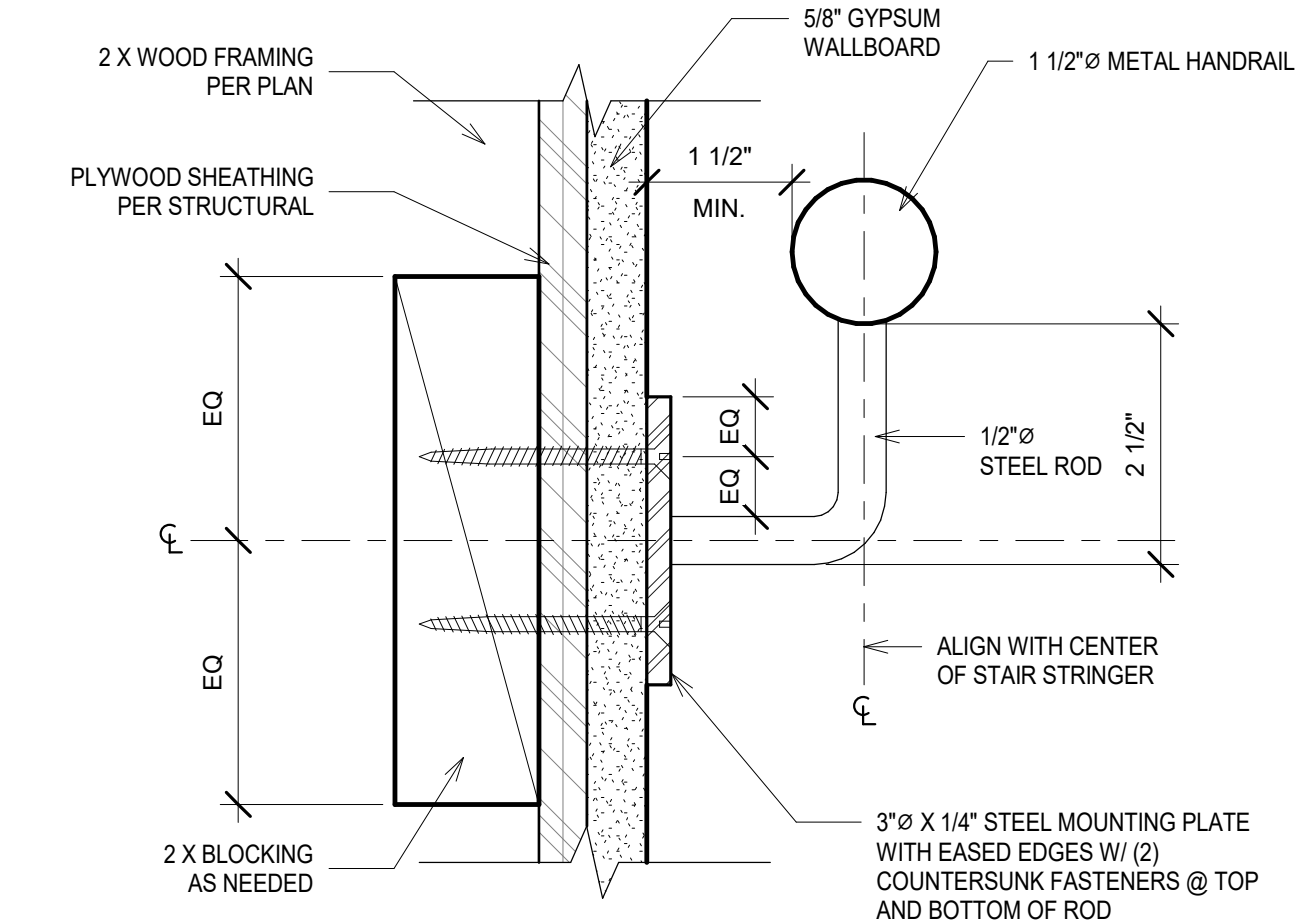
2 PEDESTRIAN GATE WITH PANIC HDWR.
3/4" = 1'-0"



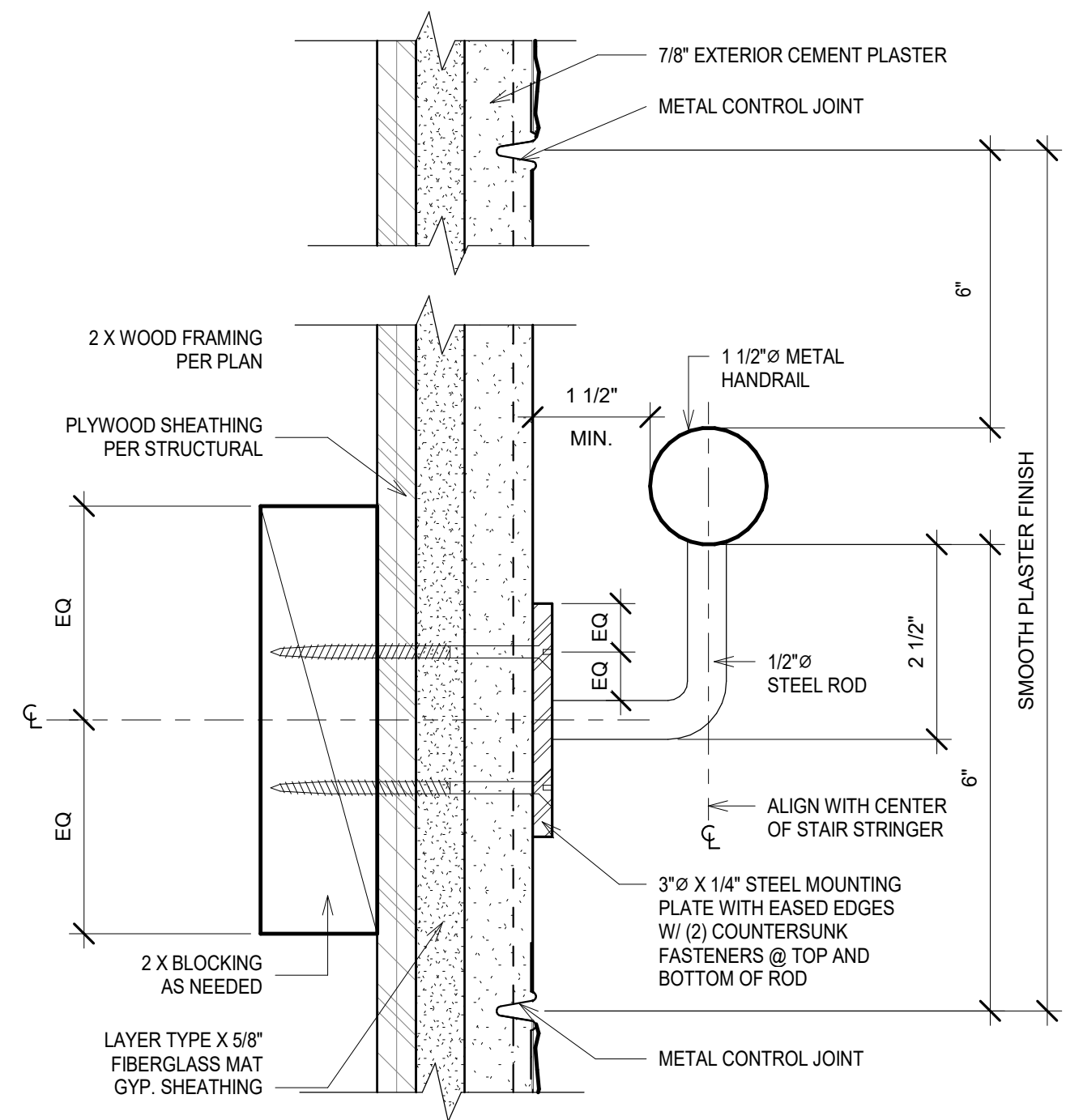
10 SECURITY WALL SECTION
1/2" = 1'-0"



9 SITE SECURITY FENCE
1/2" = 1'-0"



5 HANDRAIL @ WALL W/ GYP FINISH
6" = 1'-0"



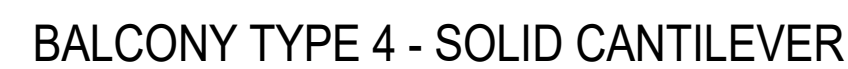
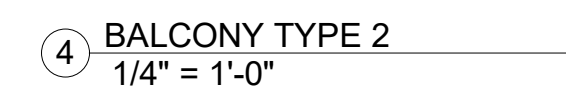
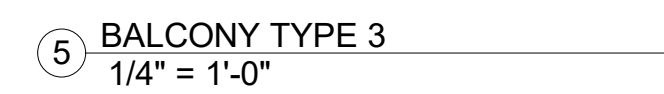
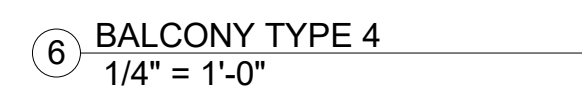
4 HANDRAIL @ WALL W/ PLASTER FINISH
6" = 1'-0"



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① TRELLIS
3/8" = 1'-0"



KEYNOTES	
02.45	PROPOSED MONUMENT SIGN UNDER SEPARATE PERMIT APPROVAL. SIGN REQUIRES SEPERATE APPROVAL OF A SIGN PERMIT PERSUANT TO ARTICLE IX. SEE DETAIL 2 ON A-2.13



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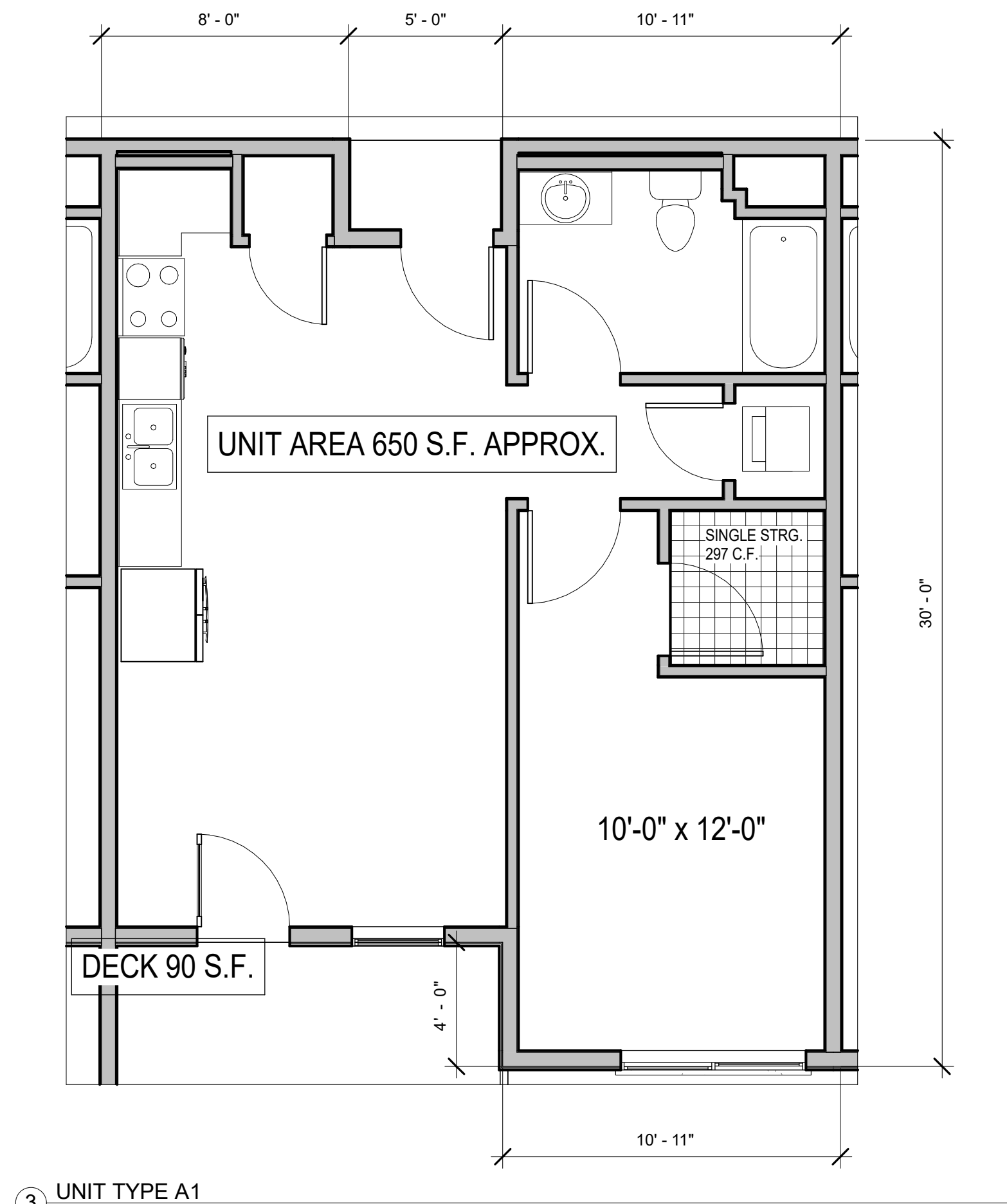
David C. Kesterson, Architect • Ilona Scott, Architect • Mark S. Pettit, Architect
300 MONTEGOMERY AVENUE, OAKLAND, CALIFORNIA 94612 • 855-385-9812 • FAX: 855-385-9811 • www.la-a-arch.com

3835 E. THOUSAND OAKS BLVD. #254, THOUSAND OAKS, CA 91362

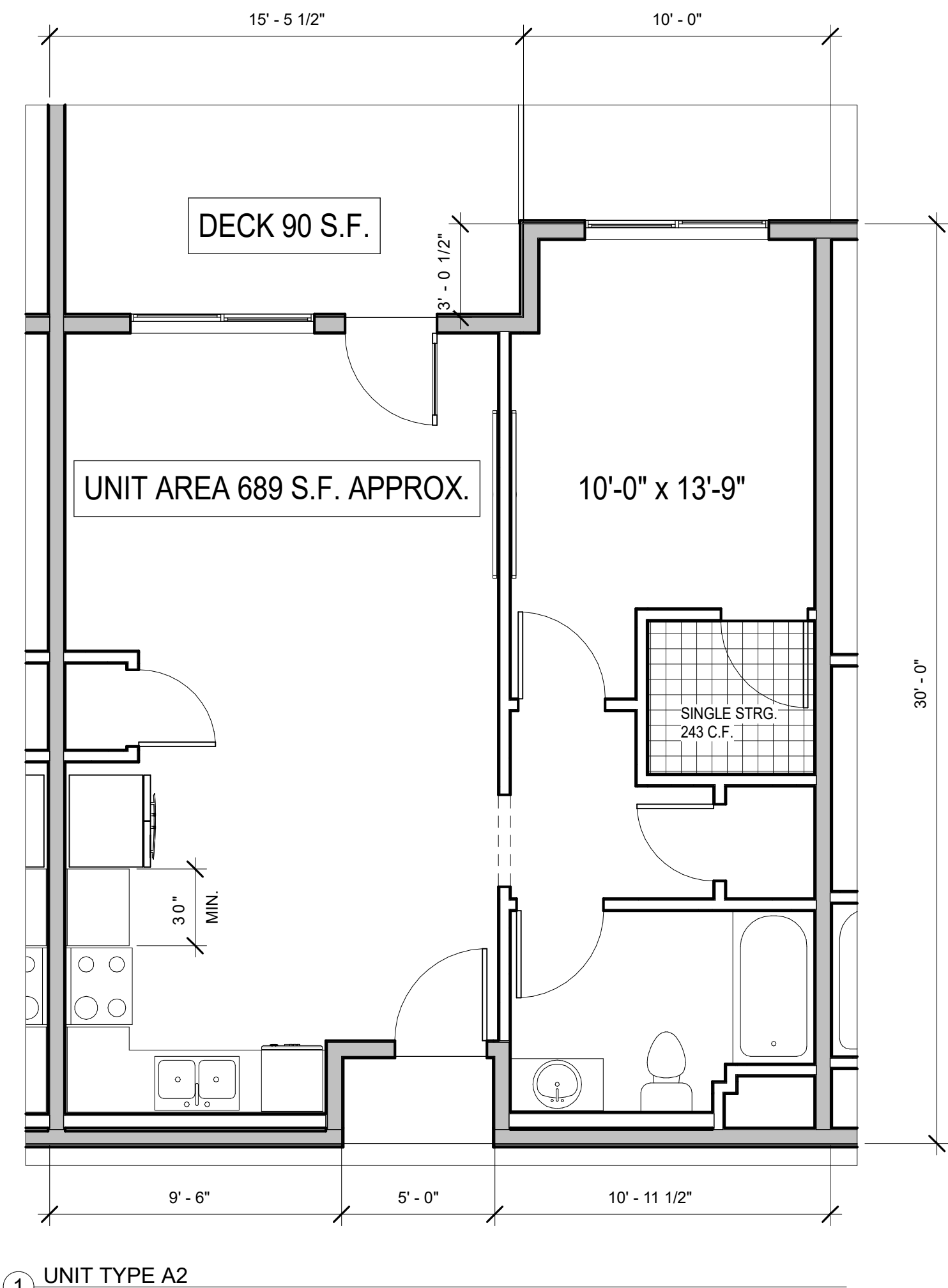
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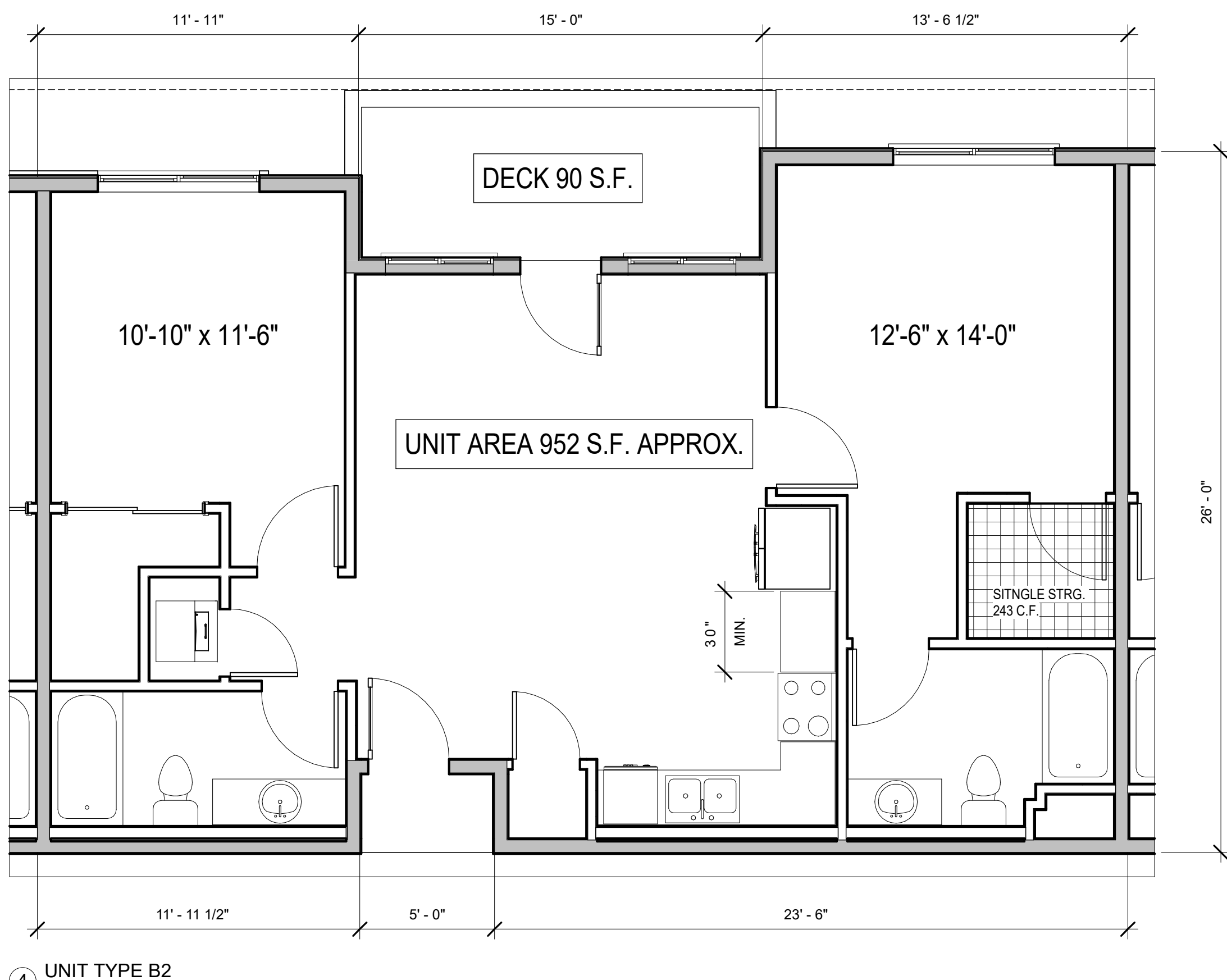
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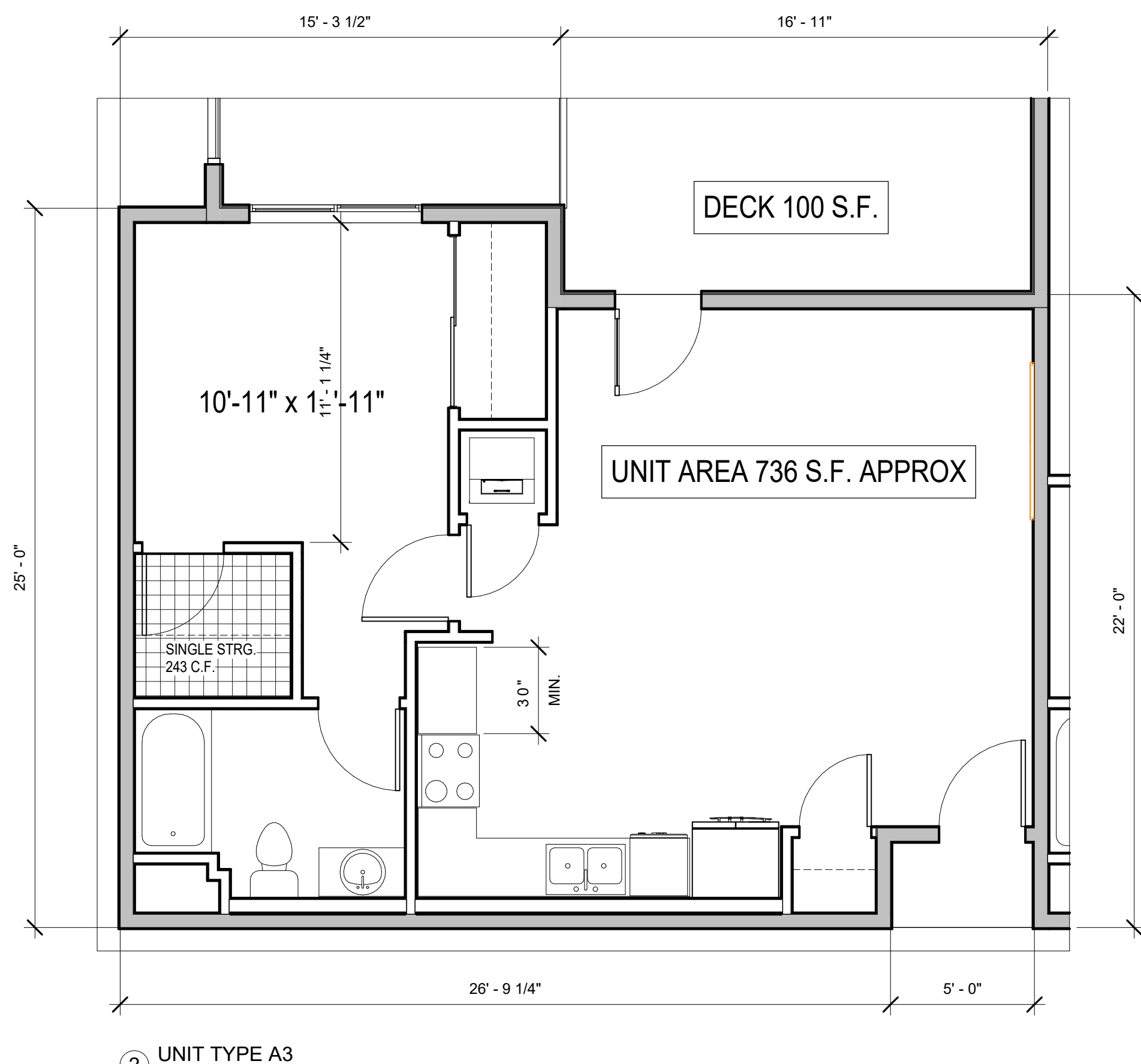
③ UNIT TYPE A1
1/4" = 1'-0"



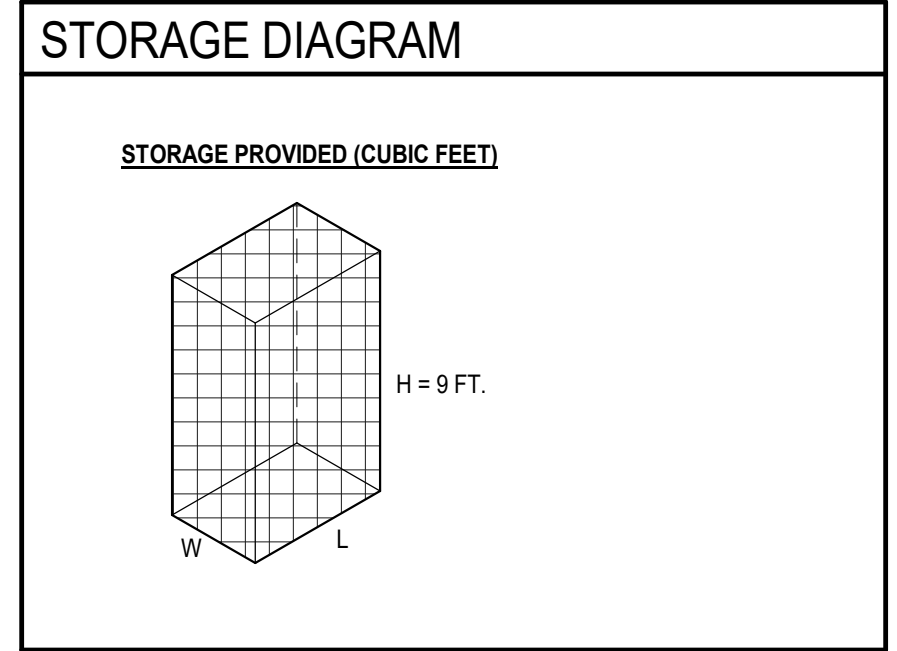
① UNIT TYPE A2
1/4" = 1'-0"



④ UNIT TYPE B2
1/4" = 1'-0"



② UNIT TYPE A3
1/4" = 1'-0"



LSV - UNIT PLANS

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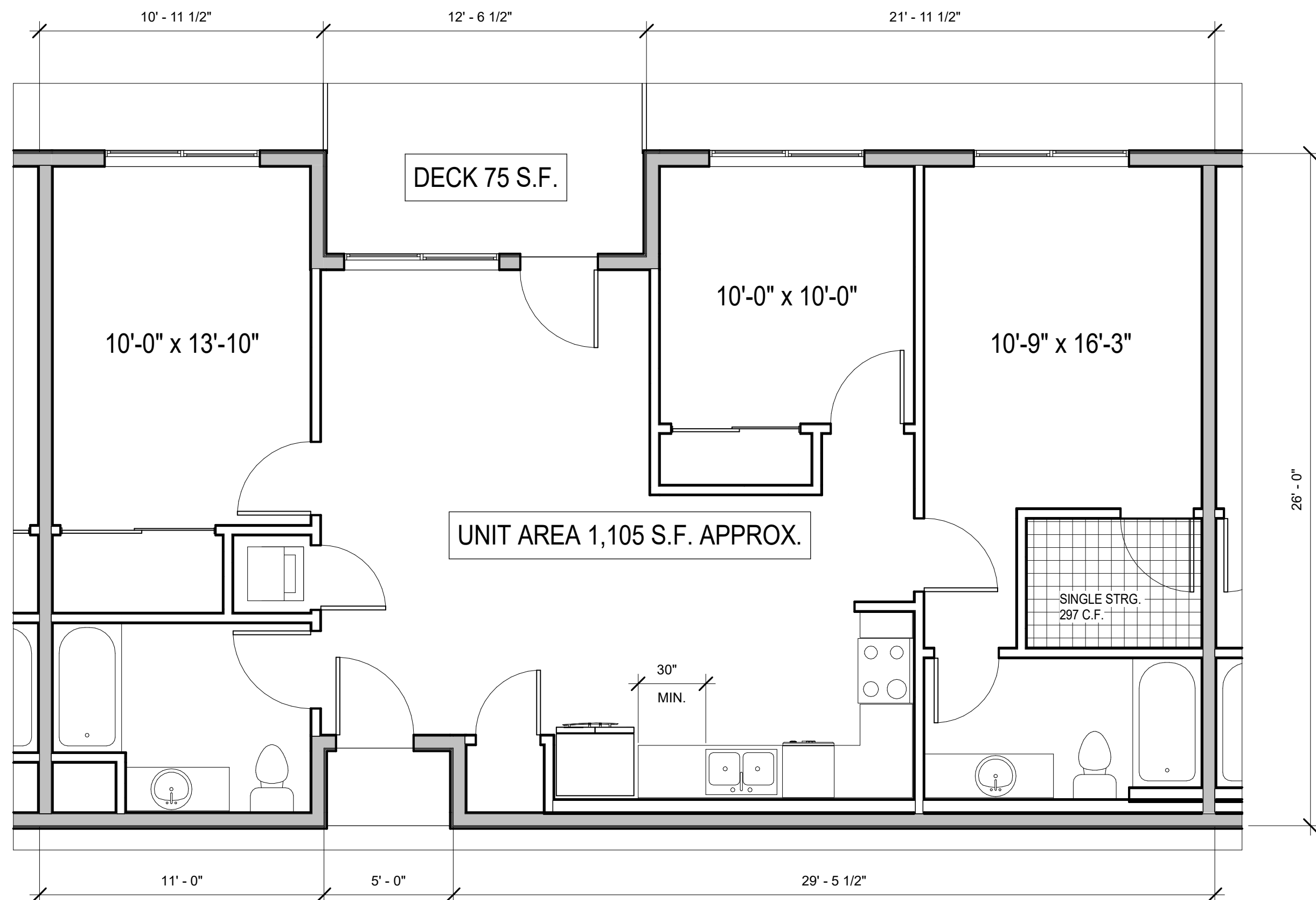
LOCKWOOD III APARTMENTS
SVM LOCKWOOD, LLC
3855 E. THOUSAND OAKS BLVD. #254, THOUSAND OAKS, CA 91322



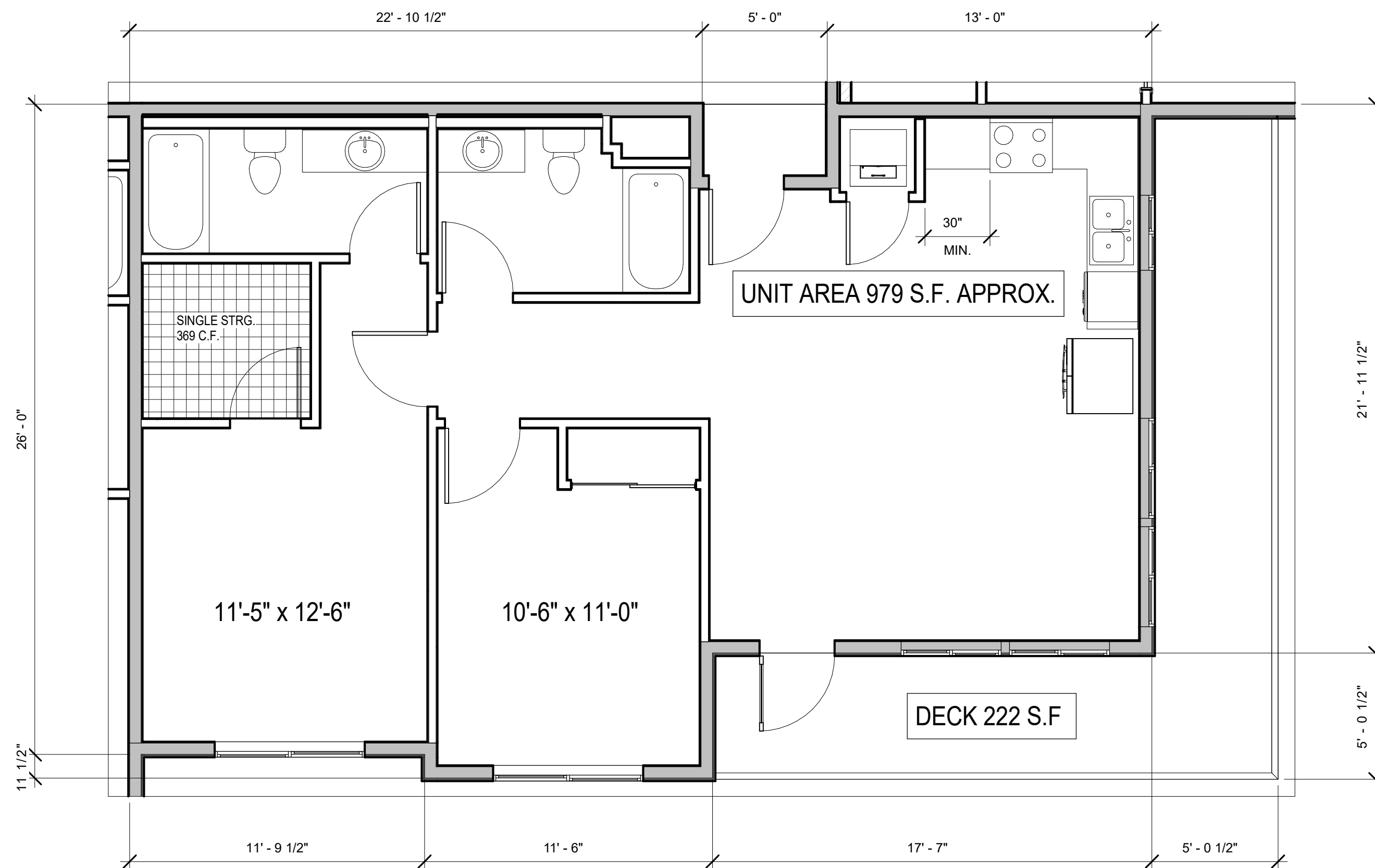
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David C. Lauterbach, Architect - Ilona Scott, Architect - Mark S. Pettit, Architect
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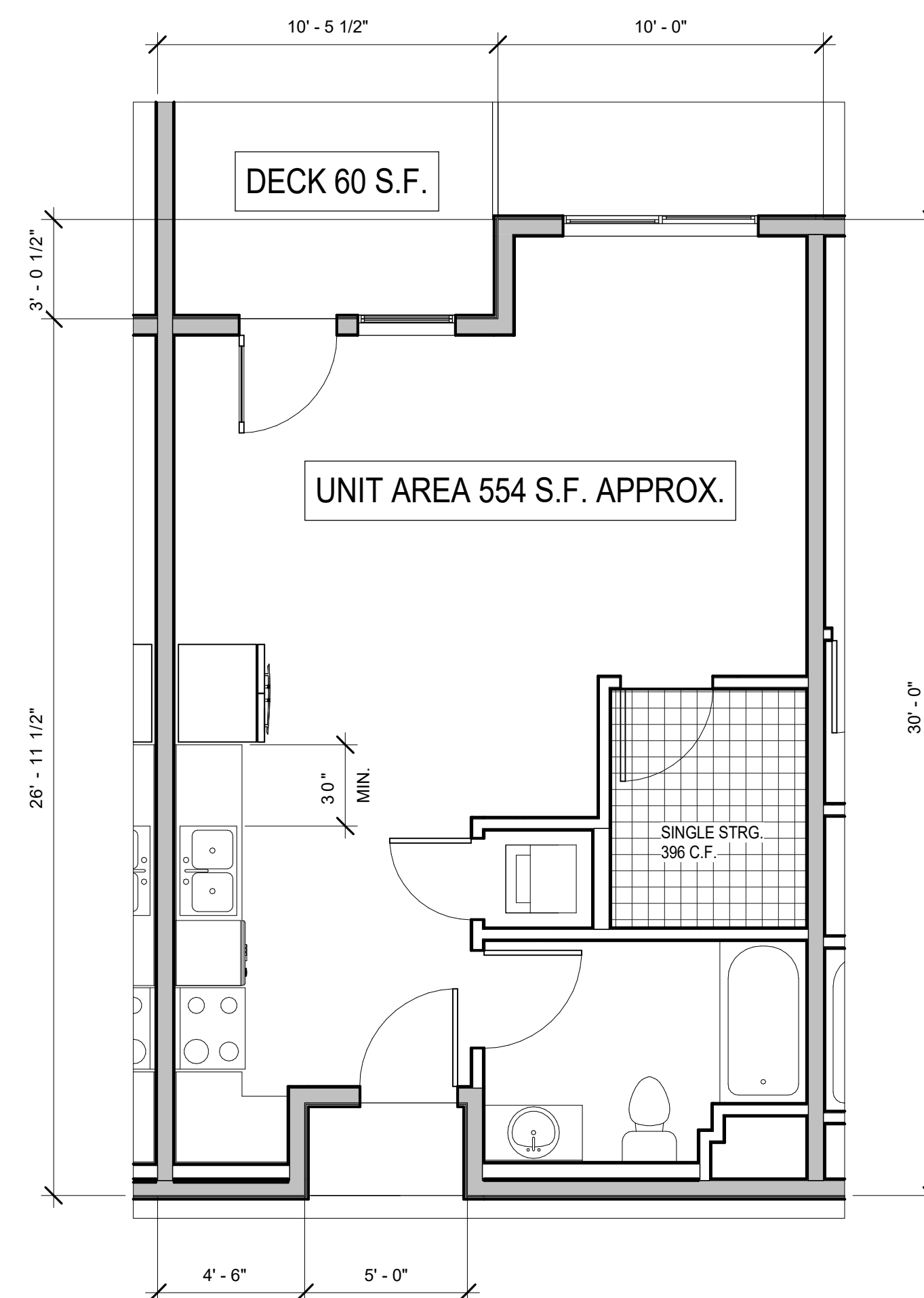
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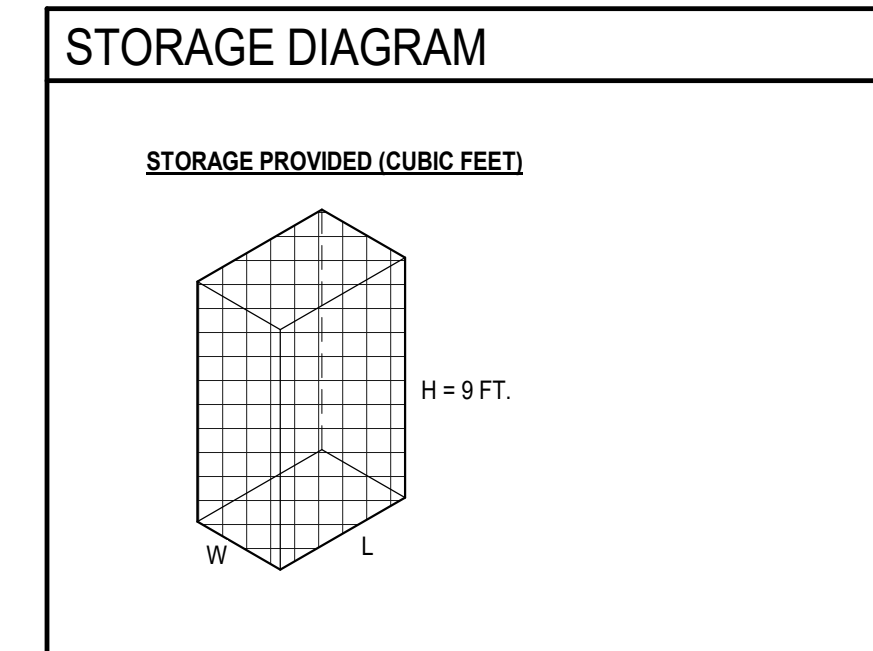
② UNIT TYPE C1
1/4" = 1'-0"

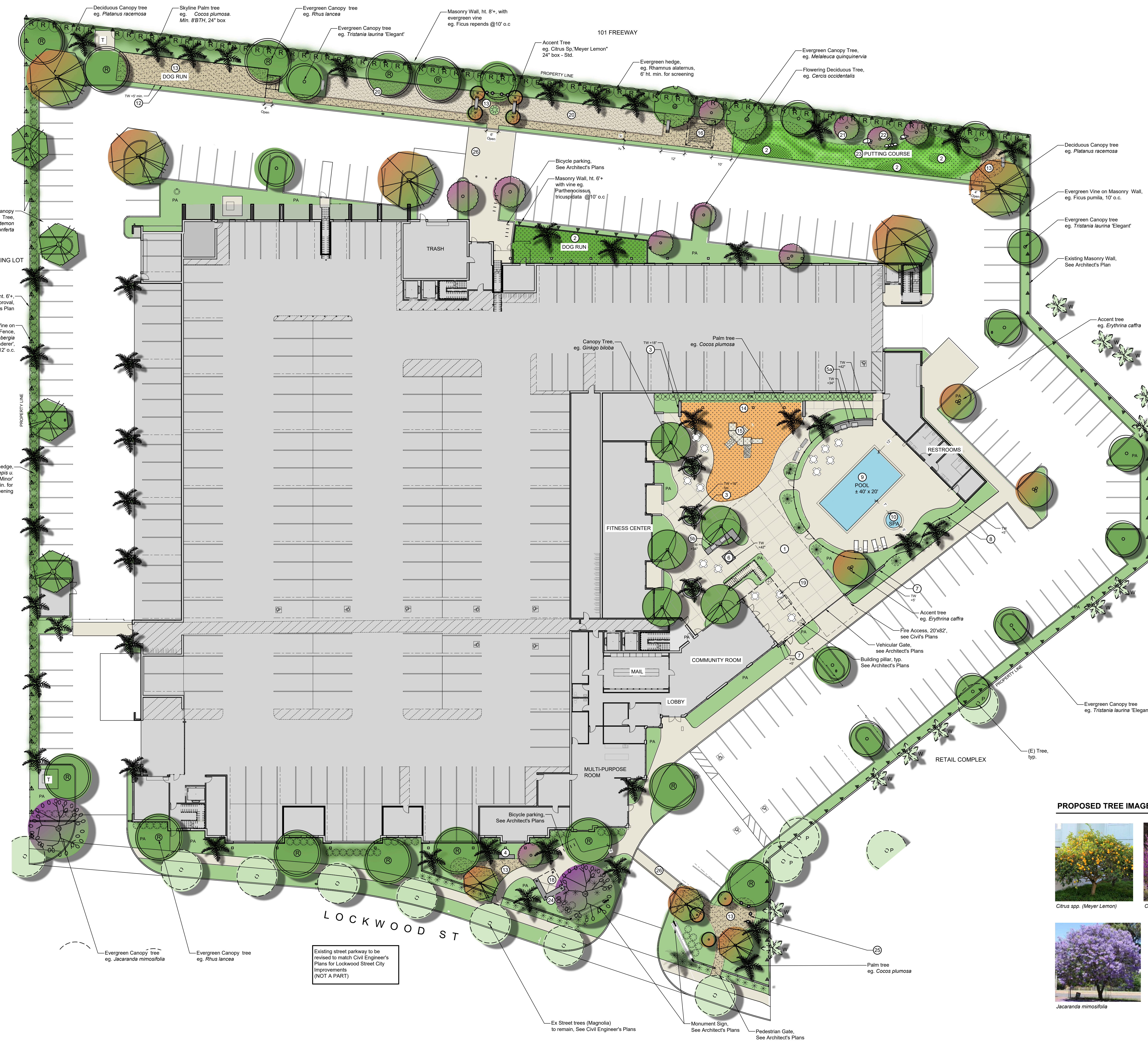


① UNIT TYPE B3
1/4" = 1'-0"



③ UNIT TYPE D1
1/4" = 1'-0"





SITE IMPROVEMENT LEGEND

- Concrete Paving - color TBD, light sand float finish
- Artificial Turf
- Raised Planter
- Seal Wall - Concrete, 18" ht, smooth finish top
- Outdoor Kitchen - Concrete with BBQ, 34" ht., with 42" ht. Wall/Back splash
- Outdoor Kitchen - Concrete with BBQ, 34" ht.
- Masonry Table - 42" ht., finish to match Outdoor Kitchen
- Masonry Wall - ht. 5', finish TBD
- Pool Safety Fence and Gate - Vertical metal picket, black color, 6' ht. min.
- Pool - 140' x 25'
- Spa - 10' diameter
- Cabana - 8'x8'
- Fence - 5' ht. min.
- Decomposed Granite Paving
- Play Area Surfacing - TBD
- Play Area Equipment - TBD
- Shade Structure - 14' x 14'
- Fence @ play area - metal, vertical picket, 3' ht.
- Gazebo @ street front - 10' x 10'
- Site Furniture - TBD by Owner.
- 75' x 12' Bocce Ball Court - 4 X 4 sideboard each side
- Landscape Berm
- Dry Stream
- Artificial Turf - Putting Green
- Built-in seatwall @ shade structure
- Seat Stone 18" X 18"
- Crosswalk -Enhanced Concrete - color TBD

ABBREVIATIONS

- EXISTING TREES
- W Washingtonia sp.
 - P Pyrus spp.
 - EX EXISTING
 - PA PLANTING AREA
 - TW TOP OF WALL

Conceptual Landscape Plans will comply with the applicable City of Oxnard Landscape Standards and the Water Efficient Landscape Ordinance.

Planting and Irrigation Plans will comply with the City of Oxnard Water Efficient Landscape Ordinance (City Council Ordinance No. 2822) and Landscape Water Conservation Standards

The irrigation system will meet the requirements of the California Department of Water Resources Model Water Efficient Landscape Ordinance, as required for new construction projects with an aggregate landscape area equal to or greater than 500 square feet requiring a building or landscape permit, plan check or design review

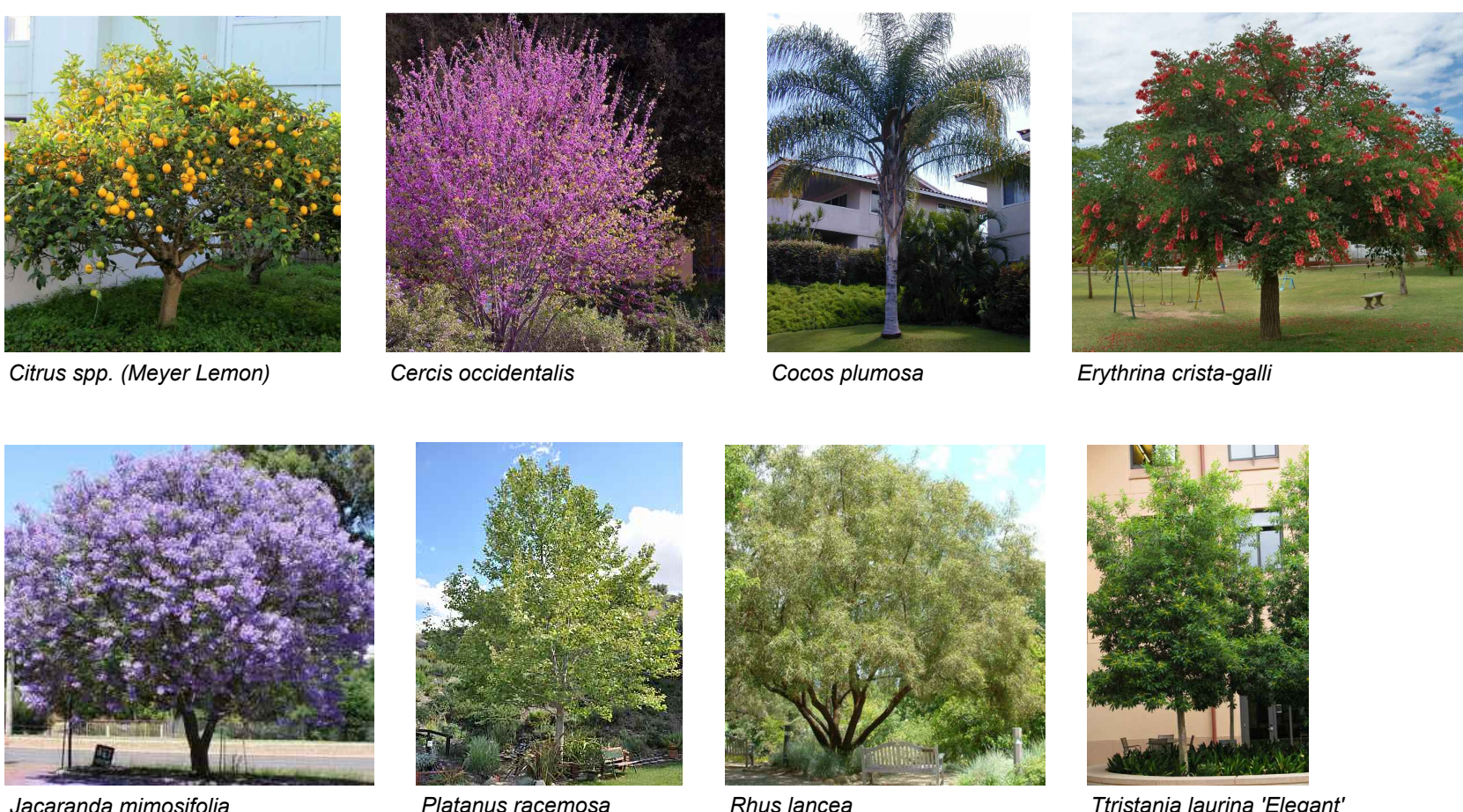
NOTES

- See Sheet L-2 for Planting Legend

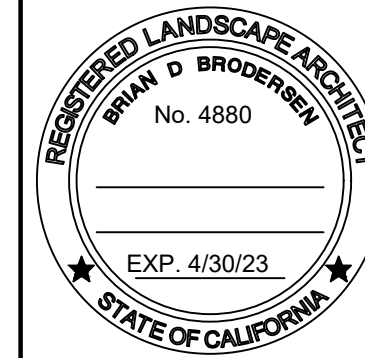
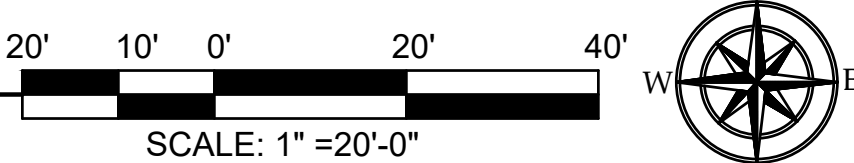
TREE REQUIREMENTS

735' lineal feet along podium
1 tree required per 20' lf
37 trees required
37 trees provided

PROPOSED TREE IMAGES



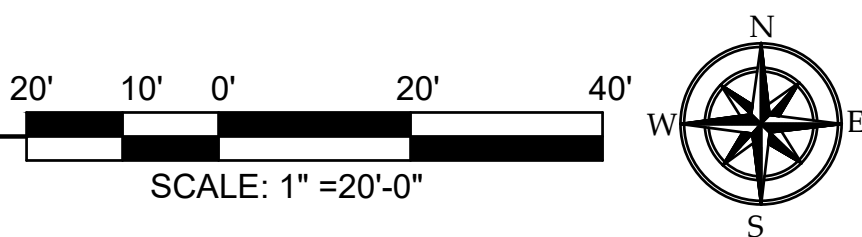
PRELIMINARY LANDSCAPE PLAN - Ground Level



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PRELIMINARY LANDSCAPE PLAN - 2nd Floor Courtyards



PLANTING LEGEND (cont.)

SYMBOLS	BOTANICAL NAME	COMMON NAME	SIZE	QTY	WUCOLS	NOTES
SHRUBS, GRASSES						
—	<i>Abutilon x hybridum</i> 'Nabob'	Red Flowering Maple	5 gal	L		
—	<i>Aloe arborescens</i>	Torch Aloe	1 gal	L		
—	<i>Aloe triata</i>	Coral Aloe	1 gal	L		
—	<i>Agave</i> 'Blue Flame'	NCN	5 gal	L		
—	<i>Arctostaphylos</i> d. 'Howard McMill'	Manzanita	5 gal	L		
—	<i>Brunfelsia pauciflora</i>	Yesterday, Today, Tomorrow	5 gal	M		
—	<i>Buxus microphylla japonica</i>	Japanese Boxwood	5 gal	L*		2' o.c.
—	<i>Buxus m. var. j.</i> 'Winter Gem'	Winter Gem Boxwood	5 gal	L*		3' o.c.
—	<i>Callistemon</i> 'Little John'	Dwarf Bottlebrush	5 gal	L		
—	<i>Camellia s.</i> 'White Doves'	White Doves Camellia	5 gal	M		
—	<i>Chondropetalum tectorum</i>	Small Cape Rush	5 gal	L		
—	<i>Cistanthe grandiflora</i>	Rock Purslane	1 gal	L		
—	<i>Clivia miniata</i> 'Yellow'	Yellow Clivia	1 gal	L		
—	<i>Cordyline</i> 'Design a line'	Burgundy Cordyline	5 gal	M		
—	<i>Dianella tasmanica</i> 'Variegata'	White Striped Flax Lily	1 gal	M		
—	<i>Dietes grandiflora</i>	Fortnight lily	1 gal	L		
—	<i>Duranta</i> 'Sapphire Showers'	Picotree Sky Flower	15 gal	M		
—	<i>Fatsia japonica</i>	Japanese aralia	5 gal	M		
—	<i>Lantana</i> 'New Gold'	New Gold Lantana	1 gal	L		
—	<i>Lomandra</i> 'Platinum Beauty'	Variegated Dwarf Mat Rush	1 gal	L		3' o.c.
—	<i>Muhlenbergia dubia</i>	Pine Muhly	1 gal	L		
—	<i>Muhlenbergia rigens</i>	Deer Grass	1 gal	L		
—	<i>Myrsine africana</i>	African Boxwood	5 gal	L		4' o.c.
—	<i>Olea europaea</i> 'Little Ollie'	Dwarf Olive	5 gal	-		
—	<i>Polygala fruticosa</i> 'Petite Butterfly'	Sweet Pea Shrub	5 gal	L*		
—	<i>Rhamnus alaternus</i>	Italian Buckthorn	5 gal	L		
—	<i>Rhapiolepis u.</i> 'Minor'	Dwarf Yeddo Hawthorn	15 gal	L		3'-6" o.c.
—	<i>Rosa</i> 'Iceberg'	White Shrub Rose	5 gal	L*		
—	<i>Tecoma stans</i>	Yellow Bells	15 gal	-		
—	<i>Tibouchina urvilleana</i>	Princess Flower	15 gal	-		
—	<i>Trachelospermum jasminoides</i>	Star Jasmine	1 gal	L*		

PLANTING LEGEND (cont.)

VINES						
▲	<i>Ficus pumila</i>	Creeping Fig	5 gal	-	L*	10' o.c.
—	<i>Jasminum tortuosum</i>	Twisted Jasmine	5 gal	-	L*	
▲	<i>Hardenbergia v.</i> 'Happy Wanderer'	Purple Vine Lilac	5 gal	-	L*	12' o.c.
—	<i>Macfadyena unguis-cati</i>	Cat Claw Vine	5 gal	-	M	
GROUNDCOVERS (PLANTED)						
■	<i>Dianella c.</i> 'Cassa Blue'	Blue Flax Lily	1 gal	-SF	L	18" o.c.
■	<i>Dymondia margaretae</i>	Silver Carpet	Flats	-SF	L	12" o.c.
■	<i>Festuca glauca</i> 'Elijah Blue'	Elijah Blue Fescue	1 gal	-SF	L	18" o.c.
■	<i>Fragaria chiloensis</i>	Beach Strawberry	Flats	-SF	M	12" o.c.
■	<i>Polygonum capitatum</i>	Pink Knotweed	Flats	-SF	M	18" o.c.
■	<i>Senecio mandraliscae</i>	Blue Chalksticks	Flats	-SF	L	24" o.c.
GROUNDCOVERS (NOT PLANTED)						
■	Gravel Mulch	To be selected by Owner	-SF			2" depth (at upper floors, pots placed on top)
■	Decomposed Granite Mulch	Porous DG, no stabilizer, tan color, w/ black aluminum header where shown on plan. Top of edging to be max of 1/2" above surface material.	-SF			2" depth (at parking lot perimeter, plants installed in DG)

SITE IMPROVEMENT LEGEND

- Concrete Paving - color TBD, light sand float finish
- Artificial Turf
- Raised Planter
- Outdoor Kitchen - with BBQ, 34" ht., with 42" ht. Wall/Back splash
- Outdoor Kitchen - with BBQ, 34" ht.
- Shade Structure - 12' x 24'
- Concrete Bar with bar stools - 42" ht., finish to match Outdoor Kitchen
- Water Feature - Concrete, 16' x 9', finish TBD
- Water Feature - Concrete, 8' Ø, finish TBD
- Fireplace Wall - 14' x 2', 2-sided, ht. TBD
- Chess Board - 12' x 12'
- Planters - Various sizes and shapes, in gravel where shown. See Planter Legend this sheet.
- Site Furniture - TBD by Owner.

PLANTER LEGEND

- 36" diam x 30" ht., material GFRC, model 'WCS-3600'. Self watering system, 'CWM-2800/CWM-1720-3K'. Available from Tournesol Siteworks. 800-542-2282.
- 60" diam x 36" ht., material GFRC, model 'WCS-6000'. Self watering system, 'CWM-2920-4K'. Available from Tournesol Siteworks. 800-542-2282.
- 48"x48" sq. x 36" ht., material GFRC, model 'WCR-4800F'. Self watering system 'CWM-R2920-2K'. Available from Tournesol Siteworks. 800-542-2282.
- 60"x60" sq. x 42" ht., material GFRC, model 'WCR-6000F'. Self watering system 'CWM-R2920-4K'. Available from Tournesol Siteworks. 800-542-2282.
- 60"x24" x 24" ht., material GFRC, model 'WCR-602424'. Self watering system 'CWM-R2014-2K'. Available from Tournesol Siteworks. 800-542-2282.
- 36"x36" sq. x 30" ht., material GFRC, model 'WCR-3600F'. Self watering system 'CWM-R2020-2K'. Available from Tournesol Siteworks. 800-542-2282.
- 30" diam x 27" ht., material GFRC, model 'WCS-3000'. Self watering system, 'CWC-2400/CWM-1720-2K'. Available from Tournesol Siteworks. 800-542-2282.

PLANTING LEGEND

SYMBOLS	BOTANICAL NAME	COMMON NAME	SIZE	QTY	WUCOLS	NOTES
TREES						
○	<i>Alnus rhombifolia</i>	White Alder	24" box	-	H	-
○	<i>Arbutus 'Marina'</i>	Strawberry Tree	24" box	-	L	-
○	<i>Bauhinia x blakeana</i>	Hong Kong Orchid Tree	24" box	-	M	-
○	<i>Cercis canadensis</i> 'Forest Pansy'	East Redbud	24" box	-	M	-
○	<i>Cercis occidentalis</i>	Western Redbud	24" box	-	L	-
○	<i>Citrus sp</i>	Citrus	24" box	-	M	-
○	<i>Cocos plumosa</i> (<i>Syagrus romanzoffiana</i>)	Queen palm	8' BTH	-	L*	-
○	<i>Erythrina coralloides</i>	Naked Coral Tree	24" box	-	L	-
○	<i>Ginkgo biloba</i>	Maidenhair Tree	24" box	-	M	-
○	<i>Hymenosporum flavum</i>	Sweetshade	24" box	-	M	-
○	<i>Lophostemon confertus</i>	Brisbane Box	24" box	-	L*	-
○	<i>Metaleuca quinquenervia</i>	Paperbark Tree	24" box	-	-	-
○	<i>Olea europaea</i> 'Swan Hill'	Swan Hill Olive	36" box	-	-	-
○	<i>Parkinsonia X 'Desert Museum'</i>	Desert Museum Palo Verde	36" box	-	-	-
○	<i>Platanus racemosa</i>	Sycamore tree	24" box	-	M	Low-branch, multi
○	<i>Rhus lancea</i>	African Sumac	24" box	-	-	-
○	<i>Tabebuia chrysotricha</i>	Golden Trumpet Tree	24" box	-	M	-
○	<i>Tipuana tipu</i>	Tipu Tree	24" box	-	L	-

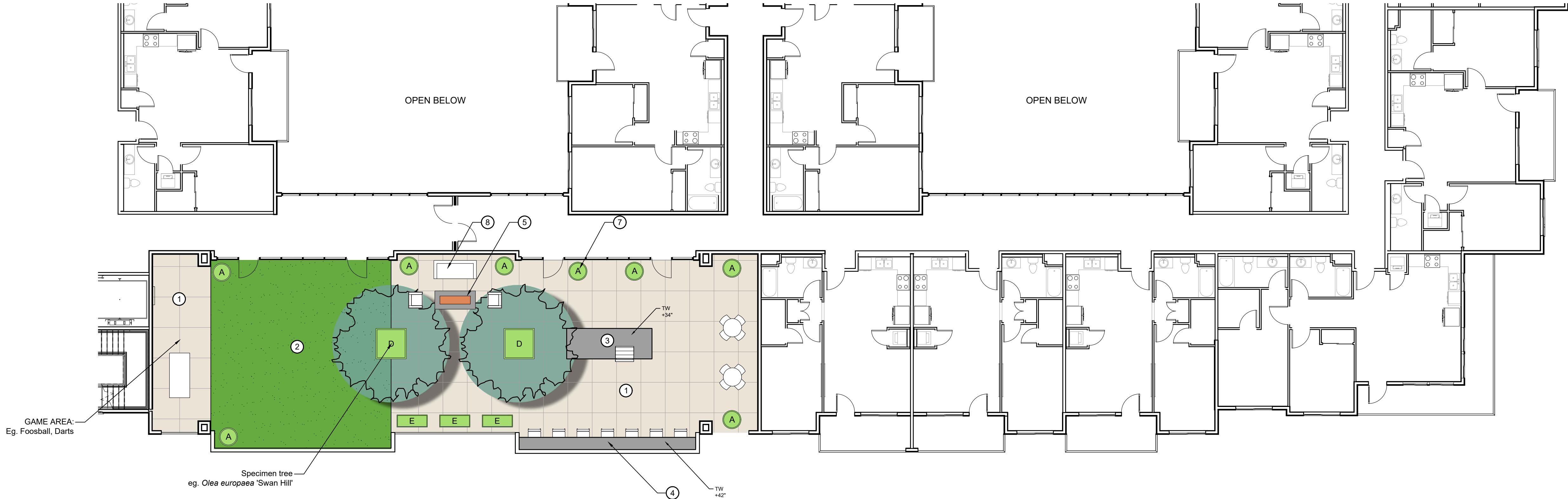
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tel 805 201 5614
brodersenassociates@gmail.com
CA#4060



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LOCKWOOD APARTMENTS 3
LOCKWOOD ST.
OAKLAND, CA 94612

Drawn by	Checked by
JH	BB
Sheet	
L-2	
Of X Sheets	
PRELIMINARY LANDSCAPE PLAN	
2nd Floor	



PRELIMINARY LANDSCAPE PLAN - 5th Floor Deck

SITE IMPROVEMENT LEGEND

- 1 Concrete Paving - color TBD, light sand float finish
- 2 Artificial Turf
- 3 Outdoor Kitchen - with BBQ, 34" ht.
- 4 Concrete Bar with barstools - 42" ht.
- 5 Fire Feature - Pre-cast concrete fire feature
- 6 NOT USED
- 7 Planters - Various sizes and shapes, in gravel where shown. See Planter Legend this sheet.
- 8 Site Furniture - TBD by Owner.

PLANTER LEGEND

- 1 36" diam x 30" ht., material GFRC, model 'WCS-3600'. Self watering system, 'CWC-2800/CWM-1720-3K'. Available from Tournesol Siteworks. 800-542-2282.
- 2 60" diam x 36" ht., material GFRC, model 'WCS-6000'. Self watering system, 'CWM-2920-4K'. Available from Tournesol Siteworks. 800-542-2282.
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- 5 60"x24" x 24" ht. material GFRC, model 'WCR-602424'. Self watering system 'CWM-R2014-2K'. Available from Tournesol Siteworks. 800-542-2282.
- 6 36"x36" sq. x 30" ht. material GFRC, model 'WCR-3600F'. Self watering system 'CWM-R2020-2K'. Available from Tournesol Siteworks. 800-542-2282.
- 7 30" diam x 27" ht., material GFRC, model 'WCS-3000'. Self watering system, 'CWC-2400/CWM-1720-2K'. Available from Tournesol Siteworks. 800-542-2282.

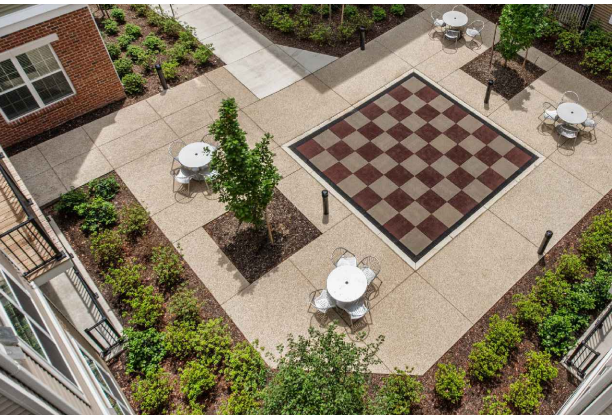
PROPOSED SITE ELEMENTS



Pool and Cabanas



Flexible Artificial Turf



Games / Seating



Artificial Turf with Games



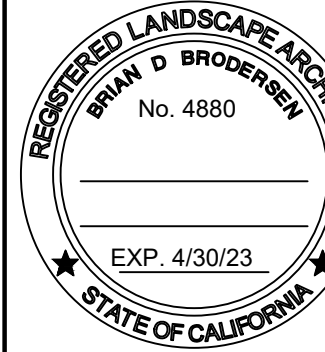
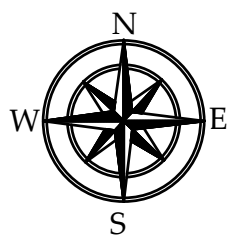
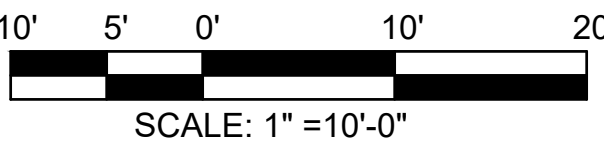
Outdoor Kitchen + Seating



Firepit + Seating



Planters in Gravel



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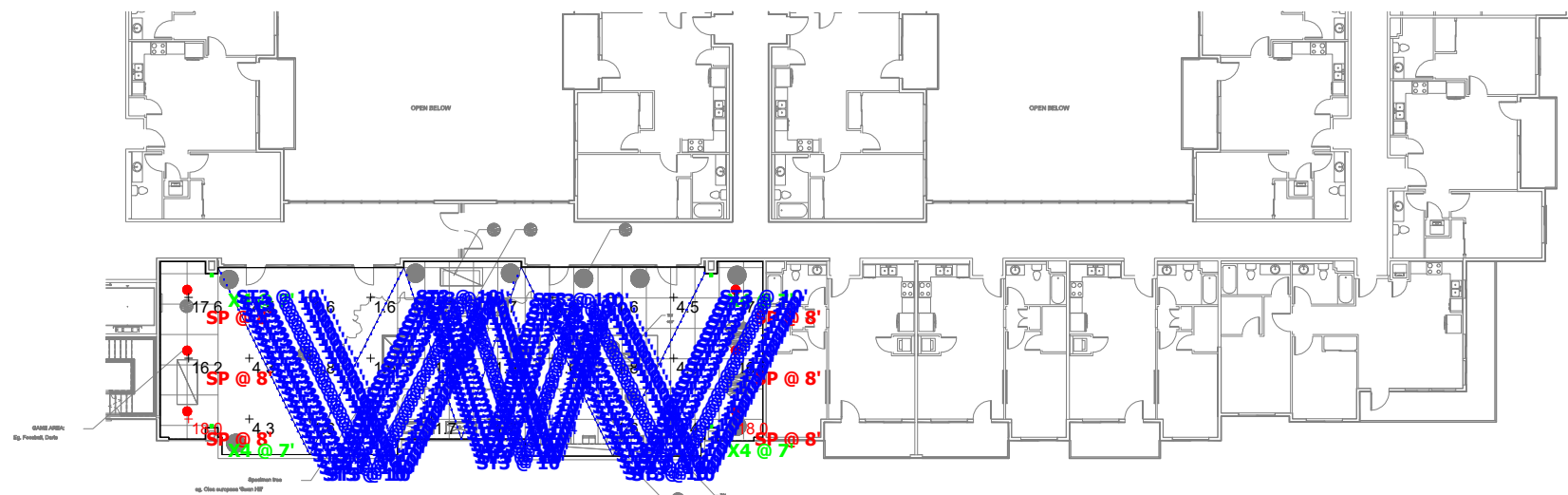
LED LUMINAIRE SCHEDULE

Symbol	Label	Quantity	Manufacturer	Catalog Number	Description	Lamp	Lumens Per Lamp	Light Loss Factor	Wattage	Notes
	PG	48	LITHONIA	VCPG LED V4 P4 30K 80CRI T5W MVOLT PM [OPTIONS] [FINISH]	LED SUSPENDED PARKING GARAGE PENDANT	3000K LED	7413	0.92	56.3	
	PG1	8	LITHONIA	VCPG LED V4 P4 30K 80CRI T5E MVOLT PM [OPTIONS] [FINISH]	LED SUSPENDED PARKING GARAGE PENDANT	3000K LED	7874	0.92	56.3	
	PG2	11	LITHONIA	VAP 8000LM FST MD MVOLT GZ10 30K 80CRI [OPTIONS]	LED SURFACE MOUNTED VAPOR TIGHT LINEAR	3000K LED	7183	0.92	66.86	
	S1	1	LITHONIA	DSX1 LED P5 30K 80CRI LCCO MVOLT SPA PIRH DDBXD/SSS 22.5FT [THICKNESS] DM19AS [FINISH]	LED AREA LUMINAIRE ON SQUARE STRAIGHT STEEL POKE	3000K LED	11271	0.92	138.16	
	S2	18	LITHONIA	DSX1 LED P5 30K 80CRI BLC4 MVOLT SPA PIRH DDBXD/SSS 22.5FT [THICKNESS] DM19AS [FINISH]	LED AREA LUMINAIRE ON SQUARE STRAIGHT STEEL POKE	3000K LED	11537	0.92	138.16	
	SB	27	Lithonia Lighting	RADB LED P3 30K SYM DDBXD	RADB LED P3 30K SYM DDBXD		947	0.92	13.44	
	SB	0	Lithonia Lighting	RADB LED P4 30K SYM DDBXD	RADB LED P4 30K SYM DDBXD		1335	0.92	18.59	
	SC	10	LITHONIA	DMW2 L24 2000LM PFL MD MVOLT GZ10 30K 80CRI [OPTIONS]	LED SURFACE MOUNTED VAPOR TIGHT LINEAR	3000K LED	2116	0.92	18.78	
	SE	8	LITHONIA	RADPT P1 30K ASY MVOLT [MOUNTING] [CONTROL] [FINISH]/RSS 16FT [THICKNESS] [MOUNTING] [FINISH]	LED POST TOP ON ROUND STRAIGHT STEEL POLE	3000K LED	4671	0.92	38.0107	
	SE2	12	LITHONIA	RADPT P1 30K SYM MVOLT [MOUNTING] [CONTROL] [FINISH]/RSS 16FT [THICKNESS] [MOUNTING] [FINISH]	LED POST TOP ON ROUND STRAIGHT STEEL POLE	3000K LED	4931	0.92	38.0107	
	SP	6	VISUAL COMFORT & CO	7000PBOW93018[FINISH]UNV	LED SUSPENDED OUTDOOR PENDANT	3000K LED	2462	0.92	36.1	
	ST	91	TARGETTI	IN CL 1 WW 24 24 [CONNECTION] INTEL18 [MOUNTING OPTION] [OPTION] [REMOTE DRIVER]	LED STRING LIGHTS	2300K LED	67	0.92	1	
	ST2	91	TARGETTI	IN CL 1 WW 24 24 [CONNECTION] INTEL18 [MOUNTING OPTION] [OPTION] [REMOTE DRIVER]	LED STRING LIGHTS	2300K LED	67	0.92	1	
	ST3	176	TARGETTI	IN CL 1 WW 12 24 [CONNECTION] INTEL18 [MOUNTING OPTION] [OPTION] [REMOTE DRIVER]	LED STRING LIGHTS	2300K LED	67	0.92	1	
	W3	14	LITHONIA	WDGE2 LED P2 30K 80CRI TFTM MVOLT SRM [OPTIONS] [FINISH]	LED WALL MOUNTED WALLPACK	3000K LED	1934	0.92	18.9815	
	X4	24	VISUAL COMFORT	7000WTEG830W18[FINISH]UNV	LED WALL MOUNT	3000K LED	1149	0.92	15.1	
	Y	2	HYDREL	4750L 4FT 500LMF 30K MVOLT WWD KN MS18 CSL ZT BT	LED GROUND MOUNTED LINEAR FLOOD	3000K LED	2148	0.92	20.98	

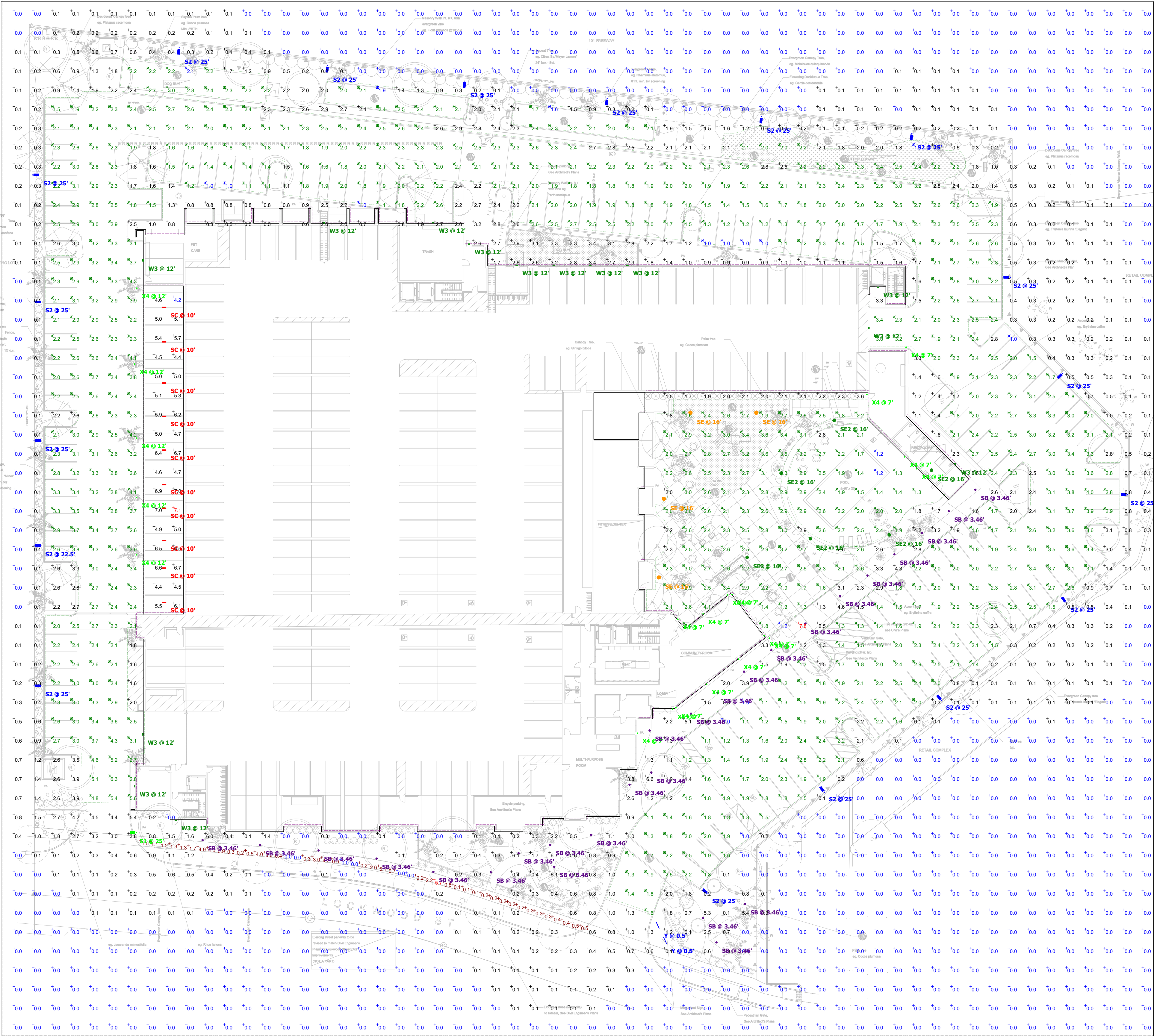
STATISTICS

Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min
BOCCE BALL- RIGHT	✗	2.2 fc	2.5 fc	1.9 fc	1.3:1	1.2:1
COURTYARD	✗	2.6 fc	5.9 fc	1.2 fc	4.9:1	2.2:1
COVERED PARKING	+	5.5 fc	7.1 fc	4.2 fc	1.7:1	1.3:1
DUG RUN	✗	2.4 fc	3.0 fc	2.1 fc	1.4:1	1.1:1
FIFTH FLOOR DECK	+	5.3 fc	18.0 fc	1.4 fc	12.9:1	3.8:1
GRADE	+	1.1 fc	7.8 fc	0.0 fc	N/A	N/A
PARKING GARAGE	+	6.4 fc	35.0 fc	1.1 fc	31.8:1	5.8:1
PARKING+DRIVE	✗	2.3 fc	6.3 fc	1.0 fc	6.3:1	2.3:1
POOL	✗	2.1 fc	3.2 fc	1.2 fc	2.7:1	1.8:1
PUTTING GREEN	✗	2.2 fc	2.5 fc	1.3 fc	1.9:1	1.7:1
SECOND FLOOR - LEFT COURTYARD	+	1.8 fc	3.5 fc	1.1 fc	3.2:1	1.6:1
SECOND FLOOR - RIGHT COURTYARD	+	2.1 fc	4.0 fc	1.4 fc	2.9:1	1.5:1
WALKWAY _WEST SIDE OF BLDG	+	1.2 fc	5.7 fc	0.0 fc	N/A	N/A
BOCCE BALL-LEFT	✗	2.0 fc	2.4 fc	1.6 fc	1.5:1	1.3:1

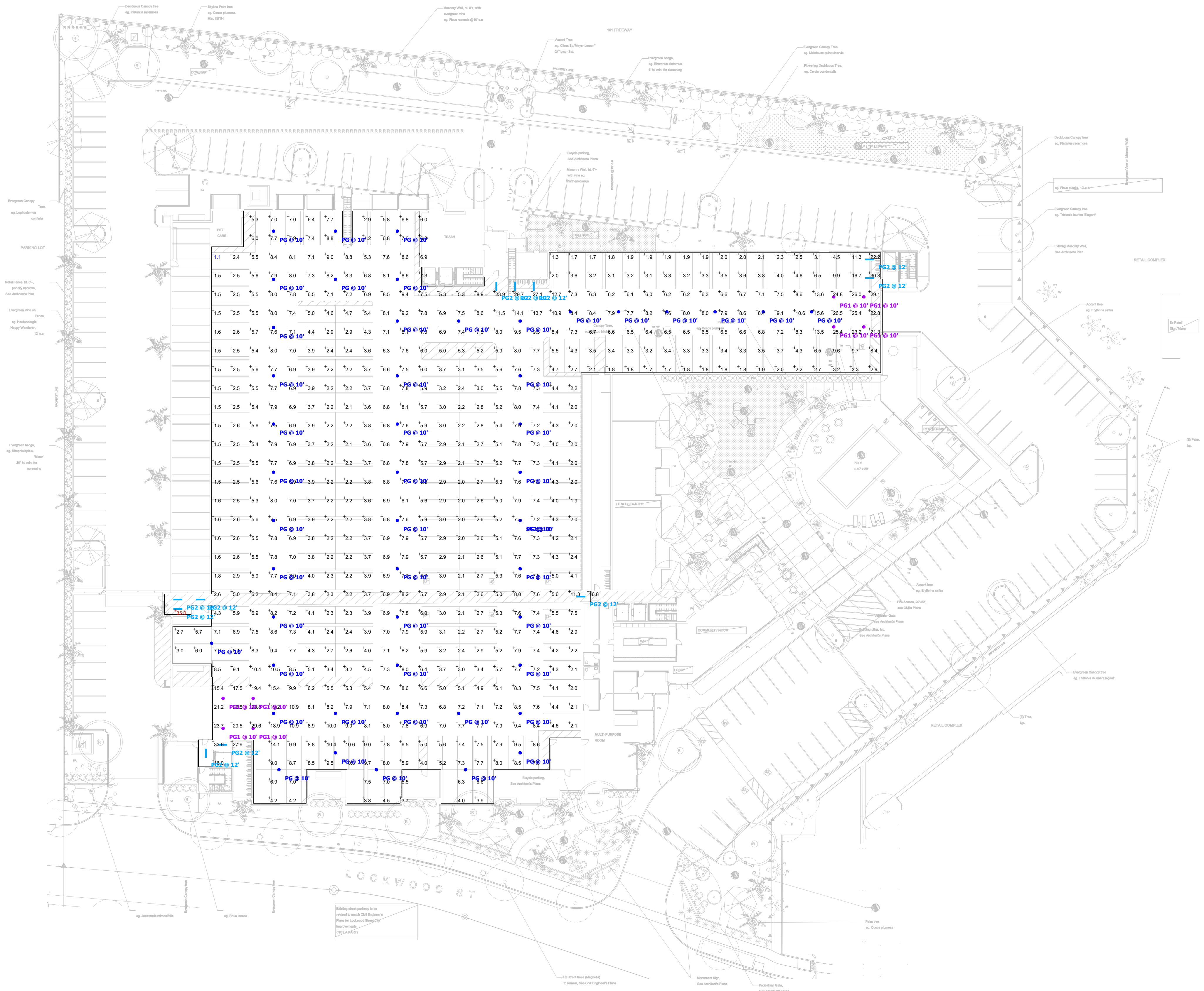
THIS PARTICULAR CALC ZONE EXTENDS OFF SITE AND SO THAT'S WHERE THE ZEROS ARE BEING CALCULATED. I HAVE REDUCED THE HIGHER POINTS BY REMOVING AND ADJUSTING FIXTURE LOCATIONS. ALSO SOME POINTS WERE REMOVED FROM THE LANDSCAPE AREAS. CALCULATION IN LANDSCAPE AREAS ARE NOT ACCURATE DUE TO PLANTS AND SHRUBS REDUCING ACCURACY



Plan View
Scale - 1" = 30ft



LOCKWOOD APARTMENTS 3



LOCKWOOD APARTMENTS 3

ATTACHMENT C

FINAL IS-MND 24-01

**[HTTPS://WWW.OXNARD.GOV/COMMUNITY-DEVELOPMENT/PLANNING-
ENVIRONMENTAL-SERVICES/ENVIRONMENTAL-POSTINGS](https://www.oxnard.gov/community-development/planning-environmental-services/environmental-postings)**

ATTACHMENT D

GENERAL PLAN CONSISTENCY ANALYSIS

ATTACHMENT D

City of Oxnard 2030 General Plan Consistency Analysis Lockwood Apartments 3 Project

August 1, 2024 Planning Commission

Level I: Direct Applicability to a Proposed Policy, Project or Program

Level II: Related or Indirect Applicability to the Proposed Policy, Project, or Program

Level III: No or Distance Applicability to the Proposed Policy, Project, or Program.

All policies not listed are designated as Level III are deemed consistent with the 2030 General Plan.

General Plan Chapter Abbreviations Chapter:

SC: Sustainable Community	2
CD: Community Development	3
ICS: Infrastructure and Community Services	4
ER: Environmental Resources	5
SH: Safety and Hazards	6
MC: Military Compatibility	7
HE: 2021-2029 Housing Element	8

GENERAL PLAN POLICIES			
Policy	Level	Title/Text	Explanation
SC-3.1	I	<u>New Residential Development:</u> Encourage incorporation of passive and active energy and resources conservation design and devices in new residential development and substantial remodels and/or expansions.	The Project design includes rooftop solar photovoltaic panels with a back-up battery storage system; reflective white roofing material to reduce albedo effect/urban heat, without having the potential to cause glare; and 175 Electric Vehicle (EV) on-site parking spaces, including 69 EV-Capable (EV-F), 88 EV-Ready (EV-R), and 18 EV Charging Spaces (EVCS).
CD-1.2	I	<u>Infill Development, Priority to Mixed Use:</u> Promote the efficient use of larger vacant parcels and vacant areas of the City by encouraging infill development, with a priority to mixed uses that reduce vehicle	While the Project does not include mixed uses on-site, it does propose infill development of a large vacant parcel with multi-family, mixed-income residential apartments, in proximity to nearby existing employment and education centers,

GENERAL PLAN POLICIES			
Policy	Level	Title/Text	Explanation
		trips and GHG emissions and promote sustainable development goals and objectives.	which would facilitate development of a mixed-use neighborhood and promote the reduction of vehicle trips and GHG emissions.
CD-1.4	I	<u>Transportation Choices</u> : Promote the application of land use and community designs that provide residents with the opportunity for a variety of transportation choices (pedestrian, bicycle, transit, automobile).	Regional access to the Project site is provided by Ventura Freeway (US 101) and Rice Avenue from the northeast. Local access to the Project site is provided from Gonzales Road and Outlet Center Drive. The Project site is served by several existing bus routes, including bus stops with benches located on both sides of Gonzales Road and Rose Avenue, less than a half-mile from the project site. The Project site is served by the City of Oxnard Bikeway System. The existing bicycle facilities located near the Project site consist of Class II bicycle lanes along Gonzales Road, Rose Avenue, Solar Avenue, and a portion of Lockwood Street east of the Outlet Center Drive. The portion of Lockwood Street adjacent to the Project is identified as a future Class II bicycle lane facility. In addition to the on-street facilities, the Project will provide on-site bicycle storage and racks (including 60 long-term bicycle parking spaces and 28 short-term bicycle parking spaces). The Project will also construct a new sidewalk in front of the Project to connect to existing sidewalks.
CD-1.5	I	<u>Housing Variety</u> : Promote the development of a variety of housing types throughout the City including apartments,	The Project would expand the City's variety and quantity of housing stock by providing 234 new multi-family apartments, including 38 affordable

GENERAL PLAN POLICIES			
Policy	Level	Title/Text	Explanation
		condominiums, lofts, townhouses, and attached and detached single family units.	units, in a variety of types and sizes, including studio, one-bedroom, two-bedroom, and three-bedroom units. The Project would contain 30 low-income level affordable units and 8 very low-income level affordable units.
CD 1-7	I	<u>Compact Development</u> : Promote the use of development patterns that are more compactly built and use space in an efficient aesthetic manner as part of the community vision.	The Project design is a compact, five-story apartment building, centrally located to the extent possible on the irregularly shaped Project site and surrounded by landscaped areas. To the extent possible, on-site parking spaces are located within the compact building footprint. The Project plan makes efficient use of available space, including the provision of aesthetically designed, common amenity areas within required yards and on building roofs.
CD-8.5	I	<u>Impact Mitigation</u> : Ensure that new development avoids or mitigates impacts on air quality, traffic congestion, noise, and environmental resources to the maximum extent feasible.	As identified in the Final IS/MND, the Project, as mitigated by the proposed Mitigation Monitoring and Reporting Program (MMRP), would not result in a significant effect on the environment, including air quality, traffic congestion, noise, and environmental resources.
CD-9.4	I	<u>View Corridor Preservation</u> : Ensure all public and private investments positively contribute to the overall character of the City by minimizing impacts on important view corridors by creating edge treatments along	The Project positively contributes to the character of the City, and minimizes visual impacts of development, by providing a 30-foot-deep landscape buffer adjacent to the Ventura Freeway, which is a scenic highway. The landscape buffer contains 26 newly planted trees,

GENERAL PLAN POLICIES			
Policy	Level	Title/Text	Explanation
		greenbelt areas and a landscaped buffer corridor of at least 30 feet along designated scenic corridors and other major transportation corridors.	including palms, deciduous, and evergreen species, and a new site wall screened with evergreen vines.
CD-10-1	I	<u>Human-Scale Development</u> : In the evaluation of development proposals, require urban development on a human scale, by emphasizing the pedestrian experience over the movement and storage of vehicles.	To the extent possible, the Project internalizes on-site vehicular parking, maximizes new landscape, and provides for pedestrian circulation throughout the site. The Project features new landscaped front and rear yards with paths, shade structures, built-in seating, and recreational activities. The Project also includes an outdoor pool area with patios and outdoor kitchens, two second-floor courtyards, and a fifth-floor terrace, all of which are pedestrian accessible.
CD-12.1	I	<u>Municipal Design Guidelines</u> : Design municipal structures in accordance with design guidelines, ensure compatibility with adjacent development, and set a standard for design excellence and sustainability.	The Project design is consistent with the applicable BRP Zone standards, the Affordable Housing Design Standards (OCC §16-420I), the Affordable Housing Special Development Requirements (OCC §16-420J), the High Rise Residential Zone development standards (OCC §16-71 to 16-78), and the Attached Dwelling Unit Development Standards (OCC §16-362), as described below in Table 3.
CD -14.1	I	<u>Design Review Process</u> : In the evaluation of development proposals, continue to ensure that public and private development projects comply	The Project complies with City design policies, plans, and guidelines, as described below in Table 3.

GENERAL PLAN POLICIES			
Policy	Level	Title/Text	Explanation
		with City design policies, plans, and guidelines.	
CD-14.2	I	<u>Development Advisory Committee (DAC) Function</u> : Continue to require that a staff Development Advisory Committee review new development projects for consistency with the City's development policies and appropriateness for the proposed sites.	The DAC reviewed the development application on December 14, 2022, and March 1, 2023. The DAC review process resulted in changes in the project and/or conditions of approval that ensured consistency with the City's development policies and appropriateness of the new development for the proposed site.
CD-15.6	I	<u>Share of Regional Taxable Sales</u> : Increase Oxnard's share of tax base and enhance the fiscal health of the City.	The Project would physically improve a vacant, undeveloped property, and convert it to a state of higher utilization and development, which would increase property values and grow the City's tax base.
CD-16.6	I	<u>Provide for a Diversity of Housing Choices</u> : Provide for a range of housing choices for current and future residents in compliance with State housing element planning through a variety of land use designations and zoning classifications.	The Project would utilize the City's Affordable Housing Discretionary (-AHD) Additive Zone and Density Bonus program, pursuant to OCC §16-410H and Cal. Gov't Code, Section 65915(f), to expand the City's variety and quantity of housing stock by providing 234 new mixed-income, multi-family apartments, including 38 affordable units, in a variety of types and sizes.
ICS-1.4	I	<u>Infrastructure Conditions of Approval</u> : New development should not be approved unless: • The applicant demonstrates adequate public services and	The applicant has demonstrated that adequate public services and facilities, including but not limited to water, sewer, electricity, and telecommunications are available for the new development and/or shall be

GENERAL PLAN POLICIES			
Policy	Level	Title/Text	Explanation
		facilities are available; • Infrastructure improvements incorporate a range of feasible measures that can be implemented to reduce all public safety and/or environmental impacts associated with the construction, operation, or maintenance of any required improvement; • Infrastructure improvements are consistent with City infrastructure master plans; and • Required infrastructure needed for future new development is self-funded.	provided by the applicant; that no new public safety and/or environmental impacts would result from the proposed development and/or any required improvement; and that required infrastructure improvements, such as new sidewalks, curbs, gutters, roadways, and sewers, are self-funded and consistent with City infrastructure master plans.
ICS-2.11	I	<u>Scenic Highway Preservation:</u> Preserve and enhance the character of scenic highways, and publicly owned and utility rights-of-way.	The Project would preserve and enhance the character of the Ventura Freeway, which is a scenic highway, by providing a new 30-foot-deep landscape buffer, as required by General Plan Policy CD-9.4, and by converting an existing vacant, undeveloped site into a new, aesthetically modern residential apartment building and landscape.
ICS-3.1	II	<u>CEQA Level of Service Threshold</u>	As identified in the Final IS/MND, the subject Project would not directly or indirectly reduce Level of Service (LOS) at any applicable intersection. The potential cumulative effects from all projects in the area (which may or may not include the subject Project) could potentially result in two
ICS-3.2	II	<u>Minimum Level of Service C and Exceptions</u>	
ICS-3.3	II	<u>New Development Level of</u>	

GENERAL PLAN POLICIES			
Policy	Level	Title/Text	Explanation
		<u>Service C</u>	intersections operating at LOS of “D” during peak periods: Rose Ave./Gonzales Rd., and U.S. Highway 101 SB Ramp/Rice Ave. Pursuant to General Plan Policies ICS-3.2 and ICS-3.3, respectively, the City Council may allow an exception LOS of “D” at the subject intersections during peak periods, to avoid impacting private homes and/or businesses, avoid environmental impacts, or preserve or enhance aesthetic integrity.
ICS-8.3	II	<u>Completing Bicycle and Sidewalk Network</u>	The Project will complete the portion of Lockwood Street adjacent to the Project, including the proposed Class II bicycle lane facility as identified on Map 5-1 of the Bicycle & Pedestrian Facilities Master Plan. In addition, the Project will provide 60 long-term bicycle parking spaces and 28 short-term bicycle parking spaces on-site, near the building entrance with good visibility, consistent with the requirements of Table A-4 of the Bicycle & Pedestrian Facilities Master Plan Appendices. The Project will also construct new driveways, sidewalks, curbs, and gutters, according to City standards and accessibility requirements.
ICS-8.4	II	<u>New Development Requires Bicycle Improvements</u>	
ICS-8.5	II	<u>Public Sidewalks and Pedestrian Orientation</u>	
ICS-8.6	II	<u>Americans with Disability Act (ADA) Handicap Requirements</u>	
ICS-8.13	II	<u>Importance of Pedestrian and Bicycle Access in Site Planning</u>	
ER-6.6	I	<u>New Development Private Open Space</u> : Ensure that new development incorporates open space areas that provide community and neighborhood identity, provide quality exterior private open space for each housing unit, and	The Project provides newly landscaped front and rear yards for community use, with paths, shade structures, built-in seating, and recreational activities including a dog run, two bocce courts, and a putting course. The Project provides an outdoor pool area with patios and

GENERAL PLAN POLICIES			
Policy	Level	Title/Text	Explanation
		minimize conflicting land uses and noise generators.	outdoor kitchens, second-floor courtyards and rooftop deck, and a fifth-floor terrace. The Project provides a private patio and/or balcony for every unit, designed variously with open metal railing, solid railing, and/or solid railing with glazed panel, as needed, to mitigate for existing noise generators (US-101/Ventura Freeway).
ER-7.2	I	<u>Design of Sound or Zone Walls</u> : When sound or zone walls are used, ensure that they are visually interesting and well landscaped.	The proposed 8-foot CMU site wall at the north property line is screened and softened by climbing evergreen vines at the north face, and by Italian Buckthorn hedges at the south face.
SH-5.2	II	<u>State Noise Insulation Standards</u>	The Project mitigates for existing noise generators (US-101/Ventura Freeway) by providing patios and balconies designed variously with open metal railings, solid railings, and/or solid railings with glazed panel, as needed to provide sound attenuation; such that all patios and/or balconies comply with City noise standards.
SH-5.3	II	<u>Sound Attenuation Measures</u>	
SH-6.3	II	<u>Buffering of Sensitive Receptors</u>	
SH-6.7	II	<u>Peak Noise Evaluation Along Truck Routes</u>	
SH-6.8	II	<u>Noise Contour Maps</u>	
SH-6.13	II	<u>Noise Acceptable for Open Windows and Patios</u>	
H-2.1	I	<u>Adequate Development Opportunities</u> : Designate sufficient sites for residential development with densities of 30 dwelling units per acre	The Project proposes to designate the site as Affordable Housing Discretionary (-AHD), with a base density of 30 du/acre, and which may be increased to 45 du/acre with the

GENERAL PLAN POLICIES			
Policy	Level	Title/Text	Explanation
		(du/acre) or greater to accommodate projects that cumulatively meet or exceed the lower income category of the RHNA allocation.	proposed Density Bonus, to accommodate the proposed mixed-income, multi-family development, which would cumulatively contribute to meeting and/or exceeding the lower income category of the RHNA allocation.
H-2.2	I	<u>Balanced Opportunities</u> : Provide opportunities to the private and public sectors to produce housing that meets the needs of special needs, extremely low-, very low-, low-, moderate-, and above moderate-income housing to achieve a balanced community.	The proposed designation of the site as Affordable Housing Discretionary (-AHD) would provide an opportunity for private development as new housing, which would include 38 affordable housing units (30 low-income level affordable units and 8 very low-income level affordable units).
H-2.6	I	<u>Commercial or Industrial Rezoning</u> : Continue to Investigate the rezoning of commercial and selected industrial parcels to also allow residential uses.	The Project proposes to designate the existing Industrial/ Business and Research Park (BRP) property as Affordable Housing Discretionary (-AHD) to allow for new residential development on the subject site.
All others	III	All policies not listed above	No or distant applicability to the proposed project.

ATTACHMENT E

ZONING CONSISTENCY TABLE (AHD DEVELOPMENT AND DESIGN STANDARDS, APPLICABLE R-4 AND BRP STANDARDS, AND ATTACHED DWELLING UNIT STANDARDS)

Consistency Analysis			
PZ# 22-500-04 (SUP), 22-535-03 (DB), 22-570-01 (ZC): Lockwood III Apartments			
Zone: Underlying Zone: BRP (Sec. 16-164) Additive Zone -AHD (Secs. 16-420 et seq)	Applicable Standards: (a) R-4 High Rise Residential development standards applicable – Secs. 16-70 to 16-79	(b) Attached Dwelling Unit development standards applicable –Secs. 16-360 to 16-363	(c) Additive Zone Development and Design Standards Secs. 16-420E through 16-420I

	<u>Affordable Housing Additive Zone Development and Design Standards</u> <u>Sections 16-420E through Section 16-420I</u>		
DEVELOPMENT STANDARD	REQUIREMENT	PROPOSED/PROVIDED	COMPLIES?
Max. building Height Sec. 16-420G(B)	5 stories not to exceed 56 feet <u>Ground Floors shall have a plate height of 12 to 16 feet</u>	5 stories/67.5 ft Ground floor plate height 14'-8"	Yes, subject to Density Bonus waiver
Setbacks Sec. 16-420G(D)	BRP zone standards applicable		
	Front: 30 ft.; 40 ft. when adjacent to designated thoroughfare	20' (Lockwood Drive)	Yes, subject to Density Bonus waiver
	Side: Equal to height of building unless otherwise permitted by a SUP	East: 55'-6" West: 53'-9"	Yes, subject to approval of SUP
	Rear: 20 ft.	72' 5" ft.	Yes
	Street: Half of height of building	N/A	
Density Sec. 16-420F.		30 units per acre	Yes
Affordability Sec. 16-420E.	Minimum 20%	24% affordable to lower or very low income households	Yes
Design Standards Sec. 16-420I.	Neighborhood Compatibility Sec. 16-420I(A)	Project is not abutting or across the street from single family neighborhood therefore	N/A

	Residential developments located abutting or across the street from a single-family neighborhood shall orient the buildings to the street with individual entries, patio areas, and landscaping facing the single-family homes. Parking lot areas, garages and carports shall be located behind residential structures. Duplexes, triplexes and fourplexes abutting or across the street from a single-family neighborhood shall include individual front doors and interior stairs. When determined necessary by a noise assessment, sound walls shall include an earth berm and landscaping.	no additional requirements necessary.	
	Building Design Sec. 16-420I(B) Builds shall orient towards the street or internal courtyard.	Building orients towards internal courtyard	Yes
	Buildings shall carry the same theme on all elevations.	Building carries same theme on all elevations.	Yes
	Architectural articulation shall be provided on all four sides of a building. Architectural articulation rhythms shall be followed based upon dimensions found in existing developments immediately adjacent to the site being developed.	Architectural articulation on all four sides.	Yes

	Exterior siding shall be made of nonreflective and nonmetallic materials. Acceptable siding material includes wood, stucco, ceramic tile, brick, stone, or other masonry materials, or any combination of these materials.	Exterior siding nonreflective and nonmetallic use of stucco	Yes
	Affordable units and market rate units in the same development shall be constructed of the same or similar exterior materials and details such that the units are not distinguishable.	Affordable and market rate units not distinguishable	Yes
	Blank walls (façades without doors, windows, landscaping treatments) shall be less than 30 feet in length along sidewalks, pedestrian walks, or publicly accessible outdoor space areas.	No blank walls greater than 30 feet in length along sidewalks, pedestrian walks, or publicly accessible outdoor space areas	Yes
	Buildings over three stories must provide a ground floor elevation that is distinctive from the upper stories by providing a material change or color change between the first floor and upper floors when in alignment with a change in architectural fenestration or facade articulation. The change in material or color shall occur along at least 75% of the building façade with frontage upon a street, adjacent public park or public open space.	The building is over 3 stories but does provide a ground floor elevation that is distinctive from the upper stories by providing a material change or color change.	Yes
	The Primary Street and the Side Street frontages, up to 75 feet from the primary street	On-grade parking podiums and parking structures and lined with utility space and landscaping.	Yes, subject to density bonus concession.

	front property line, of on-grade parking podiums and parking structures shall be lined with occupiable, usable space with a minimum depth of 18 feet. Non-lined portions of above-grade garages (rear of lots along side streets) must be set back at least five feet. The setback area should contain landscaping of the same quality as elsewhere on the property.		
	Trim surrounds shall be provided at all exterior window and door openings. In lieu of exterior window trim, windows can be recessed from the wall plane by a minimum of three inches.	Exterior window and door openings shall have trim surrounds or can be recessed from wall plane by a min. of 3 inches.	Yes
	At least two materials shall be used on any building frontage, in addition to glazing and railings. Any one material must comprise at least 20% of the building frontage.	Two materials minimum on any building frontage with any one material comprising at least 20% of the building frontage.	Yes
	Building facades shall be multi-colored. Each facade must contain not less than two but not more than five distinct colors. Extremely bright colors are only allowed on doors, window trim, or other building components that represent a small portion of the overall building façade. Materials, finishes, fixtures, and colors visible from the street shall be designed in a manner that is	Building facades are multi-colored with five colors. Colors are muted.	Yes

	consistent with the architectural style of the building		
	Massing and articulation Sec. 16-420I(C) A minimum of two features such as balconies, cantilevers, dormers, bay windows, patios, individualized entries, and accent materials shall be incorporated into each proposed building.	Features such as balconies, , patios, and accent materials are incorporated into the building.	Yes
	A minimum one-foot offset is required for any wall plane that exceeds 30 feet in length.	A minimum of one-foot offset is provided for wall planes that exceeds 30 feet in length	Yes
	Buildings over three stories tall shall have major massing breaks at least every 100 feet along any street frontage, adjacent public park, publicly accessible outdoor space, or designated open space, through the use of varying setbacks and/or building entries. Major breaks shall be a minimum of 30 inches deep and four feet wide and extend the full height of the building.	The building has major massing breaks at least every 100' along the street frontage. Major breaks are a minimum of 30" deep and four feet wide and extend the full height of the building.	Yes
	Buildings shall have minor massing breaks at least every 50 feet along the street frontage, through the use of varying setbacks, building entries and recesses, or structural bays. Minor breaks shall be a minimum of 12 inches deep and four feet wide and extend the full height of the building.	The building has minor massing breaks at least every 50' along the street frontage, with a minimum 1' deep and four feet wide and extending the full height of the building.	Yes

	Rooflines shall be vertically articulated at least every 50 feet along the street frontage, through the use of architectural elements such as parapets, varying cornices, reveals, clerestory windows, and varying roof height and/or form.	Rooflines are vertically articulated at least every 50' along the street frontage.	Yes
	Within 20 feet of an R-1 District boundary, the maximum building height is 35 feet. From this point, the building height may be increased to a ground level of up to 16 feet to allow for podium parking and four additional stories of 10 feet each with a combined maximum height of 56 feet.	The property is not within 20' of an R-1 District boundary.	N/A
	Site Design Sec. 16-420I(D) When dwelling units are abutting common open space areas and parks, a minimum of one window from each dwelling shall be located to overlook common area and parks.	Dwelling units which abut common open space areas and parks must have minimum of one window located to overlook same.	Yes
	Garages and carports shall be designed to include a minimum of two of the following from the main building(s): materials, detailing, roof materials, and colors.	Garages and carports designed to include a minimum of two of the following from the main building: materials, detailing, roof materials and colors.	Yes
	Controlled entrances to parking facilities (gates, doors, etc.) shall be located a minimum of 18 feet from the back of sidewalk, in order to accommodate one vehicle entering the facility.	The property does not have controlled entrances to parking facilities directly from street.	N/A

	Where bicycle parking is not visible from the street, directional signage to bicycle parking shall be included at the main building entrance. The signage shall be in the form of either a directory not exceeding six (6) square feet and or up to ten (10) individual directional signs not exceeding 1 square-foot each.	Directional signage at main building entrance for bicycle parking not visible from street Signage will be provided.	Yes, as conditioned.
	Within commercial zones parking shall not be allowed within the front setback areas and direct pedestrian access to the building(s) must be provided from the public right-of-way. Direct pedestrian access between the public right-of-way and the building shall not require crossing parking, drive aisles, or other spaces used for vehicular circulation.	The project is not located in a commercial zone.	N/A
	Within commercial zones all housing developments must have direct interaction with the public right-of-way. When ground floor residential units are proposed, the residential units which front the public right-of-way shall locate kitchens and other living spaces (but not bedrooms) to front on the public right-of-way. These residential units may have covered patios and decks which can be constructed within the front yard setback within 5 feet of the property	The project is not located within a commercial zone.	N/A

	line provided the patios or decks have steps and or gates which lead directly to the public right-of-way. Second and third floor residential units are encouraged to place kitchens and other living spaces (but not bedrooms) to overlook the public right-of-way. These residential units may have decks and or balconies which encroach up to 10 feet into the front yard back		
	Surface parking spaces may be open or covered. All surface parking shall be screened from street views by buildings, walls (36 to 48 inches tall), landscaping, a planted earth berm, planted fencing, topography, or some combination of the above. Landscaping used for screening purposes must be no less than five feet wide (from the back of sidewalk or street curb to the parking lot paving, whichever is greater).	Surface parking is open or covered and screened from street views by buildings, walls landscaping, a planted berm, etc.	Yes
	Frontage improvements consistent with Public Works plates. The frontage improvements shall be designed to connect with and transition into adjacent existing frontage improvements.	Frontage improvements are consistent with Public Works plates.	Yes
	Common use site areas shall include refuse collection, mail distribution, laundry, recreation, and congregation. All such	Common use site areas include refuse collection, mail distribution, laundry, recreation and congregation.	Yes

	areas shall be connected with an accessible route.		
	A secured mail and parcel distribution areas shall be well lit, secure, and shall remain open to the tenants at all times.	Secured mail and parcel distribution areas are designed to be well lit, secure and open to tenants at all times.	Yes
	Accessory Elements Sec. 16-420I(E) Perimeter fencing utilized along a public street shall be constructed of decorative iron, pre-painted welded steel, CMU block, or wood picket material.	Perimeter vine wall is provided along the west, east, and north property lines. Landscape berms are provided on the south property frontages along the public street.	Yes
	The height of solid fencing between private yards and common open spaces shall be limited to four and one-half feet in height. If a six-foot fence is desired, the top 18 inches shall allow for vision in and out of the yard.	Solid fencing is not provided between private yards and common open spaces.	N/A
	All roof top, wall mounted or ground mounted equipment must be screened. Roof top screening must use the materials and colors from the building and be architecturally integrated.	All rooftop, wall mounted or ground mounted equipment is screened.	Yes
	All exterior storage facilities shall be screened from the public right-of-way. within an enclosure with walls at least six (6) feet in height	The project does not include exterior storage facilities.	N/A
	All wood service poles, electric and gas meters, fire sprinkler valves and backflow preventers and transformers shall be located in the least prominent locations onsite as allowed by the	All wood service poles, electric and gas meters, fire sprinkler valves and backflow preventers and transformers have been located in the least prominent locations and camouflaged using building materials, and colors and/or landscaping.	Yes

	utilities, and all equipment shall be camouflaged using building materials and colors and or landscaping included within the project design.		
	All refuse enclosures shall be designed to comply with the City Material Management and Enclosure Design Guidelines. Shield all dumpsters within an enclosure a minimum of six (6) feet tall with a solid roof. Allow adequate size to accommodate the needed dumpsters and recycling containers. All enclosures and gates shall be detailed to withstand heavy use. Provide wheel stops or curbs to prevent dumpsters from banging into walls of enclosure. Provide an opening so that pedestrians can access the dumpsters without opening the large gates. Provide lighting at trash enclosures for night time security and use. Locate dumpster enclosures so that no dwelling is closer than 20 feet (including those on abutting properties), or more than 150 feet from a residential unit. No minimum distance from dwellings is required if dumpsters are located within a fully enclosed room.	Refuse enclosures are designed to comply with City Material Management and Enclosure Design Guidelines, shielded with access for pedestrians without opening large gates, and provide lighting, and located so that no dwelling is closer than 20' from a residential unit. The refuse facilities are located within a fully enclosed room.	Yes

Special Development Requirements Sec. 16-420J.	For developments located within or adjacent to industrial or commercial zoned property. Determine if multifamily is compatible with surrounding uses. Consider noise, odors, truck traffic and deliveries, hazardous materials handling/storage, air emissions, soil/groundwater contamination and complete sidewalk circulation systems and bus stops. Sec. 16-420J(A)		
	Residential Disclosures Sec. 16-420J(B) Residential disclosures: All applications for Multifamily or Mixed-use shall include a condition of approval for disclosure to residents clearly outlining the issues associated with living in a mixed-use environment. The language for this disclosure shall be as specified by the Director. Copies of each signed disclosure shall be made available for review upon written request by the City.	Disclosure to residents regarding issues associated with living in a mixed-use environment	Yes, as conditioned
	Residential Ventilation Systems Sec. 16-420J(C) Applicants for new Multifamily or Mixed-use developments within 500 feet of US 101 or industrially zoned property shall be required to install high efficiency Minimum Efficiency Reporting Value (MERV) filters of	The residential ventilation systems are not identified within the plans.	Yes, as conditioned

	MERV 14 or better in the intake of residential ventilation systems. Heating, air conditioning and ventilation (HVAC) systems shall be installed with a fan unit power designed to force air through the MERV 14 filter.		
	Health Risk Assessment Sec. 16-420J(D) For all Multifamily or Mixed-use developments located within the distances to industrial uses as outlined below the applicant shall submit a health risk assessment (HRA) prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment (OEHHA), California Office of Emergency Services (OES), Certified Unified Program Agency (CUPA) and Ventura County, Air Pollution Control District (APCD) to the Director. The HRA shall be reviewed and approved by the City and qualified experts approved by the City following APCD or California Air Pollution Control Officers Association (CAPCOA) guidelines prior to approval of any future residential or residential mixed use development, and HRA recommendations shall be incorporated into the development.	If located within 1,000 square feet from truck bays of an existing distribution center that accommodates more than 100 trucks per day, more than 40 trucks with operating transport refrigeration units or where transport refrigeration unit operations exceed 300 hours per week	N/A

	1,000 feet from the truck bays of an existing distribution center that accommodates more than 100 trucks per day, more than 40 trucks with operating transport refrigeration units, or where transport refrigeration unit operations exceed 300 hours per week. 1,000 feet from industrial facility which emits toxic air contaminants (TACs) identified by the following sources: • CARB Toxic Emission Inventory • EPA Toxic Release Inventory • CARB Toxic Air Contaminant Identification List • EPA List of Air Toxics • Ventura County APCD Air Toxic Annual Report or Similar APCD List	The project is not located within 1,000 feet from distribution center or industrial facility which emits toxic air contaminants	N/A
	Odor Assessment Sec. 16-420J(E) For all Multifamily or Mixed-use developments located within 1,000 feet of an industrial facility that emits substantial odors, which includes, but is not limited to: • Wastewater treatment plants. • Composting, greenwaste, or recycling facilities. • Fiberglass manufacturing facilities. • Painting/coating operations. • Coffee roasters. • Food processing facilities.	The project is not located within 1,000 square feet from an industrial facility that emits substantial odors.	N/A

	The applicant shall submit an odor assessment to the Director prior to approval of any future discretionary action that verifies that the Ventura County Air Pollution Control District has not received three or more verified odor complaints. If the odor assessment identifies that the facility has received three such complaints, the applicant will be required to identify and demonstrate the Best Available Control Technologies for Toxics (T-BACTs) which are capable of reducing potential odors to an acceptable level, including appropriate enforcement mechanisms. T-BACTs may include, but are not limited to, installation of Minimum Efficiency Reporting Value (MERV) filters rated at 14 or better at all residential units. All T-BACTs shall be incorporated into the development.		
	Noise standards Sec. 16-420J(F) Individual developments that involve vibration-intensive construction activities, such as pile drivers, jack hammers, and vibratory rollers, occurring near sensitive-receptors shall be evaluated for potential vibration impacts. Developments are required to	Vibration impacts from construction implement techniques which reduce vibration below FTA criteria	Will be addressed through project conditions

	implement construction techniques which result in construction-related vibration that is less than the Federal Transit Administration vibration-annoyance criteria of 78 VdB during the daytime (7:00am-10:00pm) and not allowed during the nighttime (10:01pm-6:59am).		
	The applicant shall submit evidence to the satisfaction of the Director that all units with patios and/or balconies meet the 65 dBA CNEL.	Noise on patios and/or balconies shall meet 65 dBA CNEL standards	Yes, as conditioned
	Hazardous materials standards Sec. 16-420J(G) Individual development sites may have existing facilities, such as transformers or clarifiers, to be demolished as part of a proposed development. To mitigate hazardous materials-related impacts during the removal of such facilities, the Director, in conjunction with the Oxnard Fire Department, shall include specific development conditions of approval as part of the discretionary review process for the proposed development.	The project site is a vacant site that doesn't have existing facilities to be demolished	Address through project conditions.
	Public Safety standards Sec. 16-420J(H) Plans submitted for review of residential development shall include the following safety (a) Recreation areas shall be located	Recreation areas are adjacent to residential uses and utilizes Crime Prevention Through Environmental Design concepts	Yes

	adjacent to residential uses whenever possible. These areas shall be visible to residents from within their dwellings to allow for "eyes on the street" proper visual surveillance. Placement of windows, landscaping, lighting, and recreation uses shall be coordinated to enhance resident surveillance opportunity, but not to detract from the recreational use. (b) General utilization of the concepts of Crime Prevention Through Environmental Design (CPTED) in the planning and development stages.		
	The inclusion of the following items shall be verified by the public safety department prior to issuance of the first building permit for a residential unit. Development of a security plan for Multifamily or Mixed-use developments that includes: i. Management contact for public safety issues available 24-hours a day; ii. Cameras for monitoring and recording vehicles and persons entering the site; iii. Access control systems to control passage into common areas; iv. Secure postal and parcel delivery; v. Quick removal of graffiti; and vi. Enforcement of restricted parking spaces.	The project is conditioned to implement a Security Plan; security cameras; access control systems into common areas; secure postal and parcel delivery; quick removal of graffiti; and enforcement of restricted parking spaces.	Yes, as conditioned.
	Preparation of a standardized, high	The project is conditioned to implement a wayfinding sign	Yes, as conditioned

	density, "wayfinding" sign program to aid emergency responders in finding individual residential units quickly and easily.	program to aid emergency responders	
	A Click2Enter radio frequency access system shall be installed at any vehicle and pedestrian access point controlled by privacy gates.	All gates are proposed which would require a Click2Enter access system at exterior parking. Provide at podium parking and all pedestrian access points.	Yes
	Residential units shall be designed to ensure the security of residents through the provision of secured entrances and exits that are separate from the nonresidential uses. Nonresidential and residential uses shall not have common entrance hallways or common balconies. These separations shall be shown on the development plan and the separations shall be permanently maintained.	Security at secured entrances and exits separate from nonresidential uses.	Yes
	Residential windows of buildings directly adjacent to industrial uses shall generally be directed away from loading areas and docks, unless view-restricting architectural elements are utilized.	Adjacent uses on industrial zoned lands do not have loading areas or docks.	N/A
	R-4 High Rise Residential development standards Secs. 16-70 to 16-79		
DEVELOPMENT STANDARD	REQUIREMENT	PROPOSED/PROVIDED	COMPLIES?
SEC. 16-73 HEIGHT PERMITTED	Four Stories, but not to exceed 45 feet except as otherwise provided in this chapter	The building height is regulated by Section 16-420G(B). See above	Yes, subject to Density Bonus waiver

SEC. 16-74 DENSITY	There shall be at least 1,500 square feet of lot area for each dwelling	The project density is regulated by Section 16-420F. See above.	Yes, subject to Density Bonus
SEC. 16-75-77 Setbacks	Front: 20 feet without an alley; 15 feet with an alley Side: 5 feet for one or two story buildings and increased by 2.5 feet for each story over two. Street side yards not to exceed 10 feet. Rear: Rear yards shall be 5 feet for one or two story buildings and increased by 2.5 feet for each story over two. Street rear yards not to exceed 10 feet.	The project setbacks are regulated by Section 16-420G(D). See above.	Yes
SEC. 16-78. INTERIOR YARD SPACE	Each lot shall provide for interior yard space in an area equal to at least 30 percent of the lot area. This interior yard space shall be completely open from ground to sky except for a patio or pergola or the projections of those items referred to in sections 16-304 through 16-307. The interior yard space shall be located in an area between the required front yard setback and the rear property line. Each interior yard space area shall have a minimum dimension of 15 by 15 feet. The interior yard space shall be completely separate from any area required for automobile circulation. Twenty-five percent of the required interior yard space may be on decks if such decks have a minimum dimension of ten feet and	The project is providing 15% interior yard space.	Yes, subject to Density Bonus concession

	a minimum of 200 square feet, and are directly accessible from the units served. All decks shall be open to the sky except for allowed roof projections and shall be provided with flooring and railings suitable for outdoor activity.		
		BRP DEVELOPMENT STANDARDS Sec. 16-164	
DEVELOPMENT STANDARD	REQUIREMENT	PROPOSED/PROVIDED	COMPLIES?
Sec. 16-164 Minimum Lot Size	20,000 s.f.	225,348 s.f.	Yes
Sec. 16-164 Minimum lot width:			
Interior lots	100'	Project exceeds minimum requirements. See Site Plan. 360 ft. x 517 ft.	N/A
Corner lots	150'	N/A	Yes
Sec. 16-164 Maximum lot coverage	40%	Approx. 39%	Yes
Sec. 16-164 Minimum lot depth	150'	Project exceeds minimum requirements. See Site Plan. +/- 321'	Yes
Off-street parking: Required (16-622)	Under Sec. 16-622, 500 parking spaces are required. As a Density Bonus Project the requirements of Gov't Code Section 65915 apply, Required parking under Sec. 16-622 is not applicable.	Sec. 16-410P(F)(2) requires 300 parking spaces Garage parking is not required for affordable housing projects seeking density bonus permit. Provided: 351	Yes, subject to density bonus.
Administrative Relief From Parking		Compact: 8 ft W x 16 ft L; Max 25% of spaces w/admin relief (300 (Required	Yes, subject to Yes, subject to approval of

Provisions (16-651)		Spaces per Density Bonus) x .25 = 75 (maximum number of compact spaces allowed for required parking)	administrative relief from parking.
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Attached Dwelling Unit development standards applicable –Secs. 16-360 to 16-363			
Minimum dwelling size SEC. 16-362(A)	Studio and One bedroom: 450 square feet; two or more bedrooms: 800 square feet	Studio/1 BR: 692 s.f. avg. 2 BR: 981 s.f. avg. 3 BR: 1106 s.f. avg. No units proposed below threshold.	Yes
(Sec. 16-362C)	Multiple-family attached dwelling units of 12 units or more shall provide common recreational facilities with interior yard space areas to include, but not be limited to, one or more of the following: (1) Swimming pools; (2) Spa; (3) Tennis and/or basketball or volleyball courts; (4) Barbecues and outdoor picnic facilities;(5) Recreation buildings; (6) Exercise courses and stations; (7) Children's play equipment; and (8) Such other facilities as are approved by the planning commission.	Pool, barbecue area, recreational area, fitness provided.	Yes
Open area Sec. 16-362(D)	Projects having 12 or more units shall provide at least one lawn area of not less than 2,500 square feet and having a minimum dimension of not less than 35 feet.	Courtyard and roof deck with activity and open space provided with minimum dimension. See site plan.	Yes
Distance to garage from dwelling unit Sec. 16-362(E)	The maximum distance to a garage from any dwelling unit entry shall be 75 feet.	Furthest parking space to an entrance to the building is 75 ft.	N/A No garages Parking Incentive
Balconies and patios Sec. 16-362(F)	All second story dwelling units shall have at least one patio or balcony, having a minimum dimension of ten feet.	Concession requested under State Density Bonus Law. Some units do not have a balcony or patio and those that do, do not have a minimum 10 ft. dimension.	Yes, subject to Density Bonus concession.
Balcony enclosures Sec. 16-362(G)	All balconies and patios shall have railings or walls which	See plans	Yes

	provide at least 50 % enclosure.		
Storage areas Sec. 16-362(H)	Each dwelling unit shall have a storage area of at least 225 cubic feet. The storage area may be included in the garage area, but may not intrude into the minimum garage dimensions.	All units meet minimum area by including bedroom closets. Also, because the project is 100% affordable a 10% adjustment to numerical development standards is allowed. Sec.16-420G(E)	Yes
Garages Sec. 16-362(I)	All garages shall have automatic garage door openers. All garage doors shall have architectural treatment or detail.	Garages shall have automatic openers	Yes, as conditioned
Utility meters Sec. 16-362(J)	Wall-mounted utility meters shall be screened or integrated into the building design.	Located in the utility room.	Yes
Refuse enclosures Sec. 16-362(K)	Refuse enclosures shall be designed to reflect the major design elements or details of the residential units and shall provide an access for persons separate from the refuse vehicle access.	Located inside the building.	Yes
Architectural Design standards Sec. 16-165(1)(b)	A minimum of two types of building texture or materials, exclusive of window glazing and frames, shall be provided on all building elevations having exposure to public streets or residential areas.	See exterior elevations and floor plans to demonstrate compliance.	Yes

RESOLUTION NO. 2024-18

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD RECOMMENDING ADOPTION OF A MITIGATED NEGATIVE DECLARATION 24-01 REGARDING THE PROPOSED CONSTRUCTION OF A NEW FIVE-STORY, 234-UNIT, MIXED-INCOME, MULTI-FAMILY APARTMENT BUILDING AND RELATED IMPROVEMENTS LOCATED ON THE EXISTING, VACANT 5.17-ACRE PROPERTY AT 2151 LOCKWOOD STREET (APN: 213-0-090-275). FILED BY MARK ROSS – MANAGER, SVM DEVELOPMENT, 1534 MOORPARK ROAD #337, THOUSAND OAKS, CALIFORNIA 91360 (THE “APPLICANT”) ON BEHALF OF SUNBELT ENTERPRISES, LLC, 5715 MESMER AVENUE, LOS ANGELES, CALIFORNIA 90230 (THE “PROPERTY OWNER”).

WHEREAS, on November 2, 2022, Mark Ross (the “Applicant” and/or “Permittee”) submitted a request to approve Planning and Zoning Permit No. 22-500-04 (Special Use Permit), Planning and Zoning Permit No. 22-535-03 (Density Bonus), and Planning and Zoning Permit No. 22-570-01 (Zone Change), to allow for the construction of a new five-story, 234-unit, mixed-income, multi-family apartment building and related improvements located on the existing, vacant 5.17-acre property at 2151 Lockwood Street (“the Project”). The Special Use Permit allows for the development of mixed-income housing on the property; the Zone Change adopts the Affordable Housing Discretionary (-AHD) Additive Zone; and the Density Bonus Permit allows the project to exceed the base unit density; and

WHEREAS, the City is the lead agency for purposes of the project pursuant to Public Resources Code section 21067; and

WHEREAS, the City determined that the Project and its associated actions are subject to the environmental review requirements of the California Environmental Quality Act (“CEQA”); and

Whereas, the Development Advisory Committee (DAC) reviewed the plans on December 14, 2022, and March 1, 2023, and provided conditions of approval for the project that are incorporated within the recommended permits; and

WHEREAS, Pursuant to provisions of the California Environmental Quality Act and CEQA Guidelines, Section 15063, and following an Initial Study and environmental assessment of possible adverse impacts, the project will not have a significant effect on the environment because of the inclusion of certain mitigation measures for which lessened potential adverse impacts to a level of less than significant. Therefore, the Planning Division has prepared a Mitigated Negative Declaration with mitigation measures and monitoring program in accordance with the provisions of CEQA, including, without limitation CEQA Guidelines Sections 15070, 15071, 15072, and 15073, which have been incorporated as conditions; and

WHEREAS, a Notice of Intent to Adopt an Initial Study and Draft Mitigated Negative Declaration (IS/MND) for the Project was published and posted on March 18, 2024, at the State Office of Planning and Research (OPR) website and at the Ventura County Recorder’s Office pursuant to CEQA Guidelines Sections 15072 and 15073; and

WHEREAS, the public comment period on the Draft IS/MND ran for thirty (30) days commencing on March 18, 2024 and ending on April 17, 2024; and

WHEREAS, after the close of the comment period on the IS/MND, the IS/MND was modified as set forth in Chapter 4 of the Response to Comment document; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines, the City has prepared Final IS/MND 24-01 containing all comments received on the Draft IS/MND 24-01, written responses to all substantive comments, and necessary changes to the text of the Draft IS/MND 24-01; and

WHEREAS, on August 1, 2024, the Planning Commission of the City of Oxnard conducted a duly noticed public hearing, and received and reviewed all written and oral evidence related to the Final IS/MND 24-01; and

WHEREAS, the Planning Commission finds after due study and deliberation that the public interest and general welfare require the adoption of the Final IS/MND 24-01; and

WHEREAS, the comments of the Commissioners, agencies, interested groups, and members of the public have received adequate responses; and

WHEREAS, the Applicant agrees as a condition of this Resolution that at its own expense, to indemnify and defend the City of Oxnard and its agents, officers and employees from and against any claims, actions or proceedings to attack, set aside, void or annul the approval of this Resolution or any actions or proceedings, acts or determinations taken, done or made before the approval of this Resolution that were part of the approval process.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard hereby recommends adoption of a Final IS/MND 24-01, attached to the staff report and incorporated by reference.

SECTION 1. The Recitals above are true and correct and incorporated herein by this reference.

SECTION 2. The Final IS/MND has been completed in compliance with the California Environmental Quality Act (California Public Resources Code Section 21000 – 21189).

SECTION 3. The Final IS/MND was presented to the Planning Commission, which, at a hearing before the public, reviewed and considered the information contained in the Initial Study/Mitigated Negative Declaration prior to taking action regarding the Project and its associated development entitlements.

SECTION 4. Based 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 finds pursuant to CEQA Guidelines §15074, the Final MND reflects the City's independent judgment and analysis. The Planning Commission has independently reviewed and analyzed the Final IS/MND 24-01 prepared for the Project. The Final IS/MND 24-01 is an accurate and complete statement of the potential environmental impacts of the project. The Final IS/MND 24-01 was prepared under the direction of the City of Oxnard Planning Division and reflects its independent judgment and analysis of the environmental impacts.

SECTION 5. The Planning Commission hereby recommends adoption of the Final IS/MND 24-01, set forth attached hereto and incorporated herein by reference, and based thereon

and on the Record as a whole, the Planning Commission hereby finds that all potentially significant environmental effects of the Project its associated development entitlement actions have been reduced to a less-than-significant level in that all significant environmental effects have been eliminated or substantially lessened as set forth in the IS-MND. Based upon the foregoing, the Planning Commission determines that the Project and its associated actions will not have a significant effect upon the environment.

SECTION 6. The Planning Commission hereby recommends adoption of the mitigation measures set forth in the Final IS/MND 24-01 and its accompanying Mitigation, Monitoring, and Reporting Program ("MMRP"), pursuant to Public Resources Code Section 21081.6, which is a program design to ensure compliance with the mitigation measures imposed to avoid or substantially lessen the significant effects identified in the Mitigated Negative Declaration/Initial Study and said mitigation measures are described in the MMRP included therein and incorporated herein by reference.

SECTION 7. The Planning Commission hereby approves the resolution recommending adoption of Final IS/MND 24-01, attached to the staff report and incorporated by reference.

SECTION 8. The Secretary shall certify the adoption of this Resolution.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 1st day of August 2024.

Dr. Vincent Stewart, Vice-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 this 1st day of August 2024, and carried by the following vote:

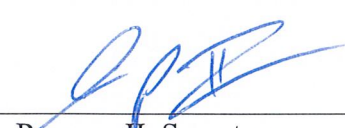
AYES: Commissioner(s): Steward, Lopez, Nash, Schuelke

NOES: Commissioner(s):

ABSENT: Commissioner(s): Arruejo, Connelly, Zielsdorf

ABSTAIN: Commissioner(s):

RECUSED: Commissioner(s):



Joe Pearson II, Secretary

RESOLUTION NO. 2024-19

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD RECOMMENDING THAT THE CITY COUNCIL APPROVE PLANNING AND ZONING PERMIT NO. 22-570-01 (ZONE CHANGE) TO ALLOW THE ZONE CHANGE OF THE PROPERTY AT 2151 LOCKWOOD STREET (APN: 213-0-090-275) FROM BUSINESS RESEARCH PARK (BRP) TO BUSINESS RESEARCH PARK - AFFORDABLE HOUSING DISCRETIONARY (BRP-AHD). FILED BY MARK ROSS – MANAGER, SVM DEVELOPMENT, 1534 MOORPARK ROAD #337, THOUSAND OAKS, CALIFORNIA 91360 (THE “APPLICANT”) ON BEHALF OF SUNBELT ENTERPRISES, LLC, 5715 MESMER AVENUE, LOS ANGELES, CALIFORNIA 90230 (THE “PROPERTY OWNER”).

WHEREAS, on November 2, 2022, Mark Ross (the “Applicant” and/or “Permittee”) submitted a request to approve Planning and Zoning Permit No. 22-570-01 (Zone Change), Special Use Permit (PZ 22-500-04), and Planning and Zoning Permit No. 22-535-03 (Density Bonus); and

WHEREAS, if the aforementioned entitlement applications are collectively approved by the City of Oxnard, the project would be permitted to develop a new five-story, 234-unit, mixed-income, multi-family apartment building and related improvements located on the existing, vacant 5.17-acre property at 2151 Lockwood Street (APN: 213-0-090-275) (“Project”); and

WHEREAS, the proposed Zone Change requests that the City’s Zoning Ordinance Map change the zoning of the subject project site from Business Research Park (BRP) to Business Research Park - Affordable Housing Discretionary (BRP-AHD); and

WHEREAS, the City of Oxnard as the Lead Agency, has prepared Final IS/MND 24-01 in accordance with the requirements of the California Environmental Quality Act (CEQA, Public resources Code § 21000, et seq.), the regulations promulgated thereunder (14 California Code of Regulations, §15000, et seq., CEQA Guidelines), and the City’s Environmental Review Guidelines; and

WHEREAS, pursuant to provisions of the California Environmental Quality Act and CEQA Guidelines, Section 15063, and following an Initial Study and environmental assessment of possible adverse impacts, the project will not have a significant effect on the environment because of the inclusion of certain mitigation measures for which lessened potential adverse impacts to a level of less than significant. Therefore, the Planning Division has prepared a Mitigated Negative Declaration with mitigation measures and monitoring program in accordance with the provisions of CEQA, including, without limitation CEQA Guidelines Sections 15070, 15071, 15072, and 15073, which have been incorporated as conditions; and

WHEREAS, a Notice of Intent to Adopt an Initial Study and Draft Mitigated Negative Declaration (IS/MND) (MND 24-01) for the Project was published and posted on March 18,

2024, at the State Office of Planning and Research (OPR) website and at the Ventura County Recorder's Office pursuant to CEQA Guidelines Sections 15072 and 15073; and

WHEREAS, the public comment period on the Draft IS/MND ran for thirty (30) days commencing on March 18, 2024 and ending on April 17, 2024; and

WHEREAS, after the close of the comment period on the IS/MND, the IS/MND was modified as set forth in Chapter 4 of the Response to Comment document; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines, the City has prepared Final IS/MND 24-01 containing all comments received on the Draft IS/MND 24-01, written responses to all substantive comments, and necessary changes to the text of the Draft IS/MND 24-01; and

WHEREAS, the Planning Commission is concurrently approving Special Use Permit (PZ 22-500-04) and Density Bonus Permit (22-535-03) develop a new five-story, 234-unit, mixed-income, multi-family apartment building and related improvements located on the existing, vacant 5.17-acre property at 2151 Lockwood Street (APN: 213-0-090-275) subject to approval of the related actions within the Special Use Permits and Density Bonus Permits conditions of approval, respectively; and

WHEREAS, Section 16-581 of the Oxnard City Code authorizes the Planning Commission to recommend the action to be taken by the City Council on the application for a Zone Change; and

WHEREAS, on August 1, 2024, the Planning Commission conducted a duly noticed public hearing to consider the Applicant's request to approve Planning and Zoning Permit No. 22-570-01 (Zone Change) in accordance with the City's 2030 General Plan and Oxnard City Code (Sections 16-575 through 16-590 (Zone Change)); and

WHEREAS, the Planning Commission finds, after due study, deliberation and public hearing, that the project meets the criteria set out in the Oxnard City Code; and

WHEREAS, the Commission considered Final IS/MND 24-01 prior to taking action on the Project; and

WHEREAS, the Development Advisory Committee (DAC) reviewed the plans on December 14, 2022, and March 1, 2023, and provided conditions of approval for the project that are incorporated within the recommended permits; and

WHEREAS, the Planning Commission finds after due study and deliberation that the public interest and general welfare require the approval of a Zone Change amending the City's Zoning Ordinance Map to change the zoning of the project site from Business Research Park to Business Research Park - Affordable Housing Discretionary (BRP-AHD); and

WHEREAS, the pursuit of the Zone Change is a reasonable exercise of the City's police powers to ensure the continued health, safety, and welfare of the public by providing housing opportunities for the residents of the City of Oxnard; and

WHEREAS, the proposed Zone Change is consistent with the policies and directives in the 2030 General Plan, if the Zoning Ordinance to allow orderly development to those areas that can be served by existing or planned utilities, transportation, and service systems. The proposed Zone Change does not represent a significant change in the 2030 General Plan and Zoning Ordinance nor does it result in significant new environmental impacts that have not been previously evaluated; and

WHEREAS, the Applicant agrees that at its own expense, to indemnify and defend the City of Oxnard and its agents, officers and employees from and against any claims, actions or proceedings to attack, set aside, void or annul the approval of this resolution or any actions or proceedings, acts or determinations taken, done or made before the approval of this resolution that were part of the approval process.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF OXNARD:

SECTION 1. The Recitals above are true and correct and incorporated herein by this reference.

SECTION 2. The Planning Commission finds that the Zone Change is internally consistent with all other provisions of the City of Oxnard 2030 General Plan.

SECTION 3. The Planning Commission finds that the Zone Change will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

SECTION 4. The Planning Commission finds that the project site associated with the Zone Change is physically suitable in terms of design, location, operating characteristics, shape, size, topography, and the provision of public and emergency vehicle access, and public services and utilities and is served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate, to ensure that the proposed use(s) and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

SECTION 5. The Planning Commission determines that the proposed Zone Change from Business Research Park to Business Research Park - Affordable Housing Discretionary (BRP-AHD) is the best use for the subject project site.

SECTION 6. The Planning Commission determines that the Zone Change is in the best interests and welfare of the City and its residents.

SECTION 7. In recommending adoption of this Resolution for the Zone Change, the Planning Commission finds and determines the project is in compliance with the California Environmental Quality Act because an Mitigated Negative Declaration was considered by the

Planning Commission, in accordance with the California Environmental Quality Act (CEQA), determines that the Project will not have a significant impact on the environment as identified and discussed in MND 24-01. Pursuant to the California Environmental Quality Act (CEQA) Section 15060, the City of Oxnard as the Lead Agency, has prepared an IS/MND (State Clearinghouse No. 2024030528) in accordance with the requirements of the California Environmental Quality Act (CEQA, Public resources Code § 21000, et seq.), the regulations promulgated thereunder (14 California Code of Regulations, §15000, et seq., CEQA Guidelines), and the City's Environmental Review Guidelines. The IS/MND identifies and discusses potential impacts, mitigation measures, and monitoring requirements. With implementation of mitigation measures, there is no substantial evidence that the proposed project will have a significant effect upon the environment.

SECTION 8. Based on the findings set forth herein and the Staff Report and all attachments thereto, the Planning Commission hereby recommends to the City Council approval of Planning and Zoning Permit No. 22-570-01 (Zone Change).

SECTION 9. The action of the Planning Commission is a recommendation which may not be appealed.

SECTION 10. The Secretary shall certify the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED by the Planning Commission of the City of Oxnard on this 1st day of August 2024.

Dr. Vincent Stewart, Vice-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 1st day of August 2024, and carried by the following vote:

AYES: Commissioner(s): Stewart, Lopez, Nash, Schuelke

NOES: Commissioner(s):

ABSENT: Commissioner(s): Arruejo, Connelly, Zielsdorf

ABSTAIN: Commissioner(s):

RECUSED: Commissioner(s):



Joe Pearson II, AICP, Secretary

RESOLUTION NO. 2024-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 22-500-04 (SPECIAL USE PERMIT) AND 22-535-03 (DENSITY BONUS) TO ALLOW FOR THE CONSTRUCTION OF A NEW FIVE-STORY, 234-UNIT, MIXED-INCOME, MULTI-FAMILY APARTMENT BUILDING AND RELATED IMPROVEMENTS AND TO AUTHORIZE A MINISTERIAL DENSITY BONUS ON THE EXISTING, VACANT 5.17-ACRE PROPERTY AT 2151 LOCKWOOD STREET (APN: 213-0-090-275). FILED BY MARK ROSS – MANAGER, SVM DEVELOPMENT, 1534 MOORPARK ROAD #337, THOUSAND OAKS, CALIFORNIA 91360 (THE “APPLICANT”) ON BEHALF OF SUNBELT ENTERPRISES, LLC, 5715 MESMER AVENUE, LOS ANGELES, CALIFORNIA 90230 (THE “PROPERTY OWNER”).

WHEREAS, on November 2, 2022, Mark Ross (the “Applicant” and/or “Permittee”) submitted a request to approve Planning and Zoning Permit No. 22-570-01 (Zone Change), Special Use Permit (PZ 22-500-04), and Planning and Zoning Permit No. 22-535-03 (Density Bonus); and

WHEREAS, if the aforementioned entitlement applications are collectively approved by the City of Oxnard, the project would be permitted to develop a new five-story, 234-unit, mixed-income, multi-family apartment building and related improvements located on the existing, vacant 5.17-acre property at 2151 Lockwood Street (APN: 213-0-090-275) (“Project”); and

WHEREAS, the City of Oxnard as the Lead Agency, has prepared Final IS/MND 24-01 in accordance with the requirements of the California Environmental Quality Act (CEQA, Public resources Code § 21000, et seq.), the regulations promulgated thereunder (14 California Code of Regulations, §15000, et seq., CEQA Guidelines), and the City’s Environmental Review Guidelines; and

WHEREAS, pursuant to provisions of the California Environmental Quality Act and CEQA Guidelines, Section 15063, and following an Initial Study and environmental assessment of possible adverse impacts, the project will not have a significant effect on the environment because of the inclusion of certain mitigation measures for which lessened potential adverse impacts to a level of less than significant. Therefore, the Planning Division has prepared a Mitigated Negative Declaration with mitigation measures and monitoring program in accordance with the provisions of CEQA, including, without limitation CEQA Guidelines Sections 15070, 15071, 15072, and 15073, which have been incorporated as conditions; and

WHEREAS, a Notice of Intent to Adopt an Initial Study and Draft Mitigated Negative Declaration (IS/MND) (MND 24-01) for the Project was published and posted on March 18, 2024, at the State Office of Planning and Research (OPR) website and at the Ventura County Recorder’s Office pursuant to CEQA Guidelines Sections 15072 and 15073; and

WHEREAS, the public comment period on the Draft IS/MND ran for thirty (30) days commencing on March 18, 2024 and ending on April 17, 2024; and

WHEREAS, after the close of the comment period on the IS/MND, the IS/MND was modified as set forth in Chapter 4 of the Response to Comment document; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines, the City has prepared Final IS/MND 24-01 containing all comments received on the Draft IS/MND 24-01, written responses to all substantive comments, and necessary changes to the text of the Draft IS/MND 24-01; and

WHEREAS, pursuant to CEQA Guidelines §15074, the Final MND reflects the City's independent judgment and analysis. The Planning Commission has independently reviewed and analyzed the Final IS/MND 24-01 prepared for the Project. The Final IS/MND 24-01 is an accurate and complete statement of the potential environmental impacts of the project. The Final IS/MND 24-01 was prepared under the direction of the City of Oxnard Planning Division and reflects its independent judgment and analysis of the environmental impacts.

WHEREAS, in accordance with the California Environmental Quality Act, the Planning Commission considered the proposed Final IS/MND 24-01 before making its recommendation, on the basis of the whole record before it finds, there is no substantial evidence that the project will have a significant effect on the environment, and recommends that the City Council adopt the Final IS/MND 24-01; and

WHEREAS, the Planning Commission is concurrently recommending the City Council approve a Zone Change requests to amend the City's Zoning Ordinance Map to change the zoning of the subject project site from Business Research Park (BRP) to Business Research Park - Affordable Housing Discretionary (BRP-AHD); and

WHEREAS, on August 1, 2024, the Planning Commission conducted a duly noticed public hearing to consider the Applicant's request to approve Planning and Zoning Permit No. 22-500-04 (Special Use Permit) and Density Bonus Permit (22-535-03) for the construction of a new five-story, 234-unit, mixed-income, multi-family apartment building and related improvements, in accordance with Sections 16-530 through 16-553 (Special Use Permit) of the Oxnard City Code and to allow for a parking modification to allow for 1) a parking modification to allow for 75 of the parking spaces to be compact parking spaces in accordance with Section 16-651 of the OCC; and

WHEREAS, Sections 16-531, 16-410F, and 16-651 of the Oxnard City Code authorizes the Planning Commission to approve a Special Use Permit, Density Bonus Permit, and relief from parking requirements, respectively; and

WHEREAS, as a result of the request, the project shall be conditioned to enter into an agreement and record a restriction, requiring that a minimum of 24% of the residential units be

affordable at the low-income level in compliance with Section 65915 for a period of at least 55 years.

WHEREAS, the Planning Commission finds, after due study, deliberation and public hearing, that the project meets the criteria set out in the City's Affordable Housing -AHD Additive Zones (Division 7C, OCC Section 16-420); and

WHEREAS, the Planning Commission finds, after due study, deliberation and public hearing, that the project meets the criteria set out in California Government Code § 65915 to § 65918 and to the City's Density Bonus and Related Incentives and Concessions Program (Division 7A, OCC Section 16-410A to 16-410V, inclusive); and

WHEREAS, the Planning Commission finds that the Project meets all necessary criteria of OCC Section 16-420, 16-410, and Government Code Section 65915 to be considered eligible for the requested concessions and waivers; and

WHEREAS, the Planning Commission finds that the concessions and waivers are not contrary to any federal, state or local law; and

WHEREAS, the Project has been reviewed by the Development Advisory Committee (DAC) and the DAC has prepared conditions of approval that are incorporated within the recommended permits; and

WHEREAS, the Planning Commission finds that the Project conforms to the City of Oxnard 2030 General Plan elements thereof and the Oxnard City Code for the reasons set forth in the Planning Commission Staff Report; and

WHEREAS, the Planning Commission finds, after due study, deliberation and public hearing, that the project meets the criteria set out in the City's Affordable Housing -AHD Additive Zones (Division 7C, OCC Section 16-420); and

WHEREAS, the comments of the Planning Commissioners, members of the public, and interested groups and agencies have been adequately responded to; and

WHEREAS, the Planning Commission finds after due study and deliberation that it is a reasonable exercise of the City's police powers to condition the project to ensure the continued health, safety, and welfare of the public by providing housing opportunities inclusive of affordable housing units for the residents of the City of Oxnard; and

WHEREAS, the Special Use Permit and Density Bonus are consistent with the policies and directives in the 2030 General Plan and Zoning Ordinance to allow development to those areas that can be served by existing or planned utilities, transportation, and service systems; and

WHEREAS, the Planning Commission finds that the Applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this Resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of

the citizenry in general and the persons who work, visit or live in this development in particular; and

WHEREAS, the Commission considered Final IS/MND 24-01 prior to taking action on the Project; and

WHEREAS, the Planning Commission finds that the Project conforms to the City of Oxnard 2030 General Plan elements thereof, and the Oxnard City Code for the reasons set forth in the Planning Commission Staff Report, subject to City Council approval of the Zone Change (PZ 22-570-01); and

WHEREAS, the Planning Commission finds after due study and deliberation that the applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this Resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work, visit or live in this development in particular.

WHEREAS, the Planning Commission finds that the Applicant agrees as a condition of this Resolution that at its own expense, to indemnify and defend the City of Oxnard and its agents, officers and employees from and against any claims, actions or proceedings to attack, set aside, void or annul the approval of this Resolution or any actions or proceedings, acts or determinations taken, done or made before the approval of this resolution that were part of the approval process.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF OXNARD:

SECTION 1. Based on the entire record before the Planning Commission and all written and oral evidence presented, including the Staff Report and all attachments thereto, pursuant to Section 16-531 of the Oxnard City Code, the Planning Commission finds with respect to the Special Use Permit:

- 1. The proposed use is in conformance with the General Plan and other adopted policies of the City of Oxnard.**

As described in the Staff Report, development of mixed-income multi-family housing on the existing, underutilized site located in a transitional industrial zone is consistent with General Plan goals and policies, which promote increasing the City's housing supply, locating new housing near transportation routes, expanding the property tax base, and improving the urban environment.

- 2. The nature, condition and development of adjacent uses, buildings and structures shall be considered, and no proposed special use permit shall be granted if the approval body finds such use will adversely affect or be materially detrimental to such adjacent uses, buildings or structures or to the public health, safety or general welfare.**

The project proposes to construct the third phase of a new multi-family housing development. The previously approved two phases are currently under construction near the subject project site. The area also contains commercial and service uses. The proposed project, including uses and structures, is in alignment with the neighboring uses, buildings, and structures, and therefore will not adversely affect or be materially detrimental to such uses, buildings, or structure, nor to the public health, safety and general welfare.

- 3. The site that is subject to the special use permit shall be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and items which may be required by Section 16-532.**

The size and shape of the project site allows for the development of yards, walls, fences, parking, courtyards, terraces, recreational facilities, storage, and utilities, as required by the project. Proposed exceptions to front yard setback, building height, interior yard space, balcony size, landscape planter size, and first-story residential space reflect the specific requirements of the mixed income, multi-family residential development project. Given these circumstances, the site for the proposed use is adequate in size and shape.

- 4. The site that is subject to the special use permit shall be served by highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use would generate.**

As described in the Staff Report, the project will be accessed via two driveways taking access from Lockwood Street to the south. The site will be served by streets and highways adequate in width and structure to carry the kind and quantity of traffic the proposed project is anticipated to generate.

- 5. The site that is subject to the special use permit shall be provided with adequate sewerage, water, fire protection and storm drainage facilities.**

As a condition of approval for the special use permit, the applicant shall be required to construct a new, upgraded sewer line along Lockwood Street, which is necessary to

provide adequate service to meet the cumulative needs of the subject project as well as other previously approved residential projects in the vicinity of the subject project. The new, upgraded sewer line shall be required to meet City specifications. The applicant shall also be required to construct a new sewer connection to the proposed project. In addition, the project will construct on-site storm drainage facilities. Other existing services are adequate to provide for the proposed project.

Division 7C. Affordable Housing -AHP and -AHD Additive Zones Findings (Oxnard City Code Section 16-420L- Findings)

- 6. Community-level environmental review as defined in the California Public Resources Code, Section 21159.20, has been adopted or certified, and the development consistent with the project evaluated in the environmental document, or the development is otherwise exempt from the California Environmental Quality Act.**

Pursuant to the California Environmental Quality Act (CEQA) Section 15060, the City of Oxnard as the Lead Agency, prepared an Initial Study/Mitigated Negative Declaration (IS/MND) in accordance with the requirements of CEQA (Public resources Code § 21000, et seq.), the regulations promulgated thereunder (14 California Code of Regulations, §15000, et seq., CEQA Guidelines), and the City's Environmental Review Guidelines. The IS/MND identified and discussed potential impacts, mitigation measures, monitoring requirements, and residual impacts for identified subject areas. The IS/MND (State Clearinghouse No. 2024030528) was available for public review from March 18, 2024, to April 17, 2024. The City of Oxnard received comment letters on the IS/MND from agencies, organizations, and interested parties. The written comments and responses to each of those comments received during the public review period of the Administrative Draft of the IS/MND are included in the Final IS/MND.

The IS/MND did not identify any potentially significant and unavoidable impacts (impacts that cannot be reduced to a less than significant level). The IS/MND identifies Less than significant impacts with mitigation incorporated (impacts that can be reduced to a less than significant level with mitigation measures) and less than significant impacts (impacts that do not require mitigation measures because the proposed project will not have a significant impact). The IS/MND concludes that after implementation of standard conditions and mitigation measures, all less than significant impacts associated with the proposed project would be reduced to less than significant levels. The IS/MND includes a Mitigation Monitoring and Reporting Program (MMRP) that details the process to implement the required mitigation measures.

Therefore, staff has determined that there is no substantial evidence that the Project will have a significant effect on the environment and recommends that the Final

IS/MND has been completed in compliance with CEQA; that the Final IS/MND was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the Final IS/MND prior to approving the project; and that the Final IS/MND reflects the lead agency's independent judgment and analysis.

- 7. The development and other projects approved prior to the approval of the development can be adequately served by existing utilities, and the project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.**

As a condition of approval for the special use permit, the applicant shall be required to construct a new, upgraded sewer line along Lockwood Street, which is necessary to provide adequate service to meet the cumulative needs of the subject project as well as other previously approved residential projects in the vicinity of the subject project. The new, upgraded sewer line shall be required to meet City specifications. The applicant shall also be required to construct a new sewer connection to the proposed project.

- 8. The development does not have a significant effect on historical resources pursuant to Section 21084.1 of the Public Resources Code.**

The project site is not known to contain any existing or potential historical, cultural, or paleontological resources. Recommended conditions of approval/mitigation measures for the proposed project require monitoring during construction, and appropriate consultation and disposition of any potential resources which may be discovered on site. Therefore, the project would avoid having a significant effect on any historical, cultural, or paleontological resource.

- 9. The development site does not have an unusually high risk of fire or explosion from materials stored or used on nearby properties.**

The development site, which was historically used for agriculture, and which is currently vacant, is not known to have stored or used any materials that have an unusually high risk of fire or explosion. Nearby uses include commercial, service, and residential, which do not store or use any materials that have an unusually high risk of fire or explosion.

- 10. The development site does not present a risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.**

As a condition of approval for the special use permit, the applicant shall be required to install, inspect, and maintain residential ventilation systems (MERV 14 or better),

which would mitigate for potential adverse air quality-related health impacts resulting from proximity to the US-101/Ventura Freeway.

As a design feature of the proposed project, existing noise generators (US-101/Ventura Freeway) are mitigated at outdoor residential living areas (patios and balconies), by railings variously designed as open metal, solid, and/or solid with glazed panel, as necessary to provide sound attenuation; such that all patios and/or balconies comply with City noise standards.

11. The development is not located on a site that is any of the following:

- (1) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.**
- (2) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW2 (June 21, 1993).**
- (3) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.**
- (4) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.**
- (5) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.**
- (6) Within a floodplain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a**

flood plain development permit pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

- (7) Within a floodway as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.**
- (8) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.**
- (9) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).**
- (10) Lands under conservation easement.**

The project site does not contain any of the above-referenced conditions.

- 12. The development is not located on a site where any of the following apply: The development would require the demolition of the following types of housing:**
- a. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.**
 - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.**

The project site does not contain any existing housing.

SECTION 4. The Planning Commission, in accordance with the California Environmental Quality Act (CEQA), determines that the Project will not have a significant impact on the environment as identified and discussed in MND 24-01. Pursuant to the California Environmental Quality Act (CEQA) Section 15060, the City of Oxnard as the Lead Agency, has prepared an IS/MND (State Clearinghouse No. 2024030528) in accordance with the requirements of the California Environmental Quality Act (CEQA, Public resources Code § 21000, et seq.), the regulations promulgated thereunder (14 California Code of Regulations, §15000, et seq., CEQA Guidelines), and the City's Environmental Review Guidelines. The

IS/MND identifies and discusses potential impacts, mitigation measures, and monitoring requirements.

SECTION 5. This Resolution shall not become effective unless and until the City of Oxnard City Council adopts the Final IS/MND 24-01 and approves the associated Zone Change (PZ No. 22-570-01). If the City Council fails to approve any of these permits, then this Resolution shall become null and void and be of no further force and effect.

SECTION 6. Based on the findings set forth herein, the Planning Commission hereby approves Planning and Zoning Permit No. 22-500-04 (Special Use Permit), subject to the attached conditions of approval.

SECTION 7. The decision of the Planning Commission shall be final unless an appeal of the action is filed in accordance with the provisions of Oxnard City Code Section 16-545.

SECTION 8. The Secretary shall certify the adoption of this Resolution.

CONDITIONS OF APPROVAL

Note: The abbreviations below identify the City department or division responsible for determining compliance with these standard conditions. The first department or division listed has responsibility for compliance at plan check, the second during inspection and the third at final inspection, prior to issuance of a certificate of occupancy, or at a later date, as specified in the condition. If more than one department or division is listed, the first will check the plans or inspect the project before the second confirms compliance with the condition. The italicized code at the end of each condition provides internal information on the source of each condition: Some are standard permit conditions (e.g. *G-I*) while some are taken from environmental documents (e.g. *MND-S2*).

DEPARTMENTS AND DIVISIONS			
CA	City Attorney	PL	Planning Division
DS	Dev Services/Eng Dev/Inspectors	TR	Traffic Division
PD	Police Department	B	Building Plan Checker
SC	Source Control	FD	Fire Department
PK	Landscape Design	CE	Code Compliance

GENERAL PROJECT CONDITIONS

1. This permit is granted for the property described in the application on file with the Planning Division and may not be transferred from one property to another. (PL, *G-I*).
2. This permit is granted for the plans approved August 1, 2024 (“the plans”) on file with the Planning Division. The project shall conform to the plans, except as otherwise specified in these conditions, or unless a minor modification to the plans is approved by the Planning

and Environmental Services Manager (“Planning Manager”) or a major modification to the plans is approved by the Planning Commission. A minor modification may be granted for minimal changes or increases in the extent of use or size of structures or of the design, materials or colors of structures or masonry walls. A major modification shall be required for substantial changes or increases in such items. (PL, G-2)

3. This permit shall automatically become null and void 36 months from the date of its issuance, unless Developer has diligently developed the proposed project, as shown by the issuance of a grading, foundation, or building permit and the construction of substantial improvements. (PL, G-3)
4. All required off-site and on-site improvements for the project, including structures, paving, and landscaping, shall be completed prior to occupancy unless the Development Services Manager allows the Developer to provide security or an executed agreement approved by the City Attorney to ensure completion of such improvements. (DS, G-4)
5. By commencing any activity related to the project or using any structure authorized by this permit, Developer accepts all of the conditions and obligations imposed by this permit and waives any challenge to the validity of the conditions and obligations stated therein. (CA, G-5)
6. Developer agrees, as a condition of adoption of this resolution, at Developer’s own expense, to indemnify, defend and hold harmless the City and its agents, officers and employees from and against any claim, action or proceeding to attack, review, set aside, void or annul the approval of the resolution or any condition attached thereto or any proceedings, acts or determinations taken, done or made prior to the approval of such resolution that were part of the approval process. (CA, G-6)
7. Any covenants, conditions, and restrictions (CC&Rs) applicable to the project property shall be consistent with the terms of this permit and the City Code. If there is a conflict between the CC&Rs and the City Code or this permit, the City Code or this permit shall prevail. (CA, G-7)
8. Developer shall complete the “Notice of Land Use Restrictions and Conditions” form, using the form provided by the City, for recording with the Ventura County Recorder. Before the City issues building permits, Developer shall submit the original completed, signed and notarized document, together with the required fees to the Planning Manager. (PL, G-8)
9. Developer shall provide off-street parking for the project, including the number of spaces, stall size, paving, striping, location, and access, as required by the City Code. (PL/B, G-9)

10. Before placing or constructing any signs on the project property, Developer shall obtain a sign permit from the City. Except as provided in the sign permit, Developer may not change any signs on the project property. (PL/B, *G-10*)
11. Developer shall obtain a building permit for any new construction or modifications to structures, including interior modifications, authorized by this permit. (B, *G-11*)
12. Developer shall not permit any combustible refuse or other flammable materials to be burned on the project property. (FD, *G-12*)
13. Developer shall not permit any materials classified as flammable, combustible, radioactive, carcinogenic or otherwise potentially hazardous to human health to be handled, stored or used on the project property, except as provided in a permit issued by the Fire Chief. (FD, *G-13*)
14. If Developer, owner or tenant fails to comply with any of the conditions of this permit, the Developer, owner or tenant shall be subject to a civil fine pursuant to the City Code. (CA, *G-14*)
15. Prior to issuance of building permits, Developer shall correct all violations of the City Code existing on the project property for which the Code Compliance Division has open cases. (PL, *G-15*).

LANDSCAPE STANDARD CONDITIONS

16. Prior to submittal of landscape and irrigation plans, Developer shall obtain approval of the Planning Manager or designee of a plan showing on the project property all existing trees and identifying the trees to be saved, transplanted or removed. (PK, *PK-1*)
17. Prior to issuance of building permits or the proposed use is initiated, whichever comes first, Developer shall submit two copies of landscape and irrigation plans, along with the appropriate permit application and fees, to the Development Services Division and obtain approval of such plans. (PK/DS, *PK-2*)
18. Prior to issuance of a certificate of occupancy, Developer shall install landscape and automatic irrigation systems that have been approved by the City's Landscape Architect. (PK, *PK-3*)
19. Developer shall properly maintain landscape planting and all irrigation systems as required by the City Code and as specified by this permit. Failure of Developer to do so may result in the revocation of this permit and initiation of legal proceedings against Developer to ensure compliance. (PK, *PK-4*)

20. Prior to the issuance of City issues a certificate of occupancy, Developer shall provide a watering schedule to the building owner or manager and to Planning Division or designee. The irrigation system shall include automatic rain shut-off devices, or instructions on how to override the irrigation system during rainy periods. (PK, PK-5)
21. All trees planted or placed on the property by Developer shall be at least 24-inch-box size. All shrubs and vines shall be at least five-gallon size, except as otherwise specified by this permit. (PK, PK-6)
22. At the time of landscape plan check submittal, the landscape planting and irrigation plans shall comply with the current title 23 Model Water Efficient Landscape Ordinance (MWELO). (PK, PK-7.1)
23. Consistent with the City Council Resolution 15,569 which declared a continuance of the Stage 2 water shortage condition within the City of Oxnard, the project is required to implement and maintain the mandatory water conservation requirements for as long as City Council Resolution 15,569 is in effect or is amended/replaced by the City of Oxnard.

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24. Developer shall provide an automatic irrigation controller and a written seasonal watering schedule for all front yard and street side yard landscaping. The watering schedule shall include variations for seasonal changes, sun and shade exposure of plants, type of plants, duration and frequency of irrigation, and suggestions as to how to conserve water. As part of the landscape plan check submittal process, the City's Landscape Architect shall review the sufficiency of instructions for the operation of the irrigation controller and the watering schedule cycles. (PK, PK-11)
25. Developer shall review with and provide instructions to the buyer or property manager concerning the irrigation controller operation and the watering schedules.
26. Developer shall install sod or other alternative drought tolerant and California native friendly landscaping in the lawn areas of all front yards and street side yards. (PK, PK-13)

UNDEVELOPED LAND

27. Developer agrees that the project has aesthetic impacts arising from conversion of undeveloped land to developed land, which the landscaping improvements for the project are intended to mitigate. Developer further agrees that the landscaping improvements must be maintained in order to continue to mitigate such impacts. In order to provide for such maintenance, Developer has agreed to enter into an agreement with the City to cast a ballot in favor of formation of an assessment district to fund such maintenance and in favor of assessments on the project property. Before or during escrow for the sale of property within the project, Developer shall provide each buyer with a document disclosing, in large type,

that the project property is subject to annual assessments for landscape maintenance, and stating the probable range of dollar amounts of such assessments for the next fiscal year. To confirm that the buyer has read the document, Developer shall require the buyer to sign the document. Developer shall retain all such documents for at least three years and shall allow the City to inspect and copy all such documents upon reasonable request. (PK, PK-18)

WATER CONSERVATION

28. Developer shall install an irrigation system that includes a water sensor shut off device as a water conservation measure. (PK, PK-22)
29. At time of submittal to the Building and Engineering Division for plan check, Developer's Landscape Architect or Architect shall provide the City with written confirmation that they have reviewed the civil engineering construction drawings and that the NPDES requirements are not in conflict with meeting the City's landscape requirements. (PK, PK-23)
30. Developer shall include a note on the Landscape Plans submitted to the Building and Engineering Division for a building permit that "all landscaping and irrigation comply with Ordinance No. 2822, which adopted the City of Oxnard Landscape Water Conservation Standards, and applicable water conservation requirements of the State of California". (PK, PK-24)
31. At the time of Plan Check submittal, the landscape plans shall contain an exhibit titled "Tree Tabulation Chart". The Tree Tabulation Chart shall contain a listing of all existing trees on site and shall refer to them by number as identified in the Arborist's Tree Report. The Tree Tabulation Chart shall clearly list all trees to remain, be removed or transplanted. The Chart shall contain the Arborist's economic appraisal value of each tree(s) removed as well as computations and calculations showing how the value of the removed tree(s) was put back into new tree sizes for the project that are in addition to meeting the City's minimum tree size of 24" box. (PK)

PLANNING DIVISION STANDARD CONDITIONS

32. Plans submitted by Developer with building permit applications shall show on the building elevation sheets all exterior building materials and colors, including product and finish manufacturer name, color name and number, and surface finish type (such as: stucco with sand finish, plaster with smooth finish) to be used in construction. (PL/B, PL-1)
33. Any application for a minor modification to the project shall be accompanied by four copies of plans reflecting the requested modification, together with applicable processing fees. (PL, PL-2)

34. Before the City issues building permits, Developer shall include a reproduction of all conditions of this permit as adopted by resolution of the Planning Commission and/or the City Council in all sets of construction documents and specifications for the project. (PL, PL-3)
35. Before the City issues building permits, Developer shall provide to the Planning Division Manager color photographic reductions (8 1/2" by 11") of full-size colored elevations and any other colored exhibit approved by the Planning Commission. Developer may retain the full-size colored elevations after the reductions are so provided. (PL, PL-4)
36. Developer may not modify any use approved by this permit unless the Planning Division Manager determines that Developer has provided the parking required by the City Code for the modified use. (PL, PL-7)
37. During the plan check review process, the Developer shall provide a lighting plan that provides design details (light standards, bollards, wall mounted packs, etc.) and illumination site information within alleyways, pathways, streetscapes, and open spaces proposed throughout the development. An electrical engineer shall prepare the site lighting plan demonstrating that adequate lighting ranges will be provided throughout the development without creating light spillover, light pollution, or conflicts with surrounding factors such as tree locations, off-site or adjacent lighting. (PL)
38. Prior to issuance of building permits, Developer shall demonstrate that light standards illustrated on conceptual lighting plan do not conflict with tree locations. Developer shall submit a plan showing both the lighting and landscape on the same sheet.
39. Project on-site lighting shall be of a type and in a location that does not constitute a hazard to vehicular traffic, either on private property or on adjoining streets. To prevent damage from vehicles, standards in parking areas shall be mounted on reinforced concrete pedestals or otherwise protected. Developer shall recess or conceal under-canopy lighting elements so as not to be directly visible from a public street. Developer shall submit a lighting plan showing standard heights and light materials for design review and approval of the Planning Division Manager. (PL/B, PL-8)
40. In order to minimize light and glare on the project property, all parking lot and exterior structure light fixtures shall be high cut-off type that divert lighting downward onto the property and shall not cast light on any adjacent property or roadway. (PL, PL-9)
41. Developer shall provide graphic site directories at principal access walkway points. (PL/B, PL-10)
42. Developer shall provide for dust control at all times during project property preparation and construction activities. (B/DS, PL-13)

43. Developer agrees to participate in a water conservation program that includes refitting water fixtures existing on the project property with water conserving devices within residences or businesses in the City's water service area, if such a program is in effect when building permits are issued for this project. Among the requirements of such a program might be refitting existing toilets, faucets, shower heads, landscaping irrigation or other fixtures and items that consume water within the structure. (PL, *PL-14*)
44. Because of water limitations placed upon the City by its water providers, approval of this permit does not guarantee that the City will issue building permits. Issuance of building permits may be delayed as a result of implementation of a water conservation or allocation plan. (PL, *PL-15*)
45. Prior to issuance of building permits, Developer shall pay a document imaging fee for the planning files in an amount calculated by planning staff at the time of building permit review based on fees then in effect. (PL/B, *PL-16*).
46. Developer shall provide elevators in structures of three stories or more, except where the third story consists entirely of upper levels of residence that have entrances at the first or second story. (PL/B, *PL-17*)
47. Developer shall pay applicable impact fees, including but not limited to the fees authorized by City Council Resolution 15,329 (Growth Requirement Capital Fee, Park and Recreation Fee, Traffic Circulation Fee, Storm Drainage Fee, Mobility Fee, Public Art Program Fee, and Utility and Undergrounding in-Lieu Fee) and for wastewater, water system, water service and meter, storm drain, traffic (City and County), growth capital, park, public art, and General Plan maintenance connection and/or impact fees before issuance of building permits.
48. Developer shall participate in the City's Public Art Program by paying the Public Art fee prior to issuance of building permits, in accordance with City Council Resolution No. 14,124. (PL, *PL-50*)

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49. Developer shall install all roof and building rain gutters and downspouts to integrate as closely as possible with building design elements, including matching adjacent building colors as closely as possible. Developer shall submit a plan and scheme for approval by the Planning Division Manager prior to issuance of building permits. (PL, *PL-18*)
50. Developer shall provide utility meters, mailboxes and address directories, placed in decorative cabinets and clustered for efficient access for residents and service persons. Developer shall coordinate placement and design of such items accordingly, with the Planning Division Manager, the appropriate utility service provider and the United States Postal Service, prior to issuance of building permits. (PL, *PL-19*)

51. Developer shall provide a powered gate operating system with fob entry access automatic garage door openers for all driveway gates or garages.
52. Prior to issuance of fine grading plans, Developer shall provide at least two types of driveway finishes or decorative designs. The details of the driveways shall be to the satisfaction of the Planning Division Manager. (PL, PL-22)
53. Railings and enclosures for patios and balconies shall provide at least 50 percent enclosure for screening and privacy. Developer shall include details of the railings and enclosures on the construction documents. (PL/B, PL-24)
54. Walls separating the patio areas of different units shall be of solid construction, such as masonry, stucco, or wood over wood. Ground level patios shall be enclosed by walls not less than five feet high, except as otherwise approved by this permit. (PL/B, PL-25)
55. Additions and patio covers shall conform to the requirements of the applicable setbacks required for the Affordable Housing -AHP and -AHD Additive Zone, or as otherwise approved by this permit, and match the materials and style of the residence. (PL/B, PL-27)
56. Light standards illuminating interior walkways shall be no more than eight feet high. Light shall not intrude into private living or patio areas. Light standards serving recreational areas held in common shall be no more than 15 feet high. Light shall be directed away from dwelling units. (B, PL-30)
57. Developer shall provide masonry walls and/or iron style picket fencings, or a combination of both on street side yards and along project perimeter property lines. Developer shall install interior lot line fences, to be constructed of wood or other material, subject to the approval of the Planning Division Manager.

PLANNING DIVISION SPECIAL CONDITIONS

58. Applicant shall deposit \$5,000 for mitigation monitoring and reporting associated with development project, PZs 22-500-04 (Special Use Permit), 22-570-01 (Zone Change), and 22-535-03 (Density Bonus). Such funds shall be deposited prior to submission of plans for building or grading permits. (PL).
59. Applicant shall submit a check made out to the City of Oxnard for payment of outstanding discretionary permit and environmental processing fees associated with the development project. Funds shall be deposited prior to issuance of a grading permit.
60. These conditions of approval impose specific fees, dedications, reservations and/or other exactions. Pursuant to Government Code Section 66020, the 90-day period in which the

Developer or applicant has to protest the imposed fees, dedications, reservations and/or other exactions has begun as of the date that the conditions of approval are approved.

61. Developer shall remove any and all graffiti from the project premises, including but not limited to graffiti on or within the building and/ or any structures, within 24 hours of its appearance. The surface of such affected areas shall be matched to blend in with the underlying colors and/or design and shall not look like a paint patch. (PL)
62. Before the City issues building permits, Developer shall provide a Graffiti Deterrent Plan, subject to the approval the Planning Division Manager. Such plan shall include such elements as clear film on windows and/or mirrors, as well as washable paint and sealers on the building and perimeter walls. (PL)
63. This permit is granted subject to the approval of Planning and Zoning Permit No. 22-570-01 (Zone Change) for the project property. (PL)
64. During all excavation and grading on site, the project contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers, consistent with manufactures' standards.
65. Construction activities should be limited to 7:00 a.m. and 6:00 p.m. weekdays and Saturday, but not on national holidays, in accordance with the Oxnard City Code and the General Plan policies restricting construction times, whichever is more restrictive.
66. The project shall comply with all standards and codes except as approved by Density Bonus Application/ Concessions and Waivers under Oxnard City Code.
67. As bicycle parking is not visible from the street, directional signage to bicycle parking shall be included at the main building entrance. The signage shall be in the form of either a directory not exceeding six (6) square feet and or up to ten (10) individual directional signs not exceeding 1 square-foot each. The plans shall be altered prior to the project being submitted to the initial plan check submittal to Building & Engineering.
68. The applicant shall provide a notice to potential residents clearly outlining the issues associated with living in a mixed-use environment. The language for this disclosure shall be drafted by the applicant and submitted to the Community Development Director. The final language shall be approved to the satisfaction of the Community Development Director. Copies of each signed disclosure shall be made available for review upon written request by the City.
69. The multifamily development is within 500 feet of US 101 or industrially zoned property. The project is required to install high efficiency Minimum Efficiency Reporting Value (MERV) filters of MERV 14 or better in the intake of residential ventilation systems. Heating, air conditioning and ventilation (HVAC) systems shall be installed with a fan unit

power designed to force air through the MERV 14 filter. To ensure long-term maintenance and replacement of the MERV 14 filters in the individual units, the following shall occur:

- a. The developer, sale, and/or rental representative shall provide notification to all affected tenants/residents of the potential health risk from US 101 and industrial zones for all affected units.
 - b. For rental units within 500 feet of the US 101 or any industrially zoned property, the owner/property manager shall maintain and replace MERV 14 filters in accordance with the manufacturer's recommendations. The property owner shall inform renters of increased risk of exposure to diesel particulates from US 101 and industrially zoned properties when windows are open.
70. The multifamily dwellings shall be constructed and designed in accordance with the minimum noise standards. An acoustical report addressing exterior noise sources shall be submitted with the dwelling construction plans for approval by the Building Official. The acoustical report shall address construction and operational phases.
 - a. Construction: The acoustical report shall describe if the construction will involve vibration-intensive construction activities, such as pile drivers, jack hammers, and vibratory rollers, occurring near sensitive-receptors shall be evaluated for potential vibration impacts. Developments are required to implement construction techniques which result in construction-related vibration that is less than the Federal Transit Administration vibration-annoyance criteria of 78 VdB during the daytime (7:00am-10:00pm) and not allowed during the nighttime (10:01pm-6:59am)
 - b. Operations: The applicant shall submit evidence to the satisfaction of the Director that all units with patios and/or balconies meet the 65 dBA CNEL.
71. Standpipe systems required by the Fire Department shall be designed to be located within building areas, such as staircase or tuck under parking areas that will lend to visually screen. (PL)
72. No rooftop equipment shall be installed unless screened from all sides by a designed parapet or building element that extends above the height of the tallest part of such equipment. (PL)
73. Developer shall remove any and all graffiti from the project premises, including but not limited to graffiti within the building, such as in restrooms or fitting rooms, within 24 hours of its appearance. The surface of such affected areas shall be matched to blend in with the remaining area.
74. Street side yard walls shall be set back 10 feet from any public sidewalk, or as otherwise approved by this permit.

75. Developer shall ensure that all construction equipment is maintained and tuned to recommended manufacturer's specifications.
76. At all times during construction activities, Developer shall minimize the area disturbed by clearing, grading, earth moving, or excavation operations to prevent excessive amounts of dust.
77. During construction, Developer shall water the area to be graded or excavated prior to commencement of grading or excavation operations. Such application of water shall be at least twice per day and shall penetrate sufficiently to minimize fugitive dust during grading activities.
78. During construction, Developer shall control dust by the following activities:
 - a. All trucks hauling graded or excavated material offsite shall be required to cover their loads as required by California Vehicle Code §23114, with special attention to Sections 23114(b)(F), (e)(2) and (e)(4) as amended, regarding the prevention of such material spilling onto public streets and roads.
 - b. All graded and excavated material, exposed soils areas, and active portions of the construction site, including unpaved onsite roadways, shall be treated to prevent fugitive dust. Treatment shall include, but not necessarily be limited to, periodic watering, application of environmentally-safe soil stabilization materials, and/or roll-compaction as appropriate. Watering shall be done as often as necessary and reclaimed water shall be used whenever possible.
79. During construction, Developer shall post and maintain onsite signs, in highly visible areas, restricting all vehicular traffic to 15 miles per hour or less.
80. During periods of high winds (i.e. wind speed sufficient to cause fugitive dust to impact adjacent properties), Developer shall cease all clearing, grading, earth moving, and excavation operations to prevent fugitive dust from being a nuisance or creating a hazard, either onsite or offsite.
81. The Permittee shall comply with the provisions of applicable VCAPCD Rules and Regulations, which include but are not limited to, Rule 50 (Opacity), Rule 51 (Nuisance), Rule 55 (Fugitive Dust), and Rule 55.1 (Removal of Visible Roadway Accumulations).
82. Developer shall mitigate air quality emissions associated with development of the subject site through a contribution to the City's Transportation Demand Management (TDM) program. Such fee shall be calculated at the time of building permit issuance in accordance with the Ventura County Air Quality Assessment Guidelines, as amended. Such fee shall be collected in full prior to building permit issuance.

83. Prior to grading permit approval, Developer shall include on the grading plans a reproduction of all conditions of this permit pertaining to dust control requirements. (PL)

Biological Resources

84. Mitigation Measure BIO-1: If construction activities occur within the bird nesting season (generally defined as February 15 through September 15), a qualified biologist shall conduct a nesting bird survey within 7 days prior to the start of construction. If an active nest is observed within 500 feet of the proposed construction, the nest shall be avoided, and a suitable buffer zone shall be delineated in the field such that no impacts shall occur until the nest has been determined to be inactive by a qualified biologist. Construction buffers are generally 300 feet for passerines and up to 500 feet for raptor species; however, avoidance buffers may be reduced at the discretion of the biologist, depending on the location of the nest and species tolerance to human presence and construction-related noise.

If activities must take place within an established buffer, steps shall be taken to reduce indirect effects to nesting activity by actively reducing construction noise within proximity to a presumed nest location and/or installing temporary construction noise barriers. If the reduction of noise is not feasible, construction activities shall be postponed until the nest is deemed inactive and/or the breeding season has concluded.

Cultural Resources

85. Workers Environmental Awareness Program. Prior to the start of construction activities, all construction personnel shall be trained regarding identification and treatment protocol for inadvertent discoveries of resources (archaeological and tribal) and human remains. A basic presentation and handout or pamphlet shall be prepared to ensure proper identification and treatment of inadvertent discoveries of cultural resources and human remains. The purpose of the training is to provide specific details on the kinds of materials that may be identified during ground disturbing activities and explain the importance of and legal basis for the protection of human remains and significant cultural resources. Each worker shall also be trained in the proper procedures to follow in the event that cultural resources or human remains are uncovered during ground disturbing activities. These procedures include but are not limited to work curtailment or redirection, and the immediate contact of the site supervisor and a Qualified Archeologist per Mitigation Measure CUL-2. (MND, CUL-1)
86. Inadvertent Discovery Clause. In the event that potential archaeological resources are unearthed, ground-disturbing activities shall be halted or diverted away from the vicinity of the find (at least 100 feet) and a Qualified Archaeologist shall be notified immediately to assess the significance of the find and determine whether or not additional study is warranted. An appropriate buffer area shall be established by the Qualified Archaeologist.

Reasonable assumptions regarding the potential for additional discoveries in the vicinity, and safety considerations for those making an evaluation and potential recovery of the discovery shall be provided by the Qualified Archaeologist. This buffer area shall be established around the find where construction activities shall not be allowed to continue until the evaluation is completed. Grading activities shall be allowed to continue outside of the buffer area, and an archaeological monitor shall be provided during these grading activities outside the buffer area, if determined necessary by the Qualified Archaeologist. All resources unearthed by Project construction activities shall be evaluated by the Qualified Archaeologist. If a resource is determined by the Qualified Archaeologist to constitute an archeological resource pursuant to the CEQA Guidelines Section 15064.5, the Qualified Archaeologist shall coordinate with the Applicant and the City to develop a formal treatment plan that would serve to reduce impacts to the resource. Preservation in place (i.e., avoidance) is the preferred manner of treatment. If in coordination with the City, it is determined that preservation in place is not feasible, appropriate treatment of the resource shall be developed by the Qualified Archaeologist in coordination with the City and may include implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis. Any archaeological material collected shall be curated at a public, non-profit institution with a research interest in the materials, if such an institution agrees to accept the material. If no institution accepts the archaeological material, they shall be donated to a local school, Tribe, or historical society in the area for educational purposes. (MND, CUL-2)

87. **Paleontological Resources.** In the event that potential paleontological resources are unearthed, ground-disturbing activities shall be halted or diverted away from the vicinity of the find (at least 50 feet) and a Qualified Paleontologist shall be notified immediately to assess the significance of the find and determine whether or not additional study is warranted. All paleontological resources shall be identified, handled, and treated in accordance with the applicable provisions of the Society of Vertebrate Paleontology (SVP) standards.

An appropriate buffer area shall be established by the Qualified Paleontologist around the find where construction activities shall not be allowed to continue. Work shall be allowed to continue outside of the buffer area. Grading activities shall be allowed to continue outside of the buffer area, and a paleontological monitor shall be provided during these grading activities outside the buffer area, if determined necessary by the Qualified Paleontologist. At the Qualified Paleontologist's discretion, and to reduce any construction delay, the grading and excavation contractor shall assist in removing rock/sediment samples for initial processing and evaluation. If preservation in place is not feasible, the Qualified Paleontologist shall implement a paleontological salvage program to remove the resources from their location. Any fossils encountered and recovered shall be prepared to the point of identification and catalogued before they are submitted to their final repository. Any fossils collected shall be curated at a public, non-profit institution with a research interest in the materials, such as the Museum of Ventura County, if such an institution

agrees to accept the fossils. If no institution accepts the fossil collection, they shall be donated to a local school or historical society in the area for educational purposes. (MND, CUL-3)

88. If human remains are encountered, the Applicant or its contractor shall halt work in the vicinity (within 100 feet) of the discovery and contact the Ventura County Coroner in accordance with Public Resources Code Section 5097.98 and Health and Safety Code Section 7050.5, which requires that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code Section 5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the NAHC. The NAHC shall then identify the person(s) thought to be the Most Likely Descendent (MLD). The MLD may, with the permission of the landowner, or his or her authorized representative, inspect the site of the discovery of the Native American remains and may recommend to the owner or the person responsible for the excavation work means for treating or disposing of, with appropriate dignity, the human remains and any associated grave goods. The MLD shall complete his or her inspection and make his or her recommendation within 48 hours of being granted access by the landowner to inspect the discovery. The recommendation may include the scientific removal and nondestructive analysis of human remains and items associated with Native American burials. Upon the discovery of the Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and conferred, as prescribed in this mitigation measure, with the MLD regarding their recommendations, if applicable, taking into account the possibility of multiple human remains. The landowner shall discuss and confer with the MLD on all reasonable options regarding their preferences for treatment. (MND, CUL-4)

POLICE DEPARTMENT STANDARD CONDITIONS

Exterior Lighting

89. A condition of approval requires compliance with the Outdoor Lighting Code & Guideline
- a. Outdoor lighting shall comply with Title 24, Part 6, of the California Code of Regulations: California's Energy Efficiency Standards for Residential and Nonresidential Buildings.
 - b. Unless approved as a specific exception to this guideline, all outdoor lighting shall be flat lens, full cut-off fixtures with the light source fully shielded with the exceptions:
 - c. Luminaires with a maximum output of 260 lumens per fixture, regardless of number of bulbs (equal to one 20-watt incandescent light), may be left unshielded provided the fixture has an opaque top to keep light from shining directly up.
 - d. Luminaires that have a maximum output of 1,000 lumens per fixture, regardless of number of bulbs (equal to one 60-watt incandescent light) may be partially

- shielded provided the bulb is not visible, and the fixture has an opaque to keep light from shining directly up.
- e. Oxnard City Code 16-320: Lighting within physical limits of the area required to be lighted shall not exceed seven foot-candles, nor be less than one foot-candle at any point. A light source shall not shine upon, or illuminate directly any surface other than the area required to be lighted. No lighting shall be of a type or in a location that constitutes a hazard to vehicular traffic, either on private property or on the abutting streets. The height of light standards shall not exceed 26 feet. To prevent damage from automobiles, standards shall be mounted on reinforced concrete pedestals or otherwise protected.
90. Exterior lighting of the site, including parking areas, shall be between 1 and 7-foot candles and shall be in harmony with existing adjacent lighting schemes. Lighting bollards shall not be used as part of the foot candle calculation on photometric sheets.
91. All exterior lighting shall operate from dusk to dawn.
92. LED or similar in nature and spectrum (3,000K to 20,000K Correlated Color Temperature).
93. Lighting instruments shall be full cut-off and installed so that light does not directly illuminate property outside the project site. Instruments shall not create glare for motorists or pedestrians. Lenses shall be flat and parallel to the ground/floor. Wall packs and other luminaires that throw light laterally are not allowed unless specifically approved by Planning and Police.
94. Outdoor lighting instruments shall not be placed in close proximity to trees. In the event outdoor lighting instruments and trees are in close proximity an additional sheet will be required illustrating light and tree placement showing trees with a 20-year maturity.
95. Integrated landscape/lighting/photometric plan shall be submitted illustrating a 20-year tree maturity. This plan shall include all outdoor areas as well as the parking facility. This is to ensure that tree growth will not adversely impact future lighting and therefore site safety as the project matures. Integrated landscape/lighting/photometric plan shall be submitted illustrating a 20-year tree maturity. This plan shall include all outdoor areas as well as the parking facility. This is to ensure that tree growth will not adversely impact future lighting and therefore site safety as the project matures. Plan sheet shall include:
- a. Tree species table which shows canopy bottom, top, and broadest diameter at a 20-year maturity. Bottom of tree canopies shall not be less than 15-above any drive area to provide clearance for Fire and Solid Waste Vehicles.
 - b. Pole mounted luminaires shall be placed to illuminate under tree canopies at a 20-year maturity. Pole and arm instruments should be considered in areas between landscape finger-planters.
 - c. Areas where walkways exist opposite from parking stalls, Pole and arm instruments should be placed directly opposite from finger-planters.

Luminaires used in the photometric calculations shall only include those instruments mounted 8-feet or more above walking/driving surface. This plan shall be submitted to specialprojects@oxnardpd.org and approved prior to the issuance of building permits.

96. Interior tuck under and garage parking facilities shall be illuminated between 5 and 15 foot-candles utilizing LED or similar luminaires with a spectrum 3,000K to 20,000K Correlated Color Temperature.
97. Parking stalls shall be enumerated with painted numbers on the surface of the parking
98. stall. However, the stall numbers shall not correspond to the residential unit assigned the stall.

Security Camera Systems

99. Security camera system shall be operated 24 hours a day to monitor the activity at the site. The system shall be designed to capture images of all persons and all vehicles that enter the site. Cameras shall also be distributed throughout the site to capture general activities. The camera system shall comply with these minimum standards:
 - a. The camera system shall be cloud based to facilitate off-site and mobile monitoring.
 - b. Access to the cloud based camera system may be made accessible to the Oxnard Police Department for specific areas of the property and adjacent areas that are either public, or, semi-public that include: adjacent public street, alleys, sidewalks, and within the private property the parking facility and paseo. Contact specialprojects@oxnardpd.org to participate in this program.
 - c. If the Police Department is provided access to the cloud based camera system, privacy of residents shall be taken into consideration.
 - d. Cameras and supporting equipment shall supply digital color images under normal lighting conditions. Greyscale images are expected for infra-red lighting.
 - e. Cameras shall be made by a reputable manufacturer and maintained to current industry standards.
 - f. Cameras shall have low light capability to facilitate the later identification of persons involved in criminal or problem activities.
 - g. The video system shall utilize a Digital Video Recorder (DVR). VHS and other formats are prohibited.
 - h. The video system shall allow recording, live viewing and playback of recorded video for a period of a period of at least 30 days.
 - i. Recorded images shall bear a date and time stamp that cannot be altered.
 - j. All entry doorways to the premises shall be monitored by a camera or cameras that are strategically mounted for face capture of persons who enter. Such cameras shall be mounted no higher than 7-feet above the floor/ground. Face capture images shall be determined as those images where the clarity of a person's facial image is sufficient for later identification.

- k. All vehicular entrances to the parking facilities shall be monitored by a camera or cameras that are placed to capture images of sufficient quality where the vehicle's license plate, make, model and color can be easily identified.
- l. Cameras in domed casings are highly encouraged as their area of focus is not easily determined by a casual observer.
- m. A camera shall be dedicated to face capture image of any person accessing the call system at the exterior of the primary entrance.
- n. Site management shall provide in a timely manner any digital records of security camera or access control systems requested pursuant to a police investigation or for the periodic inspection of equipment required under these conditions.
- o. Security cameras shall be installed to monitor activity around each side of the building's exterior.

Access Control Systems

- 100. The site shall be equipped with an access control system that shall restrict human and vehicle access to semi-public areas of the site. The areas considered "semi-public" shall include: parking areas restricted to residents, the building lobby, mailroom, shared hallways, laundry rooms, activity rooms, pool and physical fitness facilities.
- 101. The access control system shall utilize instruments such as cards, fobs, QR decals or other devices that can be individually programmed to provide access, as appropriate, for an individual user. The system shall have the capability to add or subtract an access instrument assigned to a particular residential unit, employee, or service provider.
- 102. The access control system shall include a call system at the exterior of the site's primary entrance that allows guests to contact residents or the managers to request access. The access control point at this entrance shall be enabled to open by a resident from their unit or from a remote digital device.
- 103. The access control system shall record each permitted access and the authorizing individual and the instrument/method used to facilitate the access.
- 104. "Click-To-Enter" access technology shall be installed at each pedestrian and vehicular entrance to a semi-public area to provide access to first responders.

Security Plan

- 105. A Security Plan shall be submitted to specialprojects@oxnardpd.org and approved prior to the issuance of building permits. The purpose of the Security Plan is to align the applicant's need to secure the development site for its end users with current security standards and to provide the Police Department an understanding of the layout of the site in the event of a critical incident. The Security Plan, when submitted directly to the Police Department, is considered a confidential document. The plan shall include:

- a. The Security Plan Sheet will identify the location of each security camera, camera recording/support equipment, all elements of an access control system, and any safe or secure room or rooms designed to maintain valuable assets or records.
 - b. The Security Plan shall include a chart identifying each camera by an alpha-numeric, the scope of their capture area, and placement of the camera above the floor/ground.
 - c. The Security Plan shall identify all doors with an alpha-numeric (e.g. D-1, D-2, etc.) that serve passage between public & semi-public, semi-public to semi-public and similar access points where tenants and their guests routinely pass without needing specific permission from a resident or property manager/responsible party or resident. This would include access to the lobby, parking garage, laundry room, mailroom, emergency exits, etc. When a camera is positioned for face capture it shall be noted on the camera chart.
 - d. The Security Plan shall identify any area which is served by an intrusion/burglary alarm system.
 - e. The Security Plan shall identify all the components of the access control system their location and a chart that identifies each instrument with an alpha-numeric with the device name, make and model. The access control system shall provide site access to tenants and persons authorized by the site management. The access control sites shall include areas deemed semi-public such as the lobby, parking garage, laundry room, mailroom and any shared facility such as an activity room or community kitchen.
 - f. Click-to-Enter technology shall be installed to provide access for first responders to all entrances to the facility that serve as an interface between public and semi-public areas. All such access points shall be identified on the Security Plan.
 - g. The permittee/property manager/owner shall maintain all security features in good working condition and consistent with industry standards.
106. Site management is encouraged to have an active and cooperative relationship with their neighbors and the Oxnard Police Department. To facilitate this effort these elements shall be established by the site management:
- a. Site management should establish a dedicated email address for the site (ie: acmeapartments@acme.com). Once the email address has been established, site management should send an email to specialprojects@oxnardpd.org identifying the site address, management company, phone number, dedicated email address, and the person managing the site.
 - b. A sign shall be posted so it is readable from the public right of way and placed at or near the primary entrance which identifies the management company name, phone number and the dedicated email address.
 - c. Site management should participate in crime prevention programs designed for multi-unit residential housing facilities.

- d. The property owner should inform the Oxnard Police Department of changes in site management and/or the dedicated email address by sending an email to specialprojects@oxnardpd.org.
107. Any digital records from the security camera system or access control system shall be made available to any representative of the Oxnard Police Department in a timely manner upon request related to any official police investigation. If requested, the site manager shall upload or email any digital records at the request of a representative of the Oxnard Police Department.
108. A Security Plan shall be submitted to and approved by the Police Department prior to the issuance of building permits. The submission shall be made in a PDF format and sent to specialprojects@oxnardpd.org. The email subject line shall have the 7-digit Planning PZ number and the site's address to identify the project. The plan shall include the security features at the site consistent with the Security Plan Requirements document provided during the development review process. The Security Plan shall not be submitted with other development documents or plan sheets. This is done to maintain a level of confidentiality of the security features of the site between the developer/end user of the development and the Oxnard Police Department.

Alarms

109. Any intrusion alarm system installed at the site shall utilize motion and infrared technology or similar technology to differentiate between human and non-human motion. The alarm system shall be compliant with Oxnard City Code 11-95 through 11-100.

Landscape

110. Landscape elements shall be arranged and maintained to provide clear lines of sight and eliminate potential places of concealment.
111. Trees shall not be located where they would conflict with lighting instruments. Appropriate proximity is based on a tree's canopy size at twenty-year maturity.
112. Creeping fig or similar climbing vine shall be used to dissuade the application of graffiti on CMU walls.
113. Natal Plum or similar hedge shrub shall be used as a "defensive barrier to protect against unhoused habitation in areas prone to such activities.
114. Trees shall be maintained so that the canopies do not interfere with pedestrian or vehicular traffic and safe sightlines are maintained.

115. Landscape elements shall be arranged to provide clear lines of sight and eliminate potential places of concealment and dissuade the application of graffiti. Through the life of the project, the property shall be maintained to address these issues.

Site Management

116. Parking stalls shall be enumerated. However, the stall numbers shall not correspond to the residential unit assigned the stall.
117. Graffiti shall be removed or painted over within 48-hours of application. Site management shall maintain a supply a paint to match the building's exterior color scheme.
118. Developer/owner/site manager shall inform owners and renters via tenant rules, the provisions of Oxnard City Ordinance 7-100 through 7-106 as it applies to hosting loud parties or events. And, that should Police respond to a disturbance multiple times, a service charge may be incurred up to \$500.

Signage

119. All vehicular entrances to the parking area shall be posted in compliance with California Vehicle Code 22658(a). Persons in lawful possession of the property may then cause the removal of a vehicle parked on the property to the nearest public garage if parked without the owner's permission. (PD)
120. A sign shall be posted at or near the primary entrance to the site that identifies the management company name, phone number and the email address dedicated to the site management office.
121. A sign shall be posted at each entrance to the site stating: "No loitering, trespassing or drinking alcoholic beverages. Pursuant to State Law & City Ordinance".
122. Courtyard area signage & tenant rules – Amplified music shall not be audible beyond the confines of the Courtyard area.

Mail Delivery

123. Mail and parcel delivery shall be in a room controlled by the building's access control system. This room shall be configured so that only tenants, USPS and parcel delivery services have access. Building guests shall not have access to this area. This area shall also be monitored by the site's security camera system. This area shall have these features:
 - a. Prior to the issuance of building permits the developer shall contact the Oxnard Postmaster to ensure that the mail and parcel delivery system for the site will meet the requirements of the USPS.

- b. A secure mailbox shall be provided for each residential unit.
- c. A secure system for receiving parcel deliveries shall be established and maintained. (PD/USPS)

FIRE DEPARTMENT STANDARD CONDITIONS

- 124. Developer shall construct all vehicle access driveways on the project property to be at least 26 feet wide. Developer shall mark curbs adjacent to designated fire lanes in parking lots to prohibit stopping and parking in the fire lanes. Developer shall mark all designated fire lanes in accordance with the California Vehicle Code. (FD/B, *F-1*)
- 125. All roof covering materials on the project property shall be of non-combustible or fire retardant materials approved by the Fire Chief and in compliance with the City Code. (FD, *F-2*)
- 126. Before the City issues building permits, Developer shall obtain the Fire Chief's approval of a plan to ensure fire equipment access and the availability of water for fire combat operations to all areas of the project property. The Fire Chief shall determine whether or not the plan provides adequate fire protection. (FD/DS, *F-3*)
- 127. At Developer's expense, Developer shall obtain two certified fire flow tests for the project property. The first test shall be completed before City approval of building plans and the second shall be completed after construction and prior to the issuance of a certificate of occupancy. A mechanical, civil, or fire protection engineer must certify the tests. Developer shall obtain permits for the tests from the Engineering Division. Developer shall send the results of the tests to the Fire Chief and the City Engineer. (FD/DS, *F-4*)
- 128. All structures on the project property shall conform to the minimum standards prescribed in Title 19 of the California Code of Regulations. (FD, *F-5*)
- 129. The project shall meet the minimum requirements of the "Fire Protection Planning Guide" published by the Fire Department. (FD, *F-6*)
- 130. At all times during construction, developer shall maintain paved surfaces capable of handling loads of 76,000 pounds which will provide access for fire fighting apparatus to all parts of the project property. (FD/DS, *F-7*)
- 131. Developer shall identify all hydrants, standpipes and other fire protection equipment on the project property as required by the Fire Chief. (FD, *F-8*)
- 132. Developer shall install security devices and measures, including walkway and vehicle control gates, entrance telephones, intercoms and similar features, subject to approval of

the Police Chief and the Fire Chief. Vehicle control gates shall be operable by City approved radio equipment. (FD/PD, *F-9*)

133. Developer shall provide central station monitoring of the fire sprinkler system and all control valves. (FD, *F-10*)
134. The turning radius of all project property driveways and turnaround areas used for emergency access shall be a minimum of 48 feet outside diameter for a semi-trailer. (FD, *F-11*)
135. Developer shall provide automatic fire sprinklers as required by the City Code and shall contact the Fire Chief to ascertain the location of all connections. (FD, *F-12*)
136. Developer shall install in each structure in the project a detection/alarm system with a central station monitor that will automatically notify the Fire Department in the event of a fire in the structure. The alarm system shall include a UL or State Fire Marshal approved device, which shall not exceed design specifications, that reports the location of the fire and allows the central station monitor to inform the Fire Department of the point of entry into the structure that is nearest the fire. (FD, *F-13*)
137. Developer shall comply with Certified Unified Program Agency (CUPA) requirements regarding the storage, handling and generation of hazardous materials or waste. Prior to the issuance of building permits, Developer shall contact the CUPA division of the Fire Department to ensure that such requirements are followed. (FD, *F-16*)
138. Developer shall install a carbon monoxide detector on each level of the residence in accordance with the manufacturer's specifications. The detector shall be hardwired with a battery backup. (FD, *F-17*)

FIRE DEPARTMENT SPECIAL CONDITIONS

139. Areas designated by the Fire Marshal as Fire Lanes shall be identified by a red curb and signage per the California Department of Motor Vehicles.
140. Locate Fire Department Connection and provide a fire hydrant with 50-feet.
141. Class I standpipe is required in each stairwell and within the parking area.
142. Fire sprinkler coverage is required for:
 - a. Covered Parking.
 - b. Patios, overhangs or any other projections that are 48" or more from the structure.

- c. Open areas beneath stairs that serve a habitable space or when that area is accessible for storage or has mechanical equipment.
 - d. The protection of the forced air unit when located in the attic or other areas that are normally inaccessible.
143. All emergency egress/Fire Department access windows or doors that serve any room that can be utilized for sleeping, shall have access to a public right-of-way without re-entering the structure.
144. Ensure landscape trees do not block bedroom emergency window exits.
145. Before the city issues a certificate of occupancy, the developer shall install a Knox key vault at a location to be determined by the Fire Department.
146. Gurney size elevators will be required.

ENVIRONMENTAL RESOURCES DIVISION

147. A Construction and Demolition Waste Management Plan (ERDC-1) must be submitted to the Environmental Resources Division for review and approval prior to issuance of a building permit establishing a goal that at least 65% of the waste generated on the project will be diverted from the landfill.
148. After completion of construction and prior to a certificate of occupancy being issued, a Construction and Demolition Waste Management Report (ERDC-2) must be submitted that demonstrates that at least 65% of the waste generated on the project has been diverted from the landfill. This Report must also include legible copies of weight tickets, receipts, or invoices for materials sent to disposal or reuse/recycling facilities.
149. An Occupancy Plan must be submitted to the Environmental Resources Division prior to issuance of a certificate of occupancy. The Plan must clearly state how all three waste streams will comply with all applicable state laws, including AB 939, AB 341, AB 1826, and SB 1383, and any subsequent legislation adopted in the future, will be managed on site in perpetuity.
150. Any/all organic waste that is generated must be diverted from landfill disposal, as material of this type is not allowed in a trash dumpster. If landscaping is performed by an entity other than the City of Oxnard (i.e. self-haul or third party private hauler), the landscape service providers must be informed, in writing, of this condition and the property management must complete and submit an Alternative Services Certification annually.
151. Any new or renovated waste enclosures, including collection rooms, must be sized so that they can accommodate all three waste streams and meet minimum safety and operational

requirements, including vehicle path of travel, employee access, and prevention of illegal dumping and/or vandalism. Use the City's approved Standard Plates, but modify dimensions accordingly.

152. Developer shall arrange for materials collection during construction, demolition, and occupancy with the City's Environmental Resources Division or Developer shall arrange for self-hauling. Regardless of hauling methods, all materials collected must be conveyed to the Del Norte Regional Recycling and Transfer Station.
153. Procedures shall be developed for the project to ensure that the property management makes provisions to divert a minimum of 50% while striving for 75% diversion of waste material generated at this location in perpetuity. This can be achieved by subscribing to the City's residential curbside or mandatory commercial recycling services and through annual tenant education that may include source reduction, recycling, reuse, and organics collection requirements.
154. Developer shall dispose of sewage and solid waste from the project by City's wastewater and solid waste systems in a manner approved by the City Engineer.
155. Developer and operator shall install clearly labeled storage containers in the kitchen base cabinet within each unit to facilitate separate disposal of recyclable and non-recyclable waste typically generated by tenants. The location and specifications (size, materials, etc.) of such storage unit shall be shown on the construction document floor plans submitted to the City for building permits. Recycling guidelines shall be clearly posted on the door of the storage cabinet. The intent of this mitigation measure is to create a situation wherein recycling is as convenient for project guests as disposing of trash.
156. Developer and operator shall provide recycling containers near the point of use in common areas for guests and residents to dispose of their recyclable waste (examples: indoors for newspapers and beverage containers; outdoors for beverage containers). Containers used exclusively for recycling shall be clearly identified as "recycling only" with clear icons or other graphics on each container appropriate to the container's content.
157. Apartment operator (Management) shall provide literature in each apartment (including on the door of the storage cabinet) explaining the importance of recycling, what can be recycled, and providing suggestions for source reduction, as well as water and energy conservation. City contacts for waste reduction, water conservation, and energy savings shall be listed in the literature.
158. Property Owner (Management) shall provide training to the housekeeping/janitorial staff (including visual aids for each housekeeping cart) for separating tenant's refuse into recyclable and disposable trash.

159. Property Owner (Management) shall provide housekeeping/janitorial carts which accommodate separated recyclable and non-recyclable trash. Visual aids for each housekeeping cart shall include a general list of mixed recyclables accepted and the standard 3-arrow recycling symbol on the collection container. (P-11)
160. Property Owner (Management) shall provide sufficient containers to custodial staff to prevent the contamination of recyclables with waste or moisture.
161. The property owner(s) shall provide a source separated three (3) stream waste system by providing separate trash chutes for: (1) refuse, (2) commingled recycling and (3) organic material, generated by the proposed development;
 - a. Alternatively, if the property owner(s) proposes a two (2) stream waste system (no organic material chute) then the property owner(s) shall then provide organic waste receptacles on each proposed floor for use by the residents on that floor. The organic waste receptacles on each floor, will need to be regularly emptied by the property owner(s) staff and placed into the organic waste bin located in the trash room. The organic waste material bin(s) will then need to be brought out to the designated staging area to be serviced, by the property owner(s) staff.
 - b. All materials shall be placed in commercial bins, and brought to the designation staging area.
162. The property owner(s) staff shall pull out refuse/recycle/organic bins to the staging area where refuse equipment may access the bins for collection, on the day(s) of service. The refuse/recycle/organic bins shall be moved back to the trash room by the property owner(s) staff immediately after being serviced by the City;
163. A designated staging area for the service of refuse/recycle/organic bins shall be located on the property, be accessible by an unobstructed path of at least 16' high and 12' wide to ensure safe access, have a height clearance of 25' (for overhead bin lifting, be improved to withstand refuse equipment weighing up to 62,000 lb and be at a location approved by the Environmental Resources Division.

DEVELOPMENT SERVICES DIVISION STANDARD CONDITIONS

164. Developer shall pay plan check and processing fees in effect at the time of construction plan submittal and shall pay development fees, encroachment permit fees, and other applicable fees in effect at permit issuance. (DS-1)
165. Developer's Engineer shall design parking lot structural sections based on an analysis of the soils R-value and a traffic index (T.I.) approved by the City Engineer. The minimum structural section for parking lots is two inches of asphalt on four inches of base material. Developer shall indicate the proposed structural section and design T.I. on the site improvement plans. (DS-2)

166. Developer shall have the site improvement plans prepared using standard Building and Engineering Division format(s) by a civil engineer licensed in the State of California. The plans shall incorporate recommendations from soil engineering and geology reports. Prior to issuance of a grading permit, improvement plans must be approved by the City Engineer and ink-on-mylar plans filed with the Building and Engineering Division. (DS-3)
167. Developer shall submit improvement plans and drainage calculations demonstrating that storm drain runoff from the project property and all upstream areas will be safely conveyed to an approved drainage facility. The design and conveyance route shall be compatible with the City's Master Plan of Drainage and shall be approved by the City Engineer prior to approval of improvement plans. (DS-4)
168. Developer shall protect building pads from inundation during a 1% chance (100-year) storm. (DS-5)
169. Developer shall replace all broken, uplifted, or missing curb, gutter, or sidewalk along the street frontage(s) of the project. (DS-6)
170. Before connecting the project to existing sewer and water service laterals, Developer shall conduct an inspection (pothole or video) of the existing lateral(s) and arrange for City staff to view inspection results. Developer shall make repairs to such facilities as determined necessary by City staff. Developer shall bring all existing water services into compliance with current City standards including removal of unused water or sewer laterals by disconnection at the main. (DS-7)
171. Each structure shall be served by separate sewer and water services in accordance with City Code. (DS-8)
172. Curb cut widths and design shall conform to City ordinances, standards, and policies in effect at the time City issues an encroachment permit. (DS-9)
173. Developer's site improvement plans shall include an on-site sewer plan. (DS-10)
174. Developer shall provide fire hydrants such that all points of all structures are within one hundred fifty (150) feet of a fire hydrant, or as otherwise approved by the Fire Department. Fire hydrant line improvements shall be designed in accordance with City standards and shown on the civil site improvement plans prior to issuance of a site improvement/grading permit. Developer shall provide the City with an easement over onsite waterlines using standard City format. (DS-11)
175. Developer shall install all new on-site electric, cable, telephone and similar utility service laterals underground. Services shall be installed underground to the nearest suitable riser pole as determined by the appropriate utility service provider. (DS-12)

176. Developer shall enter into an agreement, approved as to form by the City Attorney, to install and construct all public improvements and grading required by this permit and by the City Code. Developer shall post security satisfactory to the Finance Director, guaranteeing the installation and construction of all required improvements within the time period specified in the agreement or any approved time extension. (DS-14)
177. A California licensed civil engineer shall prepare the public/site improvement plans and documents for this project in accordance with City standards and shall submit all such plans to the City Engineer. Submittal shall include, but not necessarily be limited to, grading, street, drainage, sewer, water and other appurtenant improvement plans, construction cost estimates, soils reports, and all pertinent engineering design calculations. City will not approve a parcel map or final map nor issue a grading, site improvement or building permit until the City Engineer has approved all improvement plans. (DS-15)
178. Prior to issuance of a site improvement permit, Developer shall provide to the Building and Engineering Division digital copies of all project maps, address map, and/or civil improvements drawings in DWG format. Prior to improvement bond release, Developer shall provide updated digital files containing all changes that occur during construction. (DS-16)
179. Developer shall provide all necessary easements for streets, highways, alleys, sidewalks, parkways, landscaping, utilities, drainage facilities, or other improvements as required by City. If such easements cannot be obtained from the property owner by negotiation, City may acquire them at the expense of Developer by exercise of the power of eminent domain. Developer shall bear all costs of eminent domain proceedings, including appraisal, acquisition, attorney's fees, and court costs. Before City issues a site improvement permit, Developer shall dedicate all required easements to City. (DS-19)
180. Developer shall remove graffiti from the project, including graffiti on offsite public infrastructure under construction by Developer, within 24 hours of its appearance. If Developer fails to remove graffiti in accordance with this condition, the City may at the discretion of the City Engineer issue a stop work order until such time as the graffiti is removed. (DS-20)
181. The conditions of this resolution shall prevail over all omissions, conflicting notations, specifications, dimensions, typical sections, and the like, that may or may not be shown on the improvement plans. (DS-21)
182. Developer shall pay the cost of all inspections of on-site and off-site improvements. (DS-22)

183. Developer shall be responsible for all project-related actions of Developer's employees, contractors, subcontractors, and agents until City accepts the improvements. (DS-23)
184. Prior to beginning construction, Developer shall designate in writing an authorized agent who shall have complete authority to represent and to act for Developer. The authorized agent shall be present at the work site whenever work is in progress. Developer or the authorized agent shall make arrangements acceptable to City for any emergency work. When City gives orders to the authorized agent to do work required for the convenience and safety of the general public because of inclement weather or any other cause, and the orders are not immediately acted upon by the authorized agent, City may do or have such work done by others at Developer's expense. (DS-24)
185. "Standard Specifications for Public Works Construction" latest edition (including modifications thereto by City) and applicable City Standard Plates and Design Criteria shall be the project specifications, except as noted otherwise on the approved improvement plans. City reserves the right to upgrade, add to, or revise these specifications and plans and all other City ordinances, policies, and standards. If the improvements required of this project are not completed within 12 months from the date of City's approval of the improvement plans, Developer shall comply with and conform to any and all upgraded, additional or revised specifications, plans, ordinances, policies and standards. (DS-27)
186. Prior to issuance of a grading/site improvement permit, Developer shall obtain City Engineer approval for any proposed construction phasing. The improvement plans (and associated phasing plans) shall clearly indicate any interim or off-site improvements required by City. (DS-28)
187. Developer shall retain a California licensed Civil Engineer to ensure that the construction work conforms to the approved improvement plans and specifications and to provide certified "as-built" plans after project completion. Developer's submittal of certified "as-built" plans is a condition of City's final acceptance of the project and release of any associated security. (DS-29)
188. All grading shall conform to City's standard grading notes, City Code, and recommendations of Developer's soils engineer as approved by the City Engineer. (DS-30)
189. Developer shall construct sufficient drainage facilities concurrent with rough grading operations to mitigate any potential flooding or erosion affecting adjacent properties and public rights-of-way. (DS-31)
190. Developer shall design all slopes steeper than 5 (horizontal) to 1 (vertical) with a minimum 18-inch wide level area (at both top and bottom of slope) where it adjoins a wall, fence, sidewalk, trail, curb or similar improvement. (DS-32)

191. Storm drain, sewer and water facilities shall conform to applicable City Master Plans. Developer shall prepare plans for these facilities in accordance with City's engineering design criteria in effect at the time of improvement plan submittal. Developer shall submit plans with pertinent engineering analyses and design calculations for review and approval by the City Engineer prior to issuance of a site improvement permit. (DS-34)
192. Developer shall design project grading to convey stormwater to a street, alley, or approved drain so that there are no undrained depressions. (DS-35)
193. Prior to issuance of a site improvement permit, Developer shall provide to the City Engineer easements or written consent (as determined appropriate by the Development Services Director) from all affected landowners for any diversion of historical flows or change in drainage conditions caused by the project. (DS-36)
194. Developer shall dispose of sewage and solid waste from the project by City's wastewater and solid waste systems in a manner approved by the City Engineer. (DS-38)
195. Developer shall install water mains, fire hydrants and water services in conformance with City standard plates, design criteria and specifications as directed by the City Engineer. (DS-41)
196. Developer shall install adequately sized water services and meters to each lot or unit in accordance with City standards in effect at the time of building permit issuance. There shall be no interconnections between structures. (DS-42)
197. Developer shall install City approved backflow prevention devices for water connections if so ordered by the City Engineer. (DS-45)
198. Prior to designing the water system for the project, Developer shall have a certified fire flow test performed to determine existing water pressure and flow characteristics with a minimum of two flowing hydrants. The water system for the building fire sprinkler shall be designed to allow for a 10 psi drop in the static water pressure measured during the fire flow test. After construction and before City issues a certificate of occupancy, the City Engineer may require a second test. Developer shall obtain permits from the City Engineer prior to performing tests. Developer shall have all tests certified by a mechanical, civil, or fire protection engineer and provide written results of all tests to the City Engineer. (DS-47)
199. Developer shall improve all streets, alleys, sidewalks, curbs, and gutters adjacent to the project in accordance with City standards, as necessary to provide safe vertical and horizontal transitions. (DS-52)
200. Developer shall install all water, gas, sewer, storm drain, electrical, cable television, and telephone lines before any paving is placed. (DS-54)

201. Developer shall submit a landscape irrigation plan prepared by a licensed professional, showing proper water meter size, backflow prevention devices, and cross-connection control. (DS-59)
202. Developer shall be responsible for and bear the cost of replacement of all existing survey monumentation (e.g., property corners) disturbed or destroyed during construction, and shall file appropriate records with the Ventura County Surveyor's Office. (DS-64)
203. Developer shall construct a concrete apron along the length of the trash bin staging area opening that extends a minimum of 15 feet from the face of the trash bin staging area into the driveway aisle.
204. Developer shall provide adequate vehicle sight distance as specified by CalTrans specifications at all driveways and intersections. (TR-71)
205. Developer shall install bike racks in accordance with City standards at locations approved by City Traffic Engineer. (TR-73)
206. Developer shall design project to minimize degradation of stormwater quality by complying with the applicable sections of the Los Angeles Regional Water Quality Control Board's municipal separate storm sewer system ("MS4") permit (Order R4-2010-0108 including all revisions) for new development and redevelopment projects. Developer shall submit stormwater quality calculations and associated construction plans demonstrating compliance with the MS4 permit. Calculations shall generally be organized to follow the steps outlined in Chapter 2 of the 2011 Technical Guidance Manual for Stormwater Control Measures ("2011 TGM"). (DS-78)
207. Developer's stormwater quality calculations shall include site specific analysis and recommendations from a geotechnical engineer, and if applicable, a landscape architect for design and implementation of stormwater treatment and infiltration devices. Geotechnical Engineering analysis and recommendations shall include, but not necessarily be limited to, determination of site specific soil infiltration rates, depth to permeable soil layers, methods to reach permeable soil layers, appropriate compaction rates, recommendations to enhance infiltration, and other requirements of the 2011 TGM. Landscape architectural recommendations shall include, but not necessarily be limited to, suggestions regarding appropriate vegetation and soil amendments for vegetated infiltration devices. Project plans shall implement approved design recommendations. (DS-81)
208. Using forms provided by the Building and Engineering Division, Developer shall submit a stormwater quality control measures maintenance and operations plan ("the Plan") for this project. If the BMPs implemented with this project include proprietary products that require regular replacement and/or cleaning, Developer shall provide proof of a contract with an entity qualified to provide such periodic maintenance. The property owner is

responsible for the long-term maintenance and operation of all BMPs included in the project design. Upon request by City, property owner shall provide written proof of ongoing BMP maintenance operations. No grading or building permit shall be issued until the City Engineer approves the Plan and Developer provides an executed copy of the City's stormwater covenant with the Plan included as an exhibit for recordation by the City. (DS-82)

209. Developer's stormwater quality control measures maintenance and operations plan shall include: 1) Requirement to clean on-site storm drains at least twice a year; once immediately before the first of October (the beginning of the rainy season) and once in January. The City Engineer may require additional cleaning; 2) Requirement to maintain parking lots free of litter and debris. Developer shall sweep sidewalks, drive aisles, and parking lots regularly to prevent the accumulation of litter and debris. When swept or cleaned, debris must be trapped and collected to prevent entry into the storm drain system. Developer may not discharge any cleaning agent into the storm drain system; 3) Requirement to label all on-site storm drain inlets with the message "Don't Dump - Drains to Ocean" in accordance with City standards. (DS-83)
210. Developer's engineer shall submit written confirmation that the project landscape drawings comply with the landscape requirements of the Technical Guidance Manual for Stormwater Quality Control Measures for all landscape-based stormwater quality best management practices. (DS-84)
211. Developer shall provide pre-treatment for all infiltration-based stormwater quality Best Management Practices ("BMPs".) Pre-treatment devices must effectively reduce sediment load entering infiltration BMPs to minimize occlusion of underlying soils and reduce long term maintenance requirements and thereby maintain the infiltration capacity of the BMP. 2011 TGM compliant pre-treatment such as vegetated swales are an approved form of pre-treatment. Proprietary pre-treatment devices must be capable of removing 80% of 50 micron particles to be considered adequate pre-treatment. Typical catch basin inserts do not provide the sufficient sediment storage to provide pre-treatment. (DS-85)
212. Prior to issuance of a grading, building or demolition permit and prior to commencement of any clearing, grading or excavation, Developer shall provide evidence of assignment of a permit identification number by the California State Water Resources Control Board indicating submittal of a Notice of Intent (NOI) by the Developer in accordance with the NPDES Construction General Permit. Developer shall comply with all requirements of the General Permit and the Ventura Countywide MS4 Permit, including preparation of a Stormwater Pollution Prevention Plan (SWPPP). Developer shall keep the SWPPP updated to reflect current site conditions and a copy of the SWPPP shall be kept onsite and available for City or designated representative to review upon request. (DS-86)

- 213. Developer shall construct proposed walkways that cross vehicular drive aisles of enhanced concrete. The concrete color shall contrast with the parking lot paving material to clearly identify pedestrian areas. (DS-101)
- 214. Developer shall pay to the County of Ventura a road mitigation fee in accordance with the agreement between the City and the County of Ventura. Proof of payment shall be provided to the Building and Engineering Division prior to issuance of a building permit. (DS-105)

DEVELOPMENT SERVICES DIVISION SPECIAL CONDITIONS

- 215. Driveway gates shall be located at a minimum distance of 40-feet measured from the back of the walk. (DS)
- 216. The drive aisle width shall be 26-feet minimum unless approved otherwise by the Fire Department. (DS)
- 217. The design and construction of the new driveway approaches on Lockwood Street shall not alter any portions of the existing bioswales. If alteration of the bioswale is needed, the design and calculations shall be submitted to the City Engineer for review and approval, demonstrating full compliance with the previous design parameters and the latest applicable stormwater requirements. (DS)
- 218. The onsite sidewalks and walkways shall provide a 5-foot minimum unobstructed width. At the discretion of the City Engineer, the width may be reduced to 4-feet for specific locations proven infeasible to maintain the 5-foot clear requirement. If affected by vehicle overhang, the width of the sidewalk shall be increased. (DS)
- 219. Americans with Disabilities Act (ADA) and Electric Vehicle (EV) parking spaces not affecting sidewalks shall be 18-feet deep minimum without wheel stops, and those affecting sidewalks shall be 19-feet deep with wheel stops placed at the 17-foot mark. (DS)
- 220. Standard parking stalls shall be 19-feet deep or 17-feet with a 2-foot overhang. Where the 17-foot deep parking stall depth is used, the entire parking stall shall be kept clear from all obstructions, including landscape curbing. (DS)
- 221. Compact parking stalls shall be 17-feet by 8-feet minimum plus 2-feet of overhang. Except stalls 68, 69 & 89, which shall be 17-feet by 8-feet minimum plus 1'-3" of overhang, as approved by this permit. (DS)
- 222. Onsite infrastructure improvements, including pavement, sidewalks, and underground utilities such as storm drainage and sanitary sewer systems, shall be privately owned and maintained. Any improvements that need to be owned by the City, such as the water system, shall be clearly labeled as 'Public' on the project improvement plans. (DS)

223. Developer shall review the Title Report and show on a stand-alone exhibit all existing easements, agreements, covenants, and deed restrictions recorded on the property and identify how they affect the project. The exhibit shall clearly identify if any recorded documents need to be vacated or quitclaimed, subject to review and approval of the City Engineer. (DS)
224. Prior to issuance of a site improvement permit, the Developer shall provide (or update as appropriate) the City Engineer with a 100-scale base map for addressing purposes. The map shall be drawn on 18-inch by 24-inch mylar and shall show the standard address map title block, north arrow, street names, Tract number, phase boundary and lot numbers. The City will assign all addresses. (DS)

Stormwater

225. The proposed underground stormwater detention and retention facilities shall be located at a minimum of 10-feet away from the property line and structural facilities. (DS)
226. Developer's Geotechnical Engineer shall perform percolation tests on the exposed bottom of all infiltration chambers immediately prior to facility construction and provide the City with an opinion that the exposed soil layer is suitable for the proposed infiltration facility based on the review of the existing geotechnical reports, percolation tests, infiltration facility design, and characteristics of the exposed soil layer. This requirement shall be clearly noted on the improvement plans. The report shall be reviewed and approved by the Project Civil Engineer. (DS)
227. Stormwater runoff from this project site shall be limited to a post-development discharge of 1 cubic feet per second (CFS)/acre for all events up to a 100-year event and onsite detention shall be provided in conformance with the "Agreement for Storm Water Retention within Rice Road Drain Watershed" and the approved drainage report for Tract 4881. The analysis for the detention and stormwater discharge shall account for the entire project site, including the adjacent street frontages to the street centerline. The detention basin(s) shall be designed in accordance with Public Works standards and policies. Developer shall include a hydrograph exported from the software or Excel for use in the detention system sizing in accordance with the latest Ventura County Design Hydrology Manual. (DS)
228. The Developer shall provide an executed City Standard Declaration of Restrictive Covenant for Detention Basin Perpetual Maintenance by the property owner prior to the approval of the grading/site improvement plans. (DS)
229. The Developer shall demonstrate to the satisfaction of the City Engineer the flow control design and hydrograph analysis to capture the required retention and detention volumes. The Developer shall demonstrate that the detention basin discharges or infiltrates the detention volume in 24 hours or less. The retention volume shall be infiltrated in 72 hours

or less. If the retention volumes are used for detention purposes, all the retention and detention volumes shall be emptied in 24 hours or less. (DS)

230. The stormwater retention volume shall be computed using the weighted composite C-value and account for the entire project or tributary area. (DS)
231. The onsite stormwater pipeline system, including the final discharge line from the detention system, shall be sized hydraulically to handle the 100-year storm event that accounts for the downstream tailwater elevation or hydraulic grade line from Lockwood Street. The drainage report shall include as-built plans showing the previously established hydraulic grade line. (DS)
232. The onsite drain inlets shall be designed with a 50% clogging factor at depressed locations. (DS)
233. The drainage report for the project shall include an assessment of the upstream stormwater run-on from Freeway 101 into the project and demonstrate how that run-on is handled consistent with the original intent of Tract 4881. (DS)
234. Developer shall install 'Full Capture System Devices' ("Devices") certified by the State Water Resources Control Board Executive Director in compliance with the Statewide Trash Amendments ("Amendments") in the flow control structures discharging stormwater runoff offsite from any portion of this project that meets the definition of 'Priority Land Use' as defined by the Amendments at the time of issuance of a grading/site improvement permit. The Devices shall be sized to treat the 1-year 1-hour storm event and designed in accordance with requirements of the Amendments and the Technical Guidance Manual for Stormwater Quality Control Measures ("TGM"). (DS)

Wastewater:

235. Developer shall coordinate with Lockwood 1 and 2 projects (also known as PZ 21-500-01 and PZ 21-500-10) to construct the required downstream sewer improvements outlined in the memo entitled "City of Oxnard Sewer Recommendations – Lockwood 1, 2, and 3" dated February 27, 2024. The required downstream sewer improvements are required due to the additional sewer discharge that will be generated by the Lockwood 1, 2, and 3 projects beyond the previously permitted land use designation. The required sewer improvements identified in the memo include: 1) Upgrading the existing 18-inch vitrified clay pipe (VCP) to 21-inch polyvinyl chloride pipe (PVC) from the sewer manhole MH-R21-100 to MH-R21-103 and 2) upgrading the overcapacity pipes with the ratio flow depth to internal pipe diameter above 0.6 from manhole MH-1 to MH-118. The sewer improvements shall be completed prior to building occupancy. (DS)
236. The sewer system shall be designed with sewer manholes, mains, and laterals located a minimum of 10-feet from all detention and retention basins unless approved otherwise by

the City Engineer. The private sewer system shall be labeled clearly on the improvement plans. (DS)

Water:

237. In accordance with City Code, the Developer shall provide separate services and water meters for: 1) residential uses; 2) commercial facilities; and 3) landscape irrigation systems. The Developer shall properly abandon all existing sewer and water laterals currently extended to the site that will not be used in the final design. Abandonment shall occur at the City main. (DS)
238. Unless there is an existing property owners association with executed Covenants, Conditions & Restrictions (CC&Rs), the Developer shall be responsible for providing irrigation to all proposed trees and landscaping in the parkway. (DS)
239. Developer shall dedicate a 15-foot water easement to the City that encompasses the onsite water system as required by Public Works Standards and as directed by the City Engineer. The easement shall encompass all fire hydrants, water meters, water mains, and valves. Unless otherwise approved by the City Engineer, water service lines after the meters and privately owned backflow devices shall be located outside the water easement. Except where the City Engineer approves incidental crossings, all other utilities shall be located outside the water easement. (DS)
240. A water system hydraulic report shall be prepared using fire flow data to demonstrate that the required fire flow rate and pressure will be provided to the site fire hydrants. The water system shall provide a minimum of 2,500 gallons per minute (unless the Fire Department requires a higher flow) while still meeting the 20-psi residual pressure while supplying full domestic water demands for the project site. The size of the public water main shall be 8-inches minimum unless the hydraulic calculations dictate a larger main. (DS)
241. Prior to site improvement/grading permit issuance, Developer shall demonstrate to the satisfaction of the City Engineer that the water proposed water demands for the project and associated improvements are within the appropriate ranges for the land use designation originally established under Tract 4881. If the projected water demands exceed the previously established demands, the project shall design and construct water conservation elements for both indoor and outdoor water use to reduce the water demands to the maximum extent feasible consistent with the City's Water Neutrality Policy. (DS)

Trash Enclosure/Waste Collection Rooms:

242. Developer shall construct all trash rooms to include: a) A floor that is substantially level (2% max slope); b) a raised concrete curb on the inside similar to the curb shown on the City Standard trash enclosure; c) a minimum of 11-feet of vertical clearance (to accommodate open and closing of bin covers and chutes); d) a layout design of sufficient size to accommodate the number of storage bins determined necessary by the

Environmental Resources Division; e) sufficient unobstructed aisle width to allow for removal of each individual bin; f) vented trash room with electric-powered rollup doors or approved equal. The final design of the trash rooms is subject to the approval of the Environmental Resources Division. (DS)

243. Prior to occupancy, Developer shall submit a proposed trash enclosure/waste room operation plan to the Environmental Resources Division for review and approval, and provide the City Engineer with an approved copy. At a minimum, the proposal shall require onsite maintenance staff who will be responsible for managing the trash rooms, setting out the containers on collection day, rotating the food waste containers, and returning the bins and containers according to the collection schedule. (DS)
244. The property management is responsible for setting out the refuse containers on collection day; the City will not offer push service and will not be responsible for setting out the containers. (DS)
245. The trash servicing and staging areas shall be constructed out of reinforced concrete with a maximum surface slope of 2% in any direction. The design of the service pad shall allow the trucks to service the bins in the site's general circulatory driveway aisle without the need to drive into the trash enclosure driveway throat. The staging area for the refuse bins shall be outside the 26-foot driveway aisle. (DS)

HOUSING DEPARTMENT CONDITIONS:

Density Bonus Requirements

246. Prior to, or concurrently with, final map recordation or, where the qualified housing development does not include a map, prior to issuance of a building permit for any structure on the site Owner/Developer shall enter into a Density Bonus agreement with the City in a form approved by the Housing Director and City Attorney ensuring the continued affordability of the thirty-eight (38) units which qualified the applicant for a 50% Density Bonus increase above base density of one hundred and fifty-six (156) units and three (3) Density Bonus Concessions.
247. The Density Bonus agreement shall be recorded in the Office of the Ventura County Recorder. The term of the agreement shall be for a minimum of fifty-five (55) years, the term shall commence upon occupancy of the first unit in the development.
248. The Density Bonus Agreement shall, among other things, specify the number of affordable units by number of bedrooms, level of affordability, collection of an annual report, standards for qualifying household incomes or other qualifying criteria. Owner/Developer hereby agree that fees may be charged to the developer for monitoring, staff time expended for preparation of the Density Bonus agreement and subsequent compliance with said agreement.

249. Pursuant to the Owner/Developer's Density Bonus requirements, Owner/Developer must make thirty-eight (38) units available for rent to households with annual incomes at or below 80% the Area Median Income (AMI) for Ventura County. (Lower Income)
250. The thirty-eight (38) affordable units must include a mixture of unit types by bedroom count that is proportionate to the same percentage ratio as the market rate units. In order to comply with Density Bonus requirements as well as the City of Oxnard Additive Zone Ordinance 2999 and Inclusionary Housing Ordinance 2980, one (1) studio, three (3) one-bedroom units, three (3) two-bedroom units, and one (1) three-bedroom units must be offered for rent to very-low income households with annual incomes that do not exceed 50% of the AMI for Ventura County, as set forth in California Health and Safety Code 50105. The remaining thirty (30) affordable units must be offered for rent to low income households with annual incomes that do not exceed 80% of the AMI for Ventura County, as set forth in California Health and Safety Code 50079.5, and must include two (2) studios, eleven (11) one-bedroom units, fourteen (14) two-bedroom units, and three (3) three-bedroom units.
251. Prior to offering the affordable units for rent, the Owner/Developer must submit to the Housing Director the proposed rental amounts for the affordable units for review and approval.
252. For Low-Income Households, "Affordable Rent" shall be inclusive of a reasonable utility allowance and not exceed one-twelfth (1/12) times the product of thirty percent (30%) times sixty percent (60%) of area median income adjusted for family size appropriate to the Affordable Unit for households earning less than or equal to sixty percent (60%) of the AMI for Ventura County Metropolitan Statistical Area as set forth in the sections 6918 and 6932 of Title 25 of the California Code of Regulations and as Affordable Rent is defined in California Health and Safety Code 50053 (b)(4), unless another subsidy program is used, in which case the stricter requirement shall be applied. In adjusting rents for household size for this purpose, it shall be assumed that one person will occupy a studio unit, two persons will occupy a one-bedroom unit, three persons will occupy a two-bedroom unit, and four persons will occupy a three-bedroom unit.
253. For Very-Low Income Households, "Affordable Rent" shall be inclusive of a reasonable utility allowance and not exceed one- twelfth (1/12) times the product of thirty percent (30%) times fifty percent (50%) of area median income adjusted for family size appropriate to the Affordable Unit for households earning less than or equal to fifty percent (50%) of the AMI for Ventura County Metropolitan Statistical Area as set forth in the sections 6918 and 6932 of Title 25 of the California Code of Regulations, unless another subsidy program is used, in which case the stricter requirement shall be applied. In adjusting rents for household size for this purpose, it shall be assumed that one person will occupy a studio unit, two persons will occupy a one-bedroom unit, three persons will a two-bedroom unit, and four persons will occupy a three-bedroom unit.

254. Prior to issuance of a certificate of occupancy, Owner/Developer shall obtain written approval from the Housing Department certifying that the required number of affordable units are being provided at Affordable Rents and that a Management Plan, prepared by the Owner/Developer, for the operation and management of the Affordable Rental Units has been submitted to the Housing Department and approved by the Housing Director. Owner/Developer shall provide a copy of the written approval issued by the Housing Department to the City's project planner prior to issuance of the certificate of occupancy.

Affordable Housing Additive Zone Requirements

255. Prior to, or concurrently with, final map recordation or, where the qualified housing development does not include a map, prior to issuance of the first building permit for any structure on the site Owner/Developer shall enter into an Affordable Housing Agreement with the City in a form approved by the Housing Director and City Attorney ensuring the continued affordability of at least thirty-two (32) units (20% of the development's base density), as set forth in Section 16-420E.(A) of the City of Oxnard Additive Zone Ordinance 2999.
256. The Affordable Housing agreement shall be recorded in the Office of the Ventura County Recorder. The term of the agreement shall be for a minimum of 55 years, the term shall begin upon occupancy of the first unit in the development.
257. The 20% affordability requirement shall also comply with the City of Oxnard Inclusionary Housing Ordinance 2980, which requires that eight (8) of the affordable units be made available for rent to very-low income households with incomes at or below 50% of the AMI for Ventura County, as set forth in California Health and Safety Code 50105. The remaining twenty-four (24) affordable units must be made available for rent to low income households with incomes at or below 80% of the AMI for Ventura County, as set forth in California Health and Safety Code 50079.5 and Section 16-420E.(B) of the City of Oxnard Additive Zone Ordinance 2999.
258. The rent for Very-Low and Low-Income Households shall be calculated as described in conditions 252 and 253 above.
259. The thirty-two (32) affordable units must include a mixture of unit types by bedroom count that is proportionate to the same percentage ratio as the market rate units. In order to comply with the City of Oxnard Additive Zone Ordinance 2999 and Inclusionary Housing Ordinance 2980, one (1) studio unit, three (3) one-bedroom units, three (3) two-bedroom units, and one (1) three-bedroom unit must be offered for rent to very-low income households with annual incomes that do not exceed 50% of the AMI for Ventura County, as set forth in California Health and Safety Code 50105. The remaining twenty-four (24) affordable units must be offered for rent to low income households with annual incomes that do not exceed 80% of the AMI for Ventura County, as set forth in California Health and Safety Code 50079.5, and must include two (2) studio units, nine (9) one-bedroom units, eleven (11) two-bedroom units, and two (2) three-bedroom units.

260. Oxnard Preference. To the maximum extent permitted by applicable law, Owner/Developer will establish a preference for the rental of the affordable units to qualified and otherwise eligible households, subject to other restrictions related to funding sources. Preference will be established as follows:
- a. Households that live and work in the City of Oxnard.
 - b. Households that live or work in the City of Oxnard; and
 - c. All other households. Developer will prepare and implement a marketing plan intended to offer a first view of housing opportunities of all affordable units to be developed to Oxnard residents and workers. Such a marketing plan will offer such a first view for at least sixty days.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 1st day of August 2024.

Dr. Vincent Stewart, Vice-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 this 1st day of August 2024, and carried by the following vote:

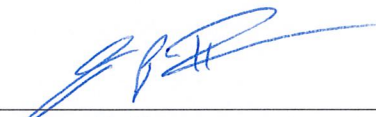
AYES: Commissioner(s): Stewart, Lopez, Nash, Schuelke

NOES: Commissioner(s):

ABSENT: Commissioner(s): Arruejo, Connelly, Zielsdorf

ABSTAIN: Commissioner(s):

RECUSED: Commissioner(s):



Joe Pearson II, Secretary

RECEIVED

AUG 15 2024

PLANNING DIVISION
CITY OF OXNARD

CITY CLERK OXNARD
AUG 15 '24 PM2:16



REQUEST FOR APPEAL
Community Development Department

Use this form to request an appeal of a decision rendered on one of the following type of permits: Administrative Wireless Permit; Discretionary Development Permit decision rendered by the Development Services Director; or a Discretionary Development Permit decision rendered by the Planning Commission.

After paying the required appeal fee to the Planning Division, submit the original request for appeal and two (2) copies along with verification that the appropriate appeal fee has been paid to the City Clerk's Office. To determine your appeal fee go to: oxnard.org/planning and click on planning handouts and applications or contact the Planning Division at (805) 385-7858.

Supporters Alliance for Environmental Responsibility ("SAFER")
I, (represented by Marjan R. Abubo), am requesting an appeal of a decision made by

Print name

City of Oxnard Planning Commission that was made on August 1, 2024 regarding

State decision making body

Date

Planning and Zoning Permit No. 22-500-04 (Special Use Permit) and No. 22-535-03 (Density Bonus)

Specify PZ No.

Check one of the following:



Appeal of a Decision Rendered on a Wireless Permit. Pursuant to Section No. 16-488 (C) of the Oxnard City Code, I am submitting an appeal to the Secretary of the Planning Commission and I am paying the necessary fees to the Planning Division. I am filing this appeal within 10 days of the Planning Manager's decision on a wireless communications facility permit. I am requesting that this appeal be considered by the Planning Commission.



Appeal of a Decision Rendered on a Discretionary Permit - Development Services Director. Pursuant to Section No. 16-525 (B) of the Oxnard City Code, I am submitting an appeal to the City Clerk and I am paying the necessary fees to the Planning Division. I am filing this appeal within 10 days of the Development Services Director's decision on a discretionary permit. I am requesting that this appeal be considered by the Planning Commission.



Appeal of a Decision Rendered on a Discretionary Permit - Planning Commission. Pursuant to Section 16-545/17-58(J) of the Oxnard City Code, I am submitting an appeal to the City Clerk and I am paying the necessary fees to the Planning Division. I am filing this appeal within 18 days / 10 working days of the Planning Commission's decision on a discretionary permit. I am requesting that this appeal be considered by the City Council.

State the grounds, facts, and if known the code sections supporting your request: (Provide additional sheets if necessary)

SAFER believes that the City cannot proceed with the Project as proposed because it fails to meet the City's required minimum affordability requirement (OMC Section 16-420). Additionally, SAFER has submitted substantial evidence of a fair argument that the Project may have potentially significant environmental effects, and the MND prepared for the Project does not adequately analyze or mitigate the potentially significant impacts from the Project. See attached letters dated April 12, 2024 and August 1, 2024.

X

Appellant Signature

Date

8/14/24

cc: City Attorney
Director
Project Planner
Applicant

OFFICE USE ONLY

Date Received:

Received By:

Contacted Dept/Division Rep:

Updated Jan 7, 2019 - City of Oxnard Planning Division
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Via Email

August 1, 2024

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Vincent Stewart, Vice-Chair
Katherine Connelly, Commissioner
Miguel Lopez, Commissioner
Steve Nash, Commissioner
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**Re: Comment on Mitigated Negative Declaration (No. 24-01)
Lockwood III Apartments Project
Planning Commission Agenda Item 3 (August 1, 2024)**

Dear Chair Arruejo and Honorable Members of the Planning Commission:

I am writing on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") and its members living, working, and recreating in and around the City of Oxnard ("City") regarding to the Initial Study and Mitigated Negative Declaration (MND No. 24-01) ("MND") prepared for the Lockwood III Apartments Project ("Project") to be heard as Agenda Item 3 at the Planning Commission's August 1, 2024 meeting.

After careful review of the MND and its accompanying documents prepared by Environmental Science Associates, SAFER believes that the City cannot proceed with the Project as proposed because it fails to meet the City's required minimum affordability requirement. SAFER previously submitted comments on this Project and incorporates those comments herein.

SAFER further believes that the MND is improper under the California Environmental Quality Act ("CEQA"), and that an environmental impact report ("EIR") is required. As explained in more detail below, there is a fair argument that the Project may have potentially

significant environmental impacts related to biological resources, air quality, and noise. Furthermore, the MND's Mitigation Monitoring and Reporting Program fails to reflect the inclusion of a mitigation measure to address the Project's air quality impact, thereby violating CEQA.

SAFER's review of the MND was assisted by expert biologist Dr. Shawn Smallwood; expert consulting firm Soil/Water/Air Protection Enterprise ("SWAPE"); indoor air quality expert Francis Offermann, CIH; and the expert acoustical consulting firm Wilson Ihrig. Their expert comments and CVs are attached as Exhibits A through G, respectively.

SAFER requests that the Planning Commission refrain from recommending adoption of the MND and approval of the Zone Change to the City Council and refrain from approving the Project's Special Use Permit and Density Bonus. SAFER instead requests that the City enforce its local ordinance to require the minimum affordability requirements and prepare an EIR to ensure that potentially significant environmental impacts of this Project are fully disclosed, analyzed, and mitigated.

PROJECT DESCRIPTION

The Project is located at 2151 Lockwood Street, in Oxnard, California. The Applicant, SVM Development LLC, Inc., proposes the construction of a new multifamily residential development comprised of 234 dwelling units located within buildings up to five-stories, all situated atop a two-level subterranean parking garage with 351 parking spaces.

The Project gross floor area measures 225,348 square feet and the Project site sits on approximately 5.17 acres, with sensitive receptors surrounding the site. The total residential space would be 201,115 SF; covered balconies, patios, parking and walkways would comprise 75,250 SF; corridors would comprise 40,497 SF; balconies 22,610 SF; utility space 16,710 SF; and community space 13,609 SF. The remaining SF would be comprised of corridor and vertical circulation (2,668 SF) and non-conditioned building (592 SF).

LEGAL STANDARD

As the California Supreme Court has held "[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR." (*Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319-320 [citing *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 88; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491, 504-05].) "Significant environmental effect" is defined very broadly as "a substantial or potentially substantial adverse change in the environment." (Pub. Res. Code § 21068; *see also* 14 CCR § 15382.)

The EIR is the very heart of CEQA. **Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214 (*Bakersfield Citizens*); *Pocket Protectors v. City*

of *Sacramento* (2004) 124 Cal.App.4th 903, 927. The EIR is an “environmental ‘alarm bell’ whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return.” *Bakersfield Citizens*, 124 Cal.App.4th at 1220. The EIR also functions as a “document of accountability,” intended to “demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.” *Laurel Heights Improvements Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 392. The EIR process “protects not only the environment but also informed self-government.” *Pocket Protectors*, 124 Cal.App.4th at 927.

Where an initial study shows that the project may have a significant effect on the environment, a mitigated negative declaration may be appropriate. However, a mitigated negative declaration is proper *only* if the project revisions would avoid or mitigate the potentially significant effects identified in the initial study “to a point where clearly no significant effect on the environment would occur, and...there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.” PRC §§ 21064.5 and 21080(c)(2); *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 331. In that context, “may” means a reasonable possibility of a significant effect on the environment. PRC §§ 21082.2(a), 21100, 21151(a); *Pocket Protectors*, 124 Cal.App.4th at 927; *League for Protection of Oakland's etc. Historic Res. v. City of Oakland* (1997) 52 Cal.App.4th 896, 904–05.

Under the “fair argument” standard, an EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency’s decision. 14 CCR § 15064(f)(1); *Pocket Protectors*, 124 Cal.App.4th at 931; *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-51; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602. The “fair argument” standard creates a “low threshold” favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. *Pocket Protectors*, 124 Cal.App.4th at 928. The “fair argument” standard is virtually the opposite of the typical deferential standard accorded to agencies. As a leading CEQA treatise explains:

This ‘fair argument’ standard is very different from the standard normally followed by public agencies in making administrative determinations. Ordinarily, public agencies weigh the evidence in the record before them and reach a decision based on a preponderance of the evidence. [Citations]. The fair argument standard, by contrast, prevents the lead agency from weighing competing evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact. The lead agency’s decision is thus largely legal rather than factual; it does not resolve conflicts in the evidence but determines only whether substantial evidence exists in the record to support the prescribed fair argument.

Kostka & Zisheke, *Practice Under CEQA*, §6.29, pp. 273–74.

The Courts have explained that “it is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency’s determination. Review is *de novo*, with a *preference for resolving doubts in favor of environmental review*.” *Pocket Protectors*, 124 Cal.App.4th at 928 (emphasis in original).

DISCUSSION

I. The Project Fails to Satisfy the Minimum Affordable Housing Requirement under the City’s Affordable Housing Additive Zone.

The City cannot approve the Project and its related entitlements until it satisfies the affordable housing zone requirements under the City’s municipal code. The Applicant requests for a zone change to include the affordable housing discretionary additive zone (“AHD Zone”) because the Project site is currently zoned as Business Research Park (“BRP”). (Staff Report, p. 1.) Oxnard Municipal Code Section 16-420 includes the provisions for the City’s AHD Zone, which requires residential development proposals to designate 20% of *all* units for affordable housing, defined as affordable to extremely-low income, very-low income, or low income households. (OMC, Sections 16-420D(A)(1) & 16-420(E)(A).) Notably, the requirements under the AHD Zone “are separate, and in addition to, the “State” density bonus” laws. (OMC, Section 16-420(A).)

Here, the City must deny Planning and Zoning Permit No. 22-570-01 (allowing for the zone change) because the Project’s designation of affordable housing units violates the requirements of the AHD Zone. Specifically, only 38 of the 234 proposed units (16%) will be reserved for low-income and very low-income level housing. (MND, p. 6.) Because that is well below the required minimum of twenty percent, the Project must propose an additional nine affordable units (for a total of 47 affordable housing units) to comply with the AHD Zone.

Unless and until this affordability requirement is met, the City cannot proceed with any Project approvals, including any and all entitlements requested by the Applicant.

II. The IS/MND Fails to Adequately Describe the Project’s Environmental Setting.

The City inadequately characterized the existing environmental setting and the site’s ability to provide habitat for special-status species. Expert wildlife biologist Dr. Shawn Smallwood, Ph.D. reviewed the Project and Response to Comments and concluded that the Project site has value as a habitat for special status species and that the Project may have significant impacts on biological resources. Dr. Smallwood’s comments are supported by a site visit by wildlife biologist Noriko Smallwood (“Ms. Smallwood”). (Ex. A, p. 1.) Ms. Smallwood is an expert wildlife ecologist with a focus on urban ecology, avian ecology, and habitat conservation. Dr. Smallwood’s comments and CVs are attached Exhibits A and B.

Every CEQA document must start from a “baseline” assumption. The CEQA “baseline” is the set of environmental conditions against which to compare a project’s anticipated impacts.

Communities for a Better Env't. v. So. Coast Air Qual. Mgmt. Dist. (2010) 48 Cal. 4th 310, 321. Section 15125(a) of the CEQA Guidelines states in pertinent part that a lead agency's environmental review under CEQA:

“...must include a description of the physical environmental conditions in the vicinity of the project, ***as they exist at the time [environmental analysis] is commenced***, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant.” (Emphasis added.)

((14 C.C.R., § 15125(a)); see *Save Our Peninsula Committee v. County of Monterey* (2001) 87 Cal.App.4th 99, 124-25.) As the court of appeal has explained, “the impacts of the project must be measured against the ‘real conditions on the ground,’” and not against hypothetical permitted levels. (*Save Our Peninsula, supra*, 87 Cal.App.4th 99, 121-23.)

The field survey prepared by the applicant's consultants, Environmental Science Associates (“ESA”), which was used to inform the environmental setting, is deficient. The reconnaissance survey concluded that a mere three species were detected at the Project site. However, as SAFER's ecologist, Dr. Smallwood, notes that ESA failed to include the methodological details that shaped the survey findings, information that is essential “to characterize the environmental setting as a basis for opining on, or predicting, potential project impacts to biological resources.” (Ex. A, p. 15.) Of the three species detected by ESA, Ms. Smallwood detected one during her site visit, but the rest of ESA's findings and subsequent conclusion starkly differs from Ms. Smallwood's site visit and findings. (*Id.*) As Dr. Smallwood explains, it remains unclear as to why and how ESA's survey omitted wildlife that were so abundant when Ms. Smallwood visited the Project site (*Id.*) The clear disparities between what ESA's and Ms. Smallwood's surveys as well as the unclear method in which ESA's survey was performed and documented require additional review.

Furthermore, Ms. Smallwood observed 25 species of vertebrate wildlife at and/or near the Project site, three of which were special-status species. (Ex. A, p. 3, Table 1.) These species include the Western gull (*Larus occidentalis*), which is classified as a “Bird of Conservation Concern.”¹ (*Id.*) Birds of Conservation Concern include “migratory nongame birds that without additional conservation action are likely to become candidates for listing under the Endangered Species Act (ESA) of 1973.”² Ms. Smallwood also observed the American kestrel (*Falco sparverius*) actively hunting on-site as well as Red-tailed hawk flying nearby. Both species are considered Birds of Prey, which are a valuable resource to the State of California, and are protected under state law.³ (*Id.*) “

¹ See, US Fish & Wildlife Service (“USFW”), Birds of Conservation Concern 2021, pp. 18-19 <https://www.fws.gov/sites/default/files/documents/birds-of-conservation-concern-2021.pdf>.

² *Id.*, p. 4.

³ See, Fish and Game Code, Sections 3503, 3503.5, 3505 and 3513, and California Code of Regulation, Title 14, Sections 251.1, 652 and 783-786.6

After SAFER submitted Dr. Smallwood's comment previously, the City responded that the three identified bird species that Dr. Smallwood noted as "special status species" are not special status species "because they do not appear on CDFW's Special Animals List..." and are therefore "not protected under state law." (Response to Comments, p. 3-161.) However, Dr. Smallwood underlines how this is misleading because the absence of species on CDFW's Special Animals List alone is not conclusive evidence that they are not "special status species." (Ex. B, p. 3.) For example, the Western gull, also identified on the Project site, is not on CDFW's Special Animals List, but is identified as a Bird of Conservation Concern under the US Fish and Wildlife Service ("USFWS"). The USFWS, notably, is identified in the California Resources Agency's Guidelines for Implementation of CEQA as an agency to identify certain species as special-status species. (*Id.*, p. 3.) As such, the City is incorrect in concluding the identified bird species are not "special status species."

Clearly, the IS/MND fails to accurately describe the Project's environmental setting. A new CEQA document is therefore required.

III. There is Substantial Evidence of a Fair Argument that the Project May Have Significant Biological Resources Impacts.

An EIR is required because substantial evidence in the record indicates a fair argument that the Project may have significant biological impacts. Dr. Smallwood's findings related to habitat loss, wildlife movement, collisions from windows and traffic, as well as impacts from domesticated animals underline the importance of preparing an EIR. For the following reasons set forth below, the City should not certify the MND and must instead prepare and circulate an EIR for the Project.

a. Habitat Loss.

Dr. Smallwood concludes that the Project may have potentially significant impacts on special status species through direct loss of habitat. (Ex. A, p. 24.) For example, given the documented breeding activity by Ms. Smallwood, Dr. Smallwood's analysis of the Project site's productive capacity finds that the Project would deny the ability to host 26 bird nests and close to a hundred birds every season. (Ex. A. pp. 14, 17.) This is especially concerning since at least four special-status species have been observed utilizing or flying over the Project site. In conjunction, then, the Project will result in the loss of foraging area for special status species. (*Id.*, p. 25.). As Dr. Smallwood further explains, the City fails to implement any mitigation measures to adequately address the impacts of habitat loss caused by the Project. (Ex. B, p. 12.)

b. Wildlife Movement.

Dr. Smallwood similarly points out that the Project will adversely impact wildlife movement. He concludes that volant wildlife use the site as a stopover area. The project would cut wildlife off from one of the last remaining stopovers and staging opportunities in the project area, forcing volant wildlife to travel even farther between remaining stopover sites." (Ex. A. p. 17.) In response, the City argues that Dr. Smallwood's findings are unsubstantiated assumptions.

However, this is incorrect. As Dr. Smallwood explains, “[t]hese patches of open space are all that many birds have left to rely on for stopover and staging. The project site itself was used by many western gulls this way, while [Ms. Smallwood] was doing her survey.” (Ex. B, p. 9.) As such, Dr. Smallwood’s conclusion were not mere assumptions, but rather expert findings based on observations of the Project site and the resulting behaviors of identified special-status wildlife species.

c. Collisions and Traffic.

The IS/MND fails to analyze the Project’s impacts due to bird-window collisions. Dr. Smallwood concludes that the extensive use of glass in the 5-story buildings will lead to increased bird-window collisions, and that the Project does not adequately consider the impacts that the height of the building would have on birds, during both the day and at night. (Ex. A, pp. 26-27.) He notes that there are “96 special status species of birds with potential to use the site’s aerosphere.” (*Id.*) While MND does not adequately detail to what extent glass windows will be used for the Project, Dr. Smallwood predicts that many of these birds are likely to experience window collisions. (*Id.*) As such, Dr. Smallwood calculates that the Project will cause 292 bird deaths due to window collisions each year, with a significant amount of these birds being protected under the Migratory Bird Treaty Act. (*Id.*, p. 29.)

Furthermore, the IS/MND fails to analyze the Project’s impacts related to wildlife traffic fatalities. Dr. Smallwood calculates that the Project will generate 22,242,187.5 annual vehicle miles travelled. (Ex. A, . p. 31). He predicts that this will result in 2,008 wildlife fatalities per year. (*Id.*).

d. The MND’s Proposed Mitigation Measures are Unenforceable and Ineffective.

The Project’s proposed mitigation measures for biological resources will certainly not reduce Project-related biological and/or cumulative impacts to a level below significance. CEQA requires that policies and mitigation measures be enforceable and effective. (CEQA Guidelines, § 15126.4(a)(1) & (2).) Here, the City maintains that Mitigation Measure BIO-1 will sufficiently address all significant impacts to all wildlife and special-status species alike. However, as Dr. Smallwood emphasizes, the mitigation measure only discusses the preparation of a preconstruction survey. Notably, Dr. Smallwood explains,

“A preconstruction survey addresses only direct take-avoidance, and does nothing to avoid or minimize the permanent loss of productive capacity of the species that would result from habitat loss. The most significant impacts are neither avoided nor minimized, nor are they compensated in any way. This measure would inadequately mitigate the impacts of the project to wildlife.”

(Ex. B, p. 2.)

The City also maintains that Mitigation Measure BIO-1 will sufficiently address cumulative biological impacts. However, as Dr. Smallwood explains, Mitigation Measure BIO-1 is a preconstruction “take-avoidance” survey, meaning that they are not positioned to minimize or reduce impacts, but rather to avoid direct take where feasible. (Ex. B, p. 12.) This mitigation measure does not, therefore, address impacts that construction activities would have on nesting birds or the Project’s impact on the productive capacity of the Project site post-construction. (*Id.*)

Dr. Smallwood’s comments and rebuttals constitute substantial evidence of a fair argument that the Project may have potentially significant biological impacts that the City fails to adequately mitigate. Clearly, an EIR is required to analyze the feasibility, enforceability, and effectiveness of such proposed mitigation measure.

Dr. Smallwood additionally proposes numerous mitigation measures that could vastly reduce the above impacts, such as avoiding construction during nesting season, applying bird-safe window treatments, landscaping measures and many others. (Ex. A, p. 36.) These mitigation measures should be analyzed in an EIR and implemented if feasible. Since there is substantial evidence of a fair argument that the Project may have potentially significant biological impacts, an EIR is required to analyze and mitigate those impacts.

IV. There is Substantial Evidence of a Fair Argument that the Project May Have Potentially Significant Air Quality Impacts.

The Project cannot proceed with an MND because there is substantial evidence of a fair argument that the Project may result in potentially significant air quality impacts. SWAPE reviewed the Project, the IS/MND, and its supporting documents and concluded that the Project may have significant air quality impacts. As a result, the City cannot rely on an MND and must instead prepare an EIR. SWAPE’s expert comments and CVs are attached as Exhibit C.

The MND references a health risk assessment (“HRA”) to support its conclusion that the Project will not have a significant health risk impact as a result of TAC emissions. The HRA prepared for the MND is incorrect because the HRA fails to evaluate impacts from the Project’s construction and operational emissions. Specifically, while the MND does quantify the health risk posed by nearby freeways to the residents of the Project themselves, it fails to acknowledge the toxic air contaminant (“TAC”) emissions associated with construction and operation of the Project. (MND, pp. 42-43.) Without conducting a quantitative construction and operational HRA, the MND therefore fails to evaluate the combined lifetime cancer risks of the Project as a whole.

The Maximally Exposed Individual at an Existing Residential Receptor

Age Group	Emissions Source	Duration (years)	Concentration (ug/m3)	Cancer Risk
3rd Trimester	Construction	0.25	0.2207	2.55E-06

Infant (0 - 2)	Construction	2	0.2207	6.16E-05
	<i>Construction</i>	<i>0.24</i>	<i>0.2207</i>	<i>9.88E-07</i>
	<i>Operation</i>	<i>13.76</i>	<i>0.0917</i>	<i>2.35E-05</i>
Child (2 - 16)	Total	14		2.45E-05
Adult (16 - 30)	Operation	14	0.0917	3.68E-06
Lifetime		30		9.23E-05

(Ex. A, p. 7.)

SWAPE performed a screening-level HRA to evaluate potential human health impacts from the construction and operation of the Project. SWAPE used AERSCREEN, the leading screening-level air quality dispersion model. (Ex. A, p. 3-7.) SWAPE calculated that the Project's construction and operation may result in an excess cancer risk of 92.3 per million over a residential lifetime, which exceeds the VCAPCD significance threshold of 10 in one million. (*Id.*, p. 7.) SWAPE's conclusions constitute substantial evidence that the Project may have a significant impact on human health, necessitating the preparation of an EIR.

V. There is Substantial Evidence of a Fair Argument that the Project May Have Significant Health Risks from Indoor Air Quality Emissions.

The Project cannot proceed with an MND because there is substantial evidence of a fair argument that the Project may result in potentially significant indoor air quality impacts. Certified Industrial Hygienist, Francis Offermann, PE, CIH, conducted a review of the Project and relevant documents regarding the Project's indoor air emissions. Mr. Offermann concludes that the Project will expose residents of the Project to significant impacts related to indoor air quality, and in particular, emissions of the cancer-causing chemical formaldehyde. Mr. Offermann is one of the world's leading experts on indoor air quality and has published extensively on the topic. As discussed below and in Mr. Offermann's comments, the Project's emissions of formaldehyde to the air will result in very significant cancer risks to future residents of the Project's residential units. Mr. Offermann's expert comments and CV are attached as Exhibits D and E.

Mr. Offermann explains that many composite wood products used in building materials and furnishings commonly found in offices, warehouses, residences, hotels, and commercial spaces contain formaldehyde-based glues which off-gas formaldehyde over a long period of time. He states, "The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring,

cabinetry, baseboards, window shades, interior doors, and window and door trims.” (Ex. D, pp. 2-3.) Notably, the MND includes some discussion of impacts or health risks, but no required mitigations for significant emissions of formaldehyde to air from the Project.

Formaldehyde is a known human carcinogen and is listed by the State as a toxic air contaminant (“TAC”). Mr. Offermann concludes that future residents of the Project may be exposed to a cancer risk from formaldehyde emissions of approximately 120 per million, even assuming all materials are compliant with the California Air Resources Board’s formaldehyde airborne toxics control measure. (Ex. D, p. 3.) This exceeds the VCAPCD’s CEQA significance threshold for airborne cancer risk of 10 per million. (*Id.*)

When a Project exceeds a duly adopted CEQA significance threshold, as here, this alone establishes a fair argument that the project may have a significant environmental impact and an EIR is required. Indeed, in many instances, such air quality thresholds are the only criteria reviewed and treated as dispositive in evaluating the significance of a project’s air quality impacts. (*See, e.g. Schenck v. County of Sonoma* (2011) 198 Cal.App.4th 949, 960 [County applies Air District’s “published CEQA quantitative criteria” and “threshold level of cumulative significance”]; *see also Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 110-111 [“A ‘threshold of significance’ for a given environmental effect is simply that level at which the lead agency finds the effects of the project to be significant”].)

Mr. Offermann states that there is a fair argument that future residents will be exposed to a cancer risk from formaldehyde of approximately 120 per million, even assuming all materials are compliant with the California Air Resources Board’s (“CARB”) formaldehyde airborne toxics control measure. (Ex. D, pp. 3-4.) This is more than 12 times VCAPCD’s significance threshold of 10 per million.

In response to Mr. Offermann’s comments, the City claims that all building materials will comply with applicable state and federal laws pertaining to formaldehyde emission standards, dismissing the potential for health impacts. (Response to Comments, p. 3-166.) However, as Mr. Offermann explains, “[e]ven composite wood products manufactured with CARB certified ultra-low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde [that] meet the OEHHA cancer risks that substantially exceed 10 per million.” (Ex. C, p. 6.) Mr. Offermann’s comments do not dispute the nature of whether the Project will comply with state and federal law, but rather emphasize that even the use of products cannot guarantee emissions will fall below significance. (*Id.*)

The City also claims that Mr. Offermann’s comments are speculative. But Mr. Offermann conducted his analysis based on the information provided by the Applicant and City. The City cannot hide behind its own failure to gather relevant data. *Gentry v. City of Murrieta*, 36 Cal. App. 4th 1359, 1378-79. The duty to investigate potential environmental impacts rests with the City. (*Id.*) “If [a] local agency has failed to study an area of possible environmental impact, a fair argument may be based on the limited facts in the record. Deficiencies in the record may actually

enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.

Furthermore, Mr. Offermann’s conclusion that the Project may have a potentially significant air quality is corroborated by the MND’s Air Quality analysis. Specifically, the City admits that the MEIR “from predicted freeway emissions without compliance with the City of Oxnard Code of Ordinance Section 16-420J could be at 13.6 in one million **which would exceed the VCAPCD cancer risk significance threshold of 10 in one million.**” (Response to Comments, p. 3-197.) As such, the Air Quality analysis supports Mr. Offermann’s findings, and, as explained in detail below, more adequate enforcement mechanisms must be in place in order to ensure that the proposed mitigation measure is implemented.

The failure to address the Project’s formaldehyde emissions is contrary to the California Supreme Court’s decision in *California Building Industry Ass’n v. Bay Area Air Quality Mgmt. Dist.* (2015) 62 Cal.4th 369, 386 (“*CBI*”). At issue in *CBI* was whether the Air District could enact CEQA guidelines that advised lead agencies that they must analyze the impacts of adjacent environmental conditions on a project. The Supreme Court held that CEQA does not generally require lead agencies to consider the environment’s effects on a project. (*CBI*, 62 Cal.4th at 800-801.) However, to the extent a project may exacerbate existing adverse environmental conditions at or near a project site, those would still have to be considered pursuant to CEQA. (*Id.* at 801 [“CEQA calls upon an agency to evaluate existing conditions in order to assess whether a project could exacerbate hazards that are already present”].) In so holding, the Court expressly held that CEQA’s statutory language required lead agencies to disclose and analyze “impacts on a project’s users or residents that arise from the project’s effects on the environment.” (*Id.* at 800 [emph. added].)

The carcinogenic formaldehyde emissions identified by Mr. Offermann are not an existing environmental condition. Those emissions to the air will be from the Project. Tenants will be users of the Project. Currently, there is presumably little if any formaldehyde emissions at the site. Once the project is built, emissions will begin at levels that pose significant health risks. Rather than excusing the City from addressing the impacts of carcinogens emitted into the indoor air from the project, the Supreme Court in *CBI* expressly finds that this type of effect by the project on the environment and a “project’s users and residents” must be addressed in the CEQA process.

The Supreme Court’s reasoning is well-grounded in CEQA’s statutory language. CEQA expressly includes a project’s effects on human beings as an effect on the environment that must be addressed in an environmental review. “Section 21083(b)(3)’s express language, for example, requires a finding of a ‘significant effect on the environment’ (§ 21083(b)) whenever the ‘environmental effects of a project will cause substantial adverse effects on human beings, directly or indirectly.’” (*CBI*, 62 Cal.4th at 800 [emph. in original].) Likewise, “the Legislature has made clear—in declarations accompanying CEQA’s enactment—that public health and safety are of great importance in the statutory scheme.” (*Id.*, citing e.g., §§ 21000, subds. (b), (c), (d), (g), 21001, subds. (b), (d).) It goes without saying that the future residents of the Project are

human beings and the health and safety of those residents and workers is as important to CEQA's safeguards as nearby residents currently living near the project site.

Because Mr. Offermann's expert comments constitute substantial evidence of a fair argument that the Project may have a significant health impact on future users of the Project, an EIR must be prepared to disclose and mitigate those impacts.

VI. Installation of Filters to Reduce Significant Impacts to a Level Below Significance Constitutes a Mitigation Measure. Use of this Mitigation Measure Must be Reflected in the Mitigation Monitoring and Reporting Program.

The City fails to include the filter mitigation measure in the Project MND's mitigation monitoring and reporting program ("MMRP"). The MND concedes that high efficiency minimum efficiency reporting value (MERV) filters of MERV 14 or greater will be installed throughout the Project, thereby bringing the cancer risk at the maximum exposed receptor to a level below significance thresholds, at 5.18 in one million. (MND, p. 37.) Both SAFER and VCAPCD have commented that such integration of the filters is a mitigation measure that must be reflected accurately in the MND.

In response, the City insists that the integration of filters is a project design feature and not a mitigation measure, thereby failing to include it in the MMRP. This is violative of CEQA for a couple reasons. First, installation of air filters is a mitigation measure. CEQA provides that "the discussion of mitigation measures shall distinguish between the measures which are proposed... to be included in the project and other measures proposed by the lead, responsible or trustee agency... if required as conditions of approving the project." (CEQA Guidelines § 15126.4(a)(1)(A).) As applied, the Applicant does not have discretion on installing the filters – the Project *must* abide by the City's municipal code by adopting Section 16-420J as a condition of approval. (Response to Comments, p. 3-166.) Furthermore, the City admits that without the installation of filters, the Project's impacts will exceed significant thresholds set by VCAPCD. (*Id.*) Therefore, the installation of filters as mitigation measures should not be read as a suggestion, but rather a mandate to reduce impacts below significance.

Additionally, CEQA requires that all mitigation measures must be included in the MMRP. A lead agency may impose conditions in a negative declaration that require monitoring of the permitted activities to ensure that potential impacts will not occur. Such conditions are acceptable if the actions required to avoid or minimize the potential impacts **are prescribed in the monitoring and enforcement program.** (*Running Fence Corp. v. Superior Court* (1975) 51 Cal.App.3d 400, 420 (emph. added).) By failing to include the use of filters to reduce the Project's air quality impacts in the MMRP, the MND is deficient.

As such, the proposed installation of high-quality MERV filters must be reflected as a mitigation measure in the MMRP. Unless and until this is included, the MND violates CEQA.

VII. There is Substantial Evidence of a Fair Argument that the Project May Have Significant Noise Impacts that were Inadequately Addressed.

The Project's determination of less-than-significant noise and vibration impacts remains unsubstantiated and there is substantial evidence of a fair argument that the Project may have potentially significant noise and vibration impacts that the City failed to adequately analyze and mitigate.

SAFER's independent experts at Wilson Ihrig reviewed the Project and related documents, including the Noise Study and Response to Comments, and concluded that the MND's noise report remains unsubstantiated and there may still be potentially significant noise impacts. Wilson Ihrig is an expert and renowned firm within the field of noise and vibration consulting. For this reason, the MND is improper and the City should instead prepare an EIR. Wilson Ihrig's comments and CV are attached as Exhibit F and G.

a. There is Substantial Evidence of a Fair Argument that the Project May Have Potentially Significant Impacts on Nearby University Campus.

The MND fails to sufficiently review or completely omits critical analyses related to the Project's potentially significant noise impacts. CEQA prohibits the use of an MND where there is substantial evidence of a fair argument that the Project may have potentially significant environmental impacts. The Noise Study fails to evaluate the Project's construction-related vibration impacts on off-site sensitive receptors. Wilson Ihrig underlines that the FTA guidance relied on for the Noise Study explains that "[b]uildings founded on the soil near the construction site [can] respond to these [construction] vibrations with ... slight damage at the highest [vibration] levels." (Ex. F, p. 3.)

While the MND acknowledged the presence of multiple sensitive receptors near the Project site, including medical buildings, senior living facilities, and a university campus, there is a reasonable possibility that the Project's construction vibration may adversely affect such buildings. (Ex. F, p. 3.) However, the MND fails to analyze these impacts. For example, the MND may have underreported potentially significant impacts on the nearby California Lutheran University ("CLU"). While the MND applies a 90 VdB threshold for "Workshops" for the university campus, the CLU building includes "classrooms, office space, clinical psychology research labs and student study space."⁴ As Wilson Ihrig notes, office spaces have an 84 VdB threshold. (Ex. G, p. 3.) Because the MND's predicted vibration level is 87 VdB for CLU, this will exceed the office threshold, therefore having a potentially significant impact on CLU. The omission of this construction vibration effects on sensitive receptors under-analyzes the Project's impacts, and Wilson Ihrig asserts that it should be studied in an EIR. (*Id.*)

b. The MND Fails to Accurately Analyze the Project's Noise Impacts.

The MND's Noise Study potentially underestimates the Project's noise impacts because it erroneously utilizes a less stringent threshold assessment. In particular, the Noise Study relies

⁴ <https://www.callutheran.edu/about/oxnard-center.html>.

on a threshold adopted from the FTA Construction Noise Handbook, but “the FTA advises assuming a usage factor of 1 when using a general assessment”, which this Project’s Noise Study does. Reviewing the Noise Study’s assessment, Wilson Ihrig underlines that such approach “significantly underestimates the potential impact of construction noise, especially since the modeled noise for the Site Preparation and Grading phases are 7 dBA over the 80 dBA threshold.” (Ex. F, p. 3.) In fact, Wilson Ihrig predicts that the Noise Study’s general assessment underestimates the noise impacts by seven decibels across the board. (*Id.*) The MND’s Noise Study, therefore, fails to capture the true extent of the Project’s noise impacts, and must instead review and assess these issues in an EIR.

In response, the City asserts that given that the Project is currently in the planning stage, the noise analysis was appropriately done. (Response to Comments, p. 3-170.) However, Wilson Ihrig maintains that the calculations are incorrect and inconsistent with the FTA guidelines. For example, Wilson Ihrig points to the City’s unsupported claims that the Project’s construction equipment may be fitted with noise-reducing devices or that equipment can be modified or redesigned to reduce noise impacts, neither of which are supported by substantial evidence. (Ex. G, p. 2.) However, Wilson Ihrig explains that equipping equipment with mufflers, as the MND suggests, is a decades-old practice and that such noise reductions may have already been accounted for in the noise analysis. (*Id.*)

c. The MND’s Use of the City’s Municipal Code to Analyze Operational Noise Impacts is Unsupported by Substantial Evidence.

The MND’s analysis of operational noise impacts is incomplete because it fails to properly analyze cumulative noise impacts. California courts have clearly held that “the lead agency should consider both the increase in noise level **and the absolute noise level associated with a project**”. (*Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 733 (emph. added) (“*Keep Our Mountains Quiet*”); see *King and Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 894 (citing *Keep Our Mountains Quiet*)). The courts have held that reliance on a maximum noise level as the sole threshold of significance for noise impacts violates CEQA because it fails to consider whether the magnitude of changes in noise levels is significant. (*King & Gardiner Farms, LLC*, 45 Cal.App.5th at 865.)

In *Keep our Mountains Quiet*, neighbors of a wedding venue sued over the County of Santa Clara’s failure to prepare an EIR for a proposed project to allow use permits for wedding and other party events at a residential property abutting an open space preserve. (See, *Keep our Mountains Quiet*.) Neighbors and their noise expert contended that previous events at the facility had caused significant noise impacts that reverberated in neighbors’ homes and disrupted the use and enjoyment of their property. (*Id.*, p. 724.)

Like the City’s noise threshold for this Project, the MND in *Keep Our Mountains Quiet* relied on the noise standards set forth in the County’s noise ordinance as its thresholds for significant noise exposure from the project, deeming any increase to be insignificant so long as the absolute noise level did not exceed those standards. (*Id.* at 732.) The Court examined a long line of CEQA cases which have uniformly held that conformity with land use regulations is not

conclusive of whether a project has significant noise impacts in holding that the County's reliance on the project's compliance with noise regulations did not constitute substantial evidence supporting the County's finding of no significant impacts. (*Id.*, citing *Citizens for Responsible & Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1338; *Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal.App.3d 872, 881–882; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1416 (project's effects can be significant even if "they are not greater than those deemed acceptable in a general plan"); *Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 354, ("CEQA nowhere calls for evaluation of the impacts of a proposed project on an existing general plan").

In *King and Gardiner Farms, LLC v. County of Kern*, the Court of Appeal cited *Keep Our Mountains Quiet* and decisions cited therein when it rejected the use of a single "absolute noise level" threshold of significance (construction and operational noise impacts were only deemed significant if they exceeded 65 dBA CNEL) on the grounds that the sole use of such a threshold fails to consider the magnitude or severity of increases in noise levels attributable to the project in different environments. The Court explained that the lead agency failed to "refer to evidence showing why the magnitude of an increase was irrelevant in determining the significance of a change in noise." (*King and Gardiner Farms, LLC, supra*, 45 Cal.App.5th 814, 894.)

In response to SAFER's earlier claim that the MND failed to analyze the operational noise impacts on nearby sensitive receptors, the City amended the MND to include an analysis for HVAC noise. The MND concludes that "the noise levels generated by these equipment types would not be substantially greater than those generated by the current HVAC equipment serving the existing buildings in the Project vicinity." (MND, p. 90.) This analysis is insufficient and precludes a comprehensive analysis of cumulative impacts because mere adherence to the city's noise ordinance is not substantial evidence of a finding that impacts may be less than significant.

Here, in utilizing the Oxnard Municipal Code as the only applicable noise threshold, the MND violates CEQA because the City did not analyze the cumulative increase in noise levels associated with the Project. In support of the MND's conclusion that the Project's operational noise will have less-than-significant impacts on sensitive receptors, the MND provides that "because the noise levels generated by the HVAC equipment serving the Proposed Project would be designed to not exceed the ambient noise levels allowable by the City of Oxnard Municipal Code, a substantial permanent increase in noise levels would not occur at the nearby sensitive receptors." (MND, p. 90.) This is incorrect because as Wilson Ihrig notes, "[t]he result is circular – the source levels would always be low enough using this method to ensure there is no impact, regardless of how unrealistic the source levels may be." (Ex. G, p. 2.) While the City has discretion to apply a significance threshold, it must evaluate both the increase in noise level *and* the absolute noise level associated with the Project. (*Keep Our Mountains Quiet v. Cty. of Santa Clara* (2015) 236 CA4th 714, 733.) The amended MND does not do so. Because the City relies on its own noise levels without taking into account the absolute and cumulative noise impacts, its conclusion that the Project's noise impacts will not exceed significance thresholds is not supported by substantial evidence.

There is at least a fair argument that the Project may have significant noise impacts. Therefore, the MND is improper and the City must instead prepare and circulate an EIR for review.

CONCLUSION

SAFER has submitted substantial evidence of a fair argument that the Project may have potentially significant environmental effects, and the MND prepared for the Project does not adequately analyze or mitigated the potentially significant environmental impacts stemming from the Project. Furthermore, the Project's failure to designate the minimum affordable housing units clearly violates the City's municipal code to grant the zone change. For the foregoing reasons, SAFER requests that the Planning Commission refrain from taking any action on the Project at this time. Instead, the City must supply the much-needed affordable housing required by the City's zoning code and must and prepare an EIR to analyze and mitigate the Project's potentially significant environmental impacts prior to Project approval. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marjan R. Abubo', is positioned above the printed name.

Marjan R. Abubo
LOZEAU DRURY LLP

Exhibit A

Shawn Smallwood, PhD
3108 Finch Street
Davis, CA 95616

Attn: Joe Pearson II
City of Oxnard Community Development Department
Planning Division
214 South C Street
Oxnard, California 93030

31 March 2024

RE: Lockwood III Apartments IS/MND

Dear Mr. Pearson,

I write to comment on potential impacts to biological resources that could result from the proposed Lockwood III Apartments Project, which I understand would add a five-story, 67.5-foot-tall, 373,069-square-foot residential building with 234 residential units and a 1,247 square-foot dog run among other amenities on 5.17 acres on Lockwood Street. I comment on the characterization of the existing environmental setting and on analyses of impacts to biological resources in the IS/MND (City of Oxnard 2024).

My qualifications for preparing expert comments are the following. I hold a Ph.D. degree in Ecology from University of California at Davis, where I also worked as a post-graduate researcher in the Department of Agronomy and Range Sciences. My research has been on animal density and distribution, habitat selection, wildlife interactions with the anthroposphere, and conservation of rare and endangered species. I authored many papers on these and other topics. I served as Chair of the Conservation Affairs Committee for The Wildlife Society – Western Section. I am a member of The Wildlife Society and Raptor Research Foundation, and I've lectured part-time at California State University, Sacramento. I was Associate Editor of wildlife biology's premier scientific journal, The Journal of Wildlife Management, as well as of Biological Conservation, and I was on the Editorial Board of Environmental Management. I have performed wildlife surveys in California for thirty-seven years. My CV is attached.

SITE VISIT

On my behalf, Noriko Smallwood, a wildlife biologist with a Master's Degree from California State University Los Angeles, visited the site of the proposed project for 3.63 hours from 07:26 to 11:04 hours on 28 March 2024. She walked the site's perimeter, stopping to scan for wildlife with use of binoculars. Noriko recorded all species of vertebrate wildlife she detected, including those whose members flew over the site or were seen nearby, off the site. Animals of uncertain species identity were either omitted or, if possible, recorded to the Genus or higher taxonomic level.

Conditions were cloudy to sunny with 3 mph north wind and temperatures of 51-61° F. The site was covered in annual grass with a few native shrubs and bordered by ornamental trees (Photos 1-3).



Photos 1-3. Views of the project site, 28 March 2024. Photos by Noriko Smallwood.

Noriko detected 25 species of vertebrate wildlife at or adjacent to the project site, including three species with special status (Table 1). Noriko saw American kestrel hunting on site (Photos 4 and 5), bushtit (Photos 6 and 16), western gull and barn swallow (Photos 7 and 8), white-crowned sparrow (Photos 9 and 10), yellow-rumped warbler (Photos 11 and 12), Cassin's kingbird and American crow (Photos, 13, 14, and 17), European starling (Photos 15 and 20), common raven (Photo 18), house sparrow

(Photo 19), house finch and rock pigeon (Photos 21 and 22), Botta's pocket gopher (Photo 23), Great Basin fence lizard and western side-blotched lizard (Photos 24 and 25), among the other species listed in Table 1.

Noriko Smallwood certifies that the foregoing and following survey results are true and accurately reported.

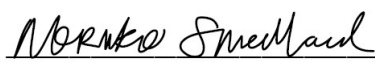

Noriko Smallwood

Table 1. Species of wildlife Noriko observed during 3.63 hours of survey on 28 March 2024.

Common name	Species name	Status ¹	Notes
Great Basin fence lizard	<i>Sceloporus occidentalis longipes</i>		Many, displays to each other
Western side-blotched lizard	<i>Uta stansburiana elegans</i>		
Mallard	<i>Anas platyrhynchos</i>		Flew over
Rock pigeon	<i>Columba livia</i>	Non-native	
Eurasian collared-dove	<i>Streptopelia decaocto</i>	Non-native	Flew over
Mourning dove	<i>Zenaida macroura</i>		Flew over
Anna's hummingbird	<i>Calypte anna</i>		Flew over, calling
Western gull	<i>Larus occidentalis</i>	BCC	Many flew over, perched nearby
Red-tailed hawk	<i>Buteo jamaicensis</i>	BOP	Two soaring nearby
American kestrel	<i>Falco sparverius</i>	BOP	Caught two lizards on site
Cassin's kingbird	<i>Tyrannus vociferans</i>		Displayed to each other
American crow	<i>Corvus brachyrhynchos</i>		
Common raven	<i>Corvus corax</i>		
Barn swallow	<i>Hirundo rustica</i>		Flew over, foraged nearby
Bushtit	<i>Psaltirparus minimus</i>		Gathered nest material
Northern mockingbird	<i>Mimus polyglottos</i>		Just off site
European starling	<i>Sturnus vulgaris</i>	Non-native	Gathered nest material, nesting in tower on site
House sparrow	<i>Passer domesticus</i>	Non-native	Just off site
House finch	<i>Haemorphous mexicanus</i>		
Lesser goldfinch	<i>Spinus psaltria</i>		
White-crowned sparrow	<i>Zonotrichia leucophrys</i>		Many, foraged
California towhee	<i>Melospiza crissalis</i>		Just off site
Yellow-rumped warbler	<i>Setophaga coronata</i>		Foraged
California ground squirrel	<i>Otospermophilus beecheyi</i>		Calling from adjacent site
Botta's pocket gopher	<i>Thomomys bottae</i>		Many burrows

¹ BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, and BOP = Birds of Prey (California Fish and Game Code 3503.5).



Photos 4 and 5. American kestrel flying with two separate lizards that it caught on site, 28 March 2024. Photos by Noriko Smallwood.



Photo 6. Bushtit on the project site, 28 March 2024. Photo by Noriko Smallwood.



Photos 7 and 8. Western gull (left), and barn swallow (right) flying over the project site, 28 March 2024. Photos by Noriko Smallwood.



Photos 9 and 10. White-crowned sparrows on the project site, 28 March 2024. Photos by Noriko Smallwood.



Photos 11 and 12. Yellow-rumped warblers on the project site, 28 March 2024. Photos by Noriko Smallwood.



Photos 13 and 14. Cassin's kingbirds displaying to each other (left) and an American crow sitting on its nest just off site (left), 28 March 2024. Photos by Noriko Smallwood.



Photos 15 and 16. European starling with nest material (left), and bushtit with nest material (right) on the project site, 28 March 2024. Photos by Noriko Smallwood.



Photos 17 and 18. American crow (left), and common raven (right) on the project site, 28 March 2024. Photos by Noriko Smallwood.



Photos 19 and 20. House sparrow adjacent to the project site (left), and European starling on the project site (right), 28 March 2024. Photos by Noriko Smallwood.



Photos 21 and 22. House finch (left), and rock pigeon (right) on the project site, 28 March 2024. Photos by Noriko Smallwood.



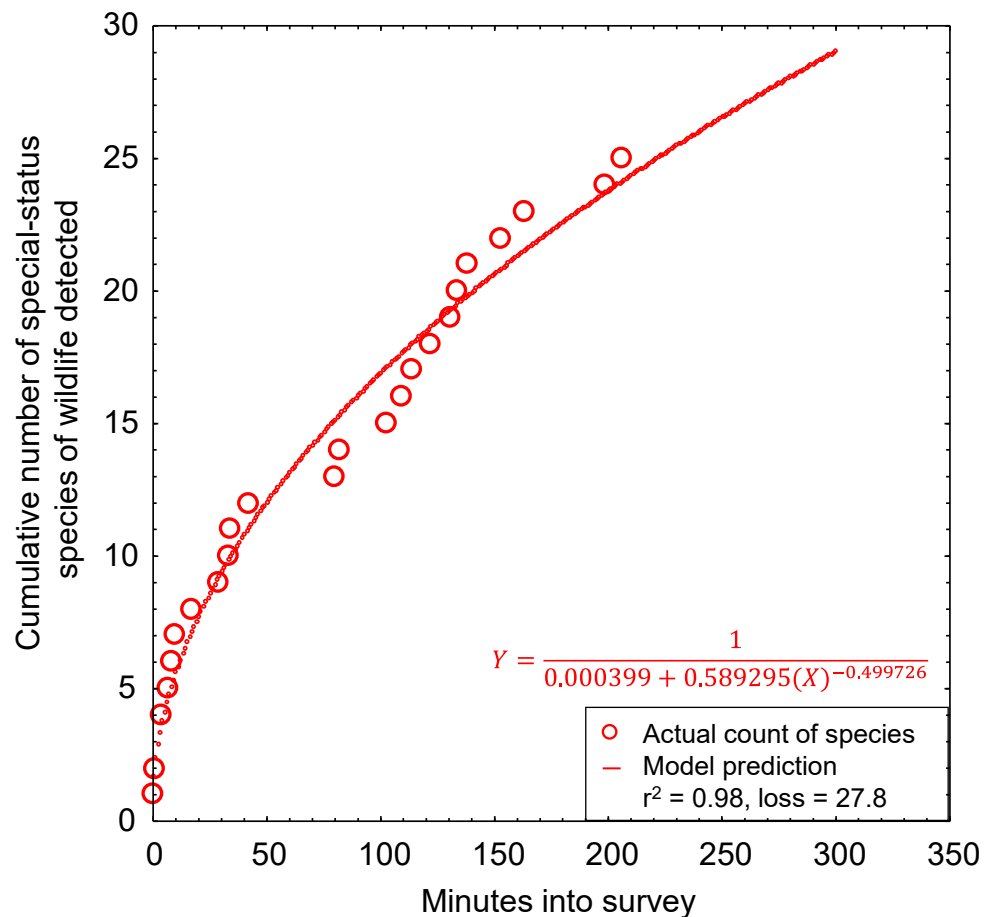
Photo 23. *Botta's pocket gopher across the street from the project site, 28 March 2024. Photo by Noriko Smallwood.*



Photos 24 and 25. Great Basin fence lizard (left) and western side-blotched lizard (bottom) on the project site, 28 March 2024. Photos by Noriko Smallwood.

I fit a nonlinear regression model to Noriko's cumulative number of vertebrate species detected with time into her 28 March 2024 survey to predict the number of species that she would have detected with a longer survey or perhaps with additional biologists available to assist her. The model is a logistic growth model which reaches an asymptote that corresponds with the maximum number of vertebrate wildlife species that could have been detected during the survey. In this case, the model predicts many more species of vertebrate wildlife were available to be detected on the morning of March 28th (Figure 1). Unfortunately, I do not know the identities of the undetected species, but the pattern in her data indicates more species could have been detected after more survey time at the site. Importantly, however, the species that Noriko did and did not detect on 28 March 2024 composed only a fraction of the species that would occur at the project site over the period of a year or longer. This is because many species are seasonal in their occurrences.

Figure 1. Actual and predicted relationships between the number of vertebrate wildlife species detected and the elapsed survey time based on Noriko's visual-scan survey on 28 March 2024. Note that the relationship would differ if the survey was based on another method or during another season.



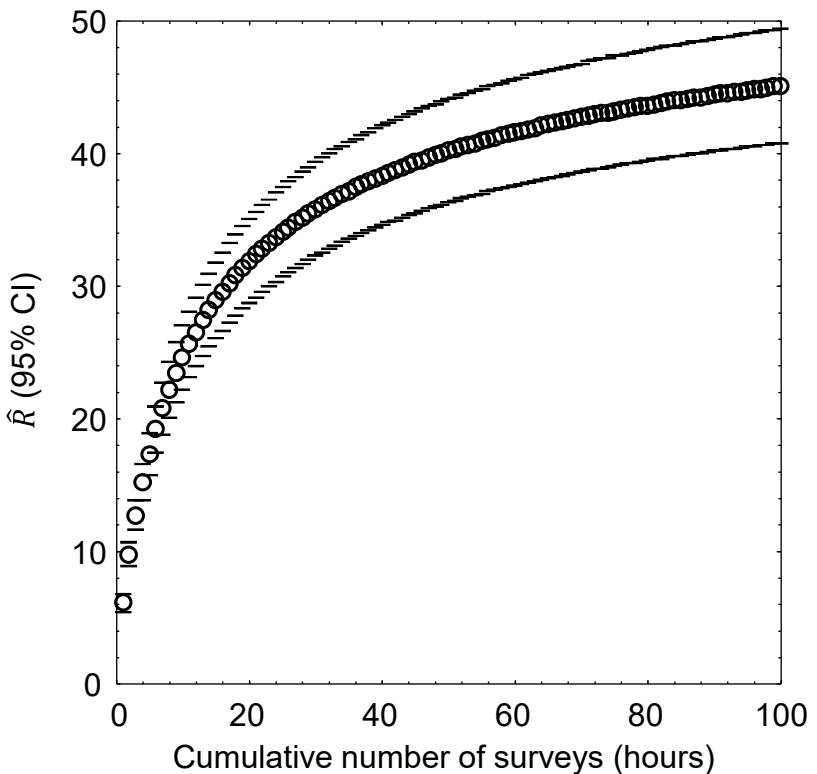
At least a year's worth of surveys would be needed to more accurately report the number of vertebrate species that occur at the project site, but I only have Noriko's one survey. However, by use of an analytical bridge, a modeling effort applied to a large, robust data set from a research site can predict the number of vertebrate wildlife species that likely make use of the site over the longer term. As part of my research, I completed a much larger survey effort across 167 km² of annual grasslands of the Altamont Pass Wind

Resource Area, where from 2015 through 2019 I performed 721 1-hour visual-scan surveys, or 721 hours of surveys, at 46 stations. I used binoculars and otherwise the methods were the same as the methods I and other consulting biologists use for surveys at proposed project sites. At each of the 46 survey stations, I tallied new species detected with each sequential survey at that station, and then related the cumulative species detected to the hours (number of surveys, as each survey lasted 1 hour) used to accumulate my counts of species detected. I used combined quadratic and simplex methods of estimation in Statistica to estimate least-squares, best-fit nonlinear models of the number of cumulative species detected regressed on hours of survey (number of surveys) at the station: $\hat{R} = \frac{1}{1/a + b \times (\text{Hours})^c}$, where $\hat{R}$ represented cumulative species richness detected. The coefficients of determination, r^2 , of the models ranged 0.88 to 1.00, with a mean of 0.97 (95% CI: 0.96, 0.98); or in other words, the models were excellent fits to the data.

I projected the predictions of each model to thousands of hours to find predicted asymptotes of wildlife species richness. The mean model-predicted asymptote of species richness was 57 after 11,857 hours of visual-scan surveys among the 46 stations of my research site. I also averaged model predictions of species richness at each incremental increase of number of surveys, i.e., number of hours (Figure 2). On average I would have detected 14.3 species over my first 3.63 hours of surveys at my research site in the Altamont Pass (3.63 hours to match the 3.63 hours Noriko surveyed at the project site), which composed 25% of the predicted total number of species I would detect with a much larger survey effort at the research site. Given the example illustrated in Figure 2, the 25 species Noriko detected after her 3.63 hours of survey at the project site likely represented 25% of the species to be detected after many more visual-scan surveys over another year or longer. With many more repeat surveys through the year, Noriko would likely detect $25/0.25 = 100$ species of vertebrate wildlife at the site. Assuming Noriko's ratio of special-status to non-special-status species was to hold through the detections of all 100 predicted species, then continued surveys would eventually detect 12 special-status species of vertebrate wildlife.

Because my prediction of 100 species of vertebrate wildlife, including 12 special-status species of vertebrate wildlife, is derived from daytime visual-scan surveys, and would detect few nocturnal mammals such as bats, the true number of species composing the wildlife community of the site must be larger. Noriko's reconnaissance survey should serve only as a starting point toward characterization of the site's wildlife community, but it certainly cannot alone inform of the inventory of species that use the site. More surveys are needed than her survey to inventory use of the project site by wildlife. Nevertheless, the large number of species I predict at the project site is indicative of a much more species-rich wildlife community than characterized in the IS/MND (see below), and warrants a serious survey effort.

Figure 2. Mean (95% CI) predicted wildlife species richness, $\hat{R}$, as a nonlinear function of hour-long survey increments across 46 visual-scan survey stations across the Altamont Pass Wind Resource Area, Alameda and Contra Costa Counties, 2015–2019. Note that the location of the study is largely irrelevant to the utility of the graph to the interpretation of survey outcomes at the project site. It is the pattern in the data that is relevant, because the pattern is typical of the pattern seen elsewhere.



EXISTING ENVIRONMENTAL SETTING

The first step in analysis of potential project impacts to biological resources is to accurately characterize the existing environmental setting, including the biological species that use the site, their relative abundances, how they use the site, key ecological relationships, and known and ongoing threats to those species with special status. A reasonably accurate characterization of the environmental setting can provide the basis for determining whether the site holds habitat value to wildlife, as well as a baseline against which to analyze potential project impacts. For these reasons, characterization of the environmental setting, including the project site's regional setting, is one of CEQA's essential analytical steps. Methods to achieve this first step typically include (1) surveys of the site for biological resources, and (2) reviews of literature, databases and local experts for documented occurrences of special-status species. In the case of the proposed project, these needed steps have been inadequate.

Environmental Setting informed by Field Surveys

To CEQA's primary objective to disclose potential environmental impacts of a proposed project, the analysis should be informed of which biological species are known to occur at the proposed project site, which special-status species are likely to occur, as well as the limitations of the survey effort directed to the site. Analysts need this information to characterize the environmental setting as a basis for opining on, or predicting, potential project impacts to biological resources.

On 8 August 2023, ESA deployed a biologist to perform a reconnaissance survey “to characterize existing conditions and determine the potential for sensitive biological resources [later said to be special-status species of plants and wildlife] to occur within the Project site or in a 200-foot buffer area.” According to the IS/MND, “land cover types were characterized and delineated,” as well. Unfortunately, the IS/MND does not report important methodological details that the reader needs to assess the meaning of the survey results. The IS/MND neglects to report when the survey started and how long the survey lasted. As far as I know, the survey could have started at the worst time of day for detecting wildlife, e.g., at 14:00 hours, and it could have lasted a mere 15 minutes. Also unreported is how ESA’s biologist assessed the project site’s potential for supporting various special-status species.

The only quantifiable outcome of ESA’s survey was the number of wildlife species detected. ESA’s biologist saw three species of vertebrate wildlife: American crow, California gull and black phoebe. Two of these species were not detected by Noriko Smallwood, who surveyed the site on 28 March 2024 on my behalf. However, ESA’s biologist did not detect 24 of the 25 species that Noriko detected. In only 3.63 hours of survey, Noriko detected more than eight times the number of species that ESA’s biologist detected. Whereas there are nearly always differences in which species are detected between surveys at a given site, Noriko and I do not experience anywhere near this magnitude of difference when we repeat our own surveys at a given site. The reconnaissance survey completed by ESA is inadequate, and it has been used to inaccurately characterize the existing environmental setting of the project site. Many more than three species of vertebrate wildlife exist at the project site.

ESA documented little of the breeding activity that Noriko saw and photographed (see Table 1 and Photos 13 to 16 and 24). Given the body sizes and ubiquity of some of the species, it is difficult to understand how they could have been missed by ESA. Noriko saw many western gulls at the site. Western gulls are large birds. How did ESA not see the western gulls? Red-tailed hawks are large birds. Cassin’s kingbirds and mourning doves are highly noticeable. Botta’s pocket gophers leave evidence of their presence all over the place, and Noriko even photo-captured at least one gopher looking about from one of its burrows (Photo 23). According to Noriko, lizards were abundant at the site, and sufficiently abundant that she witnessed one or more American kestrels capture at least two of them (see Photos 4 and 5). How did ESA miss all of these species?

Whereas ESA reportedly surveyed a 200-foot buffer around the project site, it missed the California ground squirrels just to the south side of Lockwood Street. The occurrence of the squirrels is especially significant because burrowing owls rely on ground squirrels and their burrows, and the occurrence of ground squirrels greatly increases the likelihood of use of the site by burrowing owls. According to ESA, “Suitable habitat for this species [Burrowing owl] was not detected. The vegetation was dense and tall and the small mammal burrows detected were not the appropriate size or morphology for this species.” That ESA failed to detect burrowing owl is of no surprise to me, considering that ESA detected 12% of the species Noriko did, but ESA’s determination of the site’s unsuitability to burrowing owls is grossly inaccurate. Photos 1–3 depict a grassland environment that typifies the environments where I have studied

burrowing owls in the highest-recorded densities in the published literature (Smallwood et al. 2013, Smallwood and Morrison 2018)). Furthermore, there were ground squirrels across the street.

A protocol-level detection survey (CDFW 2012) is warranted for burrowing owls at the project site, but has yet to be completed. Furthermore, ESA's reconnaissance survey achieved very few if any of the minimum standards of reconnaissance survey for special-status species of plants (CDFW 2018). Conclusions of potential project impacts to biological resources are too poorly founded on wildlife and plant surveys to be relied upon for decision-making.

Environmental Setting informed by Desktop Review

The purpose of literature and database review and of consulting with local experts is to inform the field survey, and to augment interpretation of its outcome. Analysts need this information to identify which species are known to have occurred at or near the project site, and to identify which other special-status species could conceivably occur at the site due to geographic range overlap and migration flight paths.

ESA did not reportedly review eBird (<https://eBird.org>) or iNaturalist (<https://www.inaturalist.org>) for documented occurrence records at or near the project site. Instead, ESA queried the California Natural Diversity Data Base (CNDDDB) for documented occurrences of special-status species within the USGS Quadrangle of the project site and the immediately surrounding Quadrangles. By taking this approach, the IS/MND immediately screens out many special-status species from further consideration in the characterization of the wildlife community as part of the existing environmental setting. CNDDDB is not designed to support absence determinations or to screen out species from characterization of a site's wildlife community. As noted by CNDDDB, *"The CNDDDB is a positive sighting database. It does not predict where something may be found. We map occurrences only where we have documentation that the species was found at the site. There are many areas of the state where no surveys have been conducted and therefore there is nothing on the map. That does not mean that there are no special status species present."* ESA and the IS/MND misuse CNDDDB.

CNDDDB relies entirely on volunteer reporting from biologists who were allowed access to whatever properties they report from. Many properties have never been surveyed by biologists. Many properties have been surveyed, but the survey outcomes never reported to CNDDDB. Many properties have been surveyed multiple times, but not all survey outcomes reported to CNDDDB. Furthermore, CNDDDB is interested only in the findings of special-status species, which means that species more recently assigned special status will have been reported many fewer times to CNDDDB than were species assigned special status since the inception of CNDDDB. The lack of many CNDDDB records for species recently assigned special status had nothing to do with whether the species' geographic ranges overlap the project site, but rather more to do with the brief time for records to have accumulated since the species were assigned special status. And because negative

findings are not reported to CNDDDB, CNDDDB cannot provide the basis for estimating occurrence likelihoods of species undocumented on the project site.

In my assessment based on database reviews and site visits, 121 special-status species of wildlife are known to occur near enough to the site to warrant analysis of occurrence potential (Table 2). Of these 121 species, 4 (3%) were recorded on or just off of the project site, and another 23 (19%) species have been documented within 1.5 miles of the site ('Very close'), another 52 (43%) within 1.5 and 4 miles ('Nearby'), and another 33 (27%) within 4 to 30 miles ('In region'). Nearly two-thirds (65%) of the species in Table 2 have been reportedly seen within 4 miles of the project site. The site therefore supports multiple special-status species of wildlife and carries the potential for supporting many more special-status species of wildlife based on proximity of recorded occurrences. The site is far richer in special-status species than is characterized in the IS/MND.

The IS/MND analyzes the occurrence likelihoods of only 8 (6.6%) of the special-status species in my Table 2. The IS/MND's smaller analytical effort results from its misuse of CNDDDB to screen out most of the species that could potentially occur at the project site (see comments above). Of the species the IS/MND analyzes, the IS/MND determines the occurrence likelihoods to be moderate for one species – California horned lark, and low for the other seven species. And for 113 special-status species in my Table 2, the IS/MND provides no occurrence likelihood determinations at all, including for four species documented on or next to the project site. The analysis is flawed from the IS/MND's initial misuse of CNDDDB to screen out special-status species from next-steps. Its determinations of occurrence likelihoods are also flawed (see below).

The IS/MND provides one over-arching reason for its decision to omit all special-status plant species and 45 special-status species of wildlife from its analysis, which was the disturbed nature of the study area and the absence of suitable habitat. However, no explanation is provided of why disturbance at the project site prevents all of these species whereas disturbance elsewhere does not prevent the occurrences of the same species. Every place in California is disturbed to some degree. The IS/MND provides no evidence of a threshold of disturbance that prevents the occurrences of special-status species of plants and animals, nor does it prevent evidence that such a threshold has been breached.

Of the seven species the IS/MND determines to have low occurrence potential, two have been documented within 1.5 miles of the project site and three have been documented within 1.5 and 4 miles of the site. The documented proximities of these species do not comport with the IS/MND's determinations.

Based on environmental conditions where I have observed California horned larks at other locations, I see no reason why horned larks should be determined to have a high rather than a moderate occurrence likelihood at the project site. Photos 1–3 show an environment that typifies where I have found this species. The site appears like the type of site where California horned larks breed.

Table 2. Occurrence likelihoods of special-status bird species at or near the proposed project site, according to eBird/iNaturalist records (<https://eBird.org>, <https://www.inaturalist.org>) and on-site survey findings, where ‘Very close’ indicates within 1.5 miles of the site, “nearby” indicates within 1.5 and 4 miles, and “in region” indicates within 4 and 30 miles, and ‘in range’ means the species’ geographic range overlaps the site. Entries in bold font identify species detected by Noriko.

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Monarch	<i>Danaus plexippus</i>	FC	Low	Very close
Crotch’s bumble bee	<i>Bombus crotchii</i>	CCE	Low	In region
Western spadefoot	<i>Spea hammondi</i>	SSC		In region
Western pond turtle	<i>Emys marmorata</i>	SSC		In region
Blainville’s horned lizard	<i>Phrynosoma blainvillii</i>	SSC	Low	Nearby
Coastal whiptail	<i>Aspidoscelis tigris stejnegeri</i>	SSC	Low	In region
San Diegan legless lizard	<i>Anniella stebbinsi</i>	SSC		Nearby
California glossy snake	<i>Arizona elegans occidentalis</i>	SSC		In range
Coast patch-nosed snake	<i>Salvadora hexalepis virgulata</i>	SSC		In region
Two-striped gartersnake	<i>Thamnophis hammondi</i>	SSC		In region
South coast gartersnake	<i>Thamnophis sirtalis pop. 1</i>	SSC		In region
Brant	<i>Branta bernicla</i>	SSC2		Nearby
Cackling goose (Aleutian)	<i>Branta hutchinsii leucopareia</i>	WL		Nearby
Redhead	<i>Aythya americana</i>	SSC2		Nearby
Harlequin duck	<i>Histrionicus histrionicus</i>	SSC2		In region
Western grebe	<i>Aechmophorus occidentalis</i>	BCC		Nearby
Clark’s grebe	<i>Aechmophorus clarkii</i>	BCC		Nearby
Western yellow-billed cuckoo	<i>Coccyzus americanus occidentalis</i>	FT, CE, BCC		Nearby
Black swift	<i>Cypseloides niger</i>	SSC3, BCC		Nearby
Vaux’s swift	<i>Chaetura vauxi</i>	SSC2, BCC		Nearby
Costa’s hummingbird	<i>Calypte costae</i>	BCC		Nearby
Rufous hummingbird	<i>Selasphorus rufus</i>	BCC		Very close
Allen’s hummingbird	<i>Selasphorus sasin</i>	BCC		Very close
Lesser sandhill crane	<i>Antigone canadensis canadensis</i>	SSC3		In region
American avocet ²	<i>Recurvirostra americana</i>	BCC		Nearby

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Mountain plover	<i>Charadrius montanus</i>	SSC2, BCC		In region
Snowy plover	<i>Charadrius nivosus</i>	BCC		Nearby
Western snowy plover	<i>Charadrius nivosus nivosus</i>	FT, SSC, BCC		In region
Whimbrel ²	<i>Numenius phaeopus</i>	BCC		Very close
Long-billed curlew	<i>Numenius americanus</i>	WL		Nearby
Marbled godwit	<i>Limosa fedoa</i>	BCC		Nearby
Red knot (Pacific)	<i>Calidris canutus</i>	BCC		In region
Short-billed dowitcher	<i>Limnodromus griseus</i>	BCC		In region
Willet	<i>Tringa semipalmata</i>	BCC		Nearby
Laughing gull	<i>Leucophaeus atricilla</i>	WL		In region
Heermann's gull	<i>Larus heermanni</i>	BCC		Nearby
Western gull	<i>Larus occidentalis</i>	BCC		On site
California gull	<i>Larus californicus</i>	BCC, WL	Observed	On site
California least tern	<i>Sternula antillarum browni</i>	FE, CE, FP		Nearby
Black tern	<i>Chlidonias niger</i>	SSC2, BCC		Nearby
Elegant tern	<i>Thalasseus elegans</i>	BCC, WL		Nearby
Black skimmer	<i>Rynchops niger</i>	BCC, SSC3		Nearby
Common loon	<i>Gavia immer</i>	SSC		Nearby
Wood stork	<i>Mycteria americana</i>	SSC1		Nearby
Brandt's cormorant	<i>Urile penicillatus</i>	BCC		Nearby
Double-crested cormorant	<i>Phalacrocorax auritus</i>	WL		Nearby
American white pelican	<i>Pelicanus erythrorhynchos</i>	SSC1, BCC		Very close
California brown pelican	<i>Pelecanus occidentalis californicus</i>	FP		In region
Least bittern	<i>Ixobrychus exilis</i>	SSC2		In region
White-faced ibis	<i>Plegadis chihi</i>	WL		Very close
Turkey vulture	<i>Cathartes aura</i>	BOP		Very close
Osprey	<i>Pandion haliaetus</i>	WL, BOP		Very close
White-tailed kite	<i>Elanus luecurus</i>	CFP, BOP		Very close
Golden eagle	<i>Aquila chrysaetos</i>	BGEPA, CFP, BOP, WL		Nearby

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Northern harrier	<i>Circus cyaneus</i>	BCC, SSC3, BOP		Very close
Sharp-shinned hawk	<i>Accipiter striatus</i>	WL, BOP		Nearby
Cooper's hawk	<i>Accipiter cooperii</i>	WL, BOP		Very close
Bald eagle	<i>Haliaeetus leucocephalus</i>	CE, BGEPA, BOP		Nearby
Red-shouldered hawk	<i>Buteo lineatus</i>	BOP		Very close
Swainson's hawk	<i>Buteo swainsoni</i>	CT, BOP		Nearby
Red-tailed hawk	<i>Buteo jamaicensis</i>	BOP		Very close
Ferruginous hawk	<i>Buteo regalis</i>	WL, BOP	Low	Nearby
Zone-tailed hawk	<i>Buteo albonotatus</i>	BOP		Nearby
Harris' hawk	<i>Parabuteo unicinctus</i>	WL, BOP		In region
Rough-legged hawk	<i>Buteo lagopus</i>	BOP		In region
Barn owl	<i>Tyto alba</i>	BOP		Nearby
Western screech-owl	<i>Megascops kennicotti</i>	BOP		Nearby
Great horned owl	<i>Bubo virginianus</i>	BOP		Very close
Burrowing owl	<i>Athene cunicularia</i>	BCC, SSC2, BOP	Low	Nearby
Long-eared owl	<i>Asio otus</i>	BCC, SSC3, BOP		In region
Short-eared owl	<i>Asia flammeus</i>	BCC, SSC3, BOP		In region
Lewis's woodpecker	<i>Melanerpes lewis</i>	BCC		Nearby
Nuttall's woodpecker	<i>Picoides nuttallii</i>	BCC		Nearby
American kestrel	<i>Falco sparverius</i>	BOP		On site
Merlin	<i>Falco columbarius</i>	WL, BOP		Very close
Peregrine falcon	<i>Falco peregrinus</i>	BOP	Low	Very close
Prairie falcon	<i>Falco mexicanus</i>	WL, BOP		Nearby
Olive-sided flycatcher	<i>Contopus cooperi</i>	BCC, SSC2		Nearby
Willow flycatcher	<i>Empidonax traillii</i>	CE		Nearby
Southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	FE, CE		In region
Vermilion flycatcher	<i>Pyrocephalus rubinus</i>	SSC2		Nearby
Least Bell's vireo	<i>Vireo bellii pusillus</i>	FE, CE		Nearby
Loggerhead shrike	<i>Lanius ludovicianus</i>	SSC2		Nearby

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Oak titmouse	<i>Baeolophus inornatus</i>	BCC		Very close
California horned lark	<i>Eremophila alpestris actia</i>	WL	Moderate	Very close
Bank swallow	<i>Riparia riparia</i>	CT		Nearby
Purple martin	<i>Progne subis</i>	SSC2		Nearby
Wrentit	<i>Chamaea fasciata</i>	BCC		Very close
California gnatcatcher	<i>Polioptila c. californica</i>	FT, SSC2		In region
California thrasher	<i>Toxostoma redivivum</i>	BCC		Very close
Cassin's finch	<i>Haemorhous cassinii</i>	BCC		In region
Lawrence's goldfinch	<i>Spinus lawrencei</i>	BCC		Nearby
Grasshopper sparrow	<i>Ammodramus savannarum</i>	SSC2		Very close
Black-chinned sparrow	<i>Spizella atrogularis</i>	BCC		In region
Gray-headed junco	<i>Junco hyemalis caniceps</i>	WL		In region
Bell's sparrow	<i>Amphispiza b. belli</i>	WL		In region
Belding's savannah sparrow ³	<i>Passerculus sandwichensis beldingi</i>	CE, BCC		Nearby
Large-billed savannah sparrow ³	<i>Passerculus sandwichensis rostratus</i>	SSC2		In region
Southern California rufous-crowned sparrow	<i>Aimophila ruficeps canescens</i>	WL		Nearby
Yellow-breasted chat	<i>Icteria virens</i>	SSC3		Nearby
Yellow-headed blackbird	<i>Xanthocephalus xanthocephalus</i>	SSC3		Nearby
Bullock's oriole	<i>Icterus bullockii</i>	BCC		Very close
Tricolored blackbird	<i>Agelaius tricolor</i>	CT, BCC, SSC1		Nearby
Lucy's warbler	<i>Leiothlypis luciae</i>	SSC3, BCC		Very close
Virginia's warbler	<i>Leiothlypis virginiae</i>	WL, BCC		Nearby
Yellow warbler	<i>Setophaga petechia</i>	SSC2		Very close
Summer tanager	<i>Piranga rubra</i>	SSC1		Nearby
Pallid bat	<i>Antrozous pallidus</i>	SSC, WBWG:H		In region
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	SSC, WBWG:H		In range
Silver-haired bat	<i>Lasionycteris noctivagans</i>	WBWG:M		In range
Western red bat	<i>Lasiurus blossevillii</i>	SSC, WBWG:H		In range

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Hoary bat	<i>Lasiurus cinereus</i>	WBWG:M		In region
Western yellow bat	<i>Lasiurus xanthinus</i>	SSC, WBWG:H		In range
Western small-footed myotis	<i>Myotis cililabrum</i>	WBWG:M		In range
Miller's myotis	<i>Myotis evotis</i>	WBWG:M		In region
Little brown myotis	<i>Myotis lucifugus</i>	WBWG:M		In region
Fringed myotis	<i>Myotis thysanodes</i>	WBWG:H		In range
Long-legged myotis	<i>Myotis volans</i>	WBWG:H		In range
Yuma myotis	<i>Myotis yumanensis</i>	WBWG:LM		In region
Western mastiff bat	<i>Eumops perotis</i>	SSC, WBWG:H		In range
American badger	<i>Taxidea taxus</i>	SSC		In region

¹ Listed as FT or FE = federal threatened or endangered, FC = federal candidate for listing, BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, CT or CE = California threatened or endangered, CCT or CCE = Candidate California threatened or endangered, CFP = California Fully Protected (California Fish and Game Code 3511), SSC = California Species of Special Concern (not threatened with extinction, but rare, very restricted in range, declining throughout range, peripheral portion of species' range, associated with habitat that is declining in extent), SSC1, SSC2 and SSC3 = California Bird Species of Special Concern priorities 1, 2 and 3, respectively (Shuford and Gardali 2008), WL = Taxa to Watch List (Shuford and Gardali 2008), and BOP = Birds of Prey (CFG Code 3503.5), and WBWG = Western Bat Working Group with priority rankings, of low (L), moderate (M), and high (H).

² Uncertain if BCC based on 2021 Bird of Conservation Concern list.

³ Uncertain of subspecies, but either resident Belding's or wintering large-billed savannah sparrows.

For each of the species of wildlife the IS/MND determines to have low occurrence potential, flawed reasons are reported. For example, the IS/MND reports that “the site is frequently disturbed and lacks connectivity to high quality habitat” of Crotch’s bumble bee. Again, the IS/MND fails to define a disturbance threshold that prevents the species at issue. The IS/MND fails to define that level of connectivity to high quality habitat that is needed, nor does it explain what it means by high quality habitat. (Habitat quality is typically represented by measures of productivity.)

Referring to Monarch, the IS/MND reports that “Suitable roosting habitat for this species does not occur within the site and host plant species were not detected.” However, this reporting implies that roosting habitat is the only resource that needs to be considered for Monarch. It is not. According to the conservation strategy of the Western Monarch Butterfly Conservation Plan, migratory habitats are no less important to the conservation of monarchs than are overwintering groves, and the Plan identifies urban areas as contributive to migratory habitat.

Referring to both coastal whiptail and coast horned lizard, the IS/MND reports that “Suitable habitat for this species does not occur within the site due to the existing level of disturbance from operating activities.” Repeating the flaw noted above, the IS/MND fails to define a disturbance threshold that prevents either species from occurring at the project site. How is it that western side-blotched lizards and Great Basin fence lizards both occur at the project site in abundance, but the disturbance of the site prevents the occurrences of special-status species? The IS/MND presents no evidence that either of these species should be determined to have low occurrence potential.

As for Ferruginous hawk, the IS/MND points out that “Suitable nesting habitat does not occur within the project site, however, there is low potential for foraging.” Whether nesting habitat is suitable on the project site is not an issue for this species. Ferruginous hawks nest far to the north, but must find sufficient forage in southern California over the winter in order to successfully nest up north. Ferruginous hawks are winter migrants to the area, and in my experience, they hunt over fields just like the project site (Photo 26). The project does not provide “low potential for foraging,” as there are many of the pocket gophers and other animals that ferruginous hawks hunt.

Referring to peregrine falcon, the IS/MND claims, “the closest foraging habitat is located over 2 miles northwest.” However, this assertion is inaccurate. The closest foraging opportunities are to be found on the project site. I have many times witnessed peregrine falcons foraging over fields just like the project site. For example, I witnessed multiple members of a family of peregrine falcons forage over a field I surveyed 14 times in Bakersfield, California – a field that was repeatedly disked and sometimes covered in trash. These peregrine falcons captured ground squirrels and birds (one was a mourning dove, which is a species Noriko saw on the project site) and carried them to their nest on a water tower 800 m away. Peregrine falcons could very well forage successfully at the project site, and they could nest in the tower mentioned by the ESA biologist.

Photo 26. *A ferruginous hawk attempts to grab a pocket gopher on a southern California field that looks not too unlike the project site.*



POTENTIAL BIOLOGICAL IMPACTS

An impacts analysis should consider whether and how a proposed project would affect members of a species, larger demographic units of the species, the whole of a species, and ecological communities. The accuracy of this analysis depends on an accurate characterization of the existing environmental setting. In the case of the proposed project, the existing environmental setting has not been accurately characterized, and several important types of potential project impacts have been inadequately analyzed. These types of impacts include habitat loss, interference with wildlife movement, bird-window collision mortality, wildlife-automobile collision mortality, house cat depredation, and parasitic loading from the dog run.

HABITAT LOSS

Between ESA's and Noriko's surveys, 27 species of vertebrate wildlife were documented on the project site, including 4 special-status species. Noriko's findings examined through an analytical bridge to my research work at an expansive study site predicts use of the project site by at least 100 species of vertebrate wildlife including 12 special-status species. Converting the site to the impervious surfaces of an apartment complex and to open space to be used as a dog run would eliminate the project site's productive capacity to all of the wildlife species that currently use it.

The IS/MND makes no attempt to estimate this lost capacity for any of the wildlife species potentially affected. In the case of birds, two methods exist for estimating the loss of productive capacity that would be caused by the project. One method would involve surveys to count the number of bird nests and chicks produced. The alternative method would be to infer productive capacity from estimates of total nest density elsewhere.

Because the project is located within an area that has undergone severe habitat fragmentation, the habitat that remains in fragmented patches probably no longer supports its original productive capacity of wildlife (Smallwood 2015). Habitat fragmentation and habitat loss have been recognized as the most likely leading causes of a documented 29% decline in overall bird abundance across North America over the last 48 years (Rosenberg et al. 2019). Habitat loss not only results in the immediate numerical decline of wildlife, but it also results in permanent loss of productive capacity. Habitat fragmentation multiplies the negative effects of habitat loss on the productive capacities of biological species (Smallwood 2015). Several studies have estimated total avian nest density at locations that had likewise been highly fragmented. Two study sites in grassland/wetland/woodland complexes within agricultural matrices had total bird nesting densities of 32.8 and 35.8 nests per acre (Young 1948, Yahner 1982) for an average 34.3 nests per acre. To acquire a total nest density closer to conditions in California, Noriko surveyed through the breeding season of 2023 over 4.29 acres of grassland in the San Jacinto Wildlife Area, where she tabulated 3.72 bird nests/acre. Applying her estimated total nest density to the project site's 5.17 acres of grassland predicts 19 bird nest sites. Assuming 1.39 broods per nest site based on Noriko's review of 322 North American bird species, which averaged 1.39 broods per year, then I predict the project would cost California 26 nest attempts/year.

The loss of 19 nest sites and 26 nest attempts/year would qualify as significant project impacts that has not been quantitatively addressed in the IS/MND. But the impact would not end with the immediate loss of nest sites as nest substrate is removed and foraging grounds graded in preparation for impervious surfaces. The reproductive capacity of the site would be lost. The average number of fledglings per nest in Young's (1948) study was 2.9. Assuming Young's (1948) study site typifies bird productivity, the project would prevent the production of 183 fledglings per year. Assuming an average bird generation time of 5 years, the lost capacity of both breeders and annual fledgling production can be estimated from an equation in Smallwood (2022): $\{(nests/year \times chicks/nest \times number\ of\ years) + (2\ adults/nest \times nests/year) \times (number\ of\ years \div years/generation)\} \div (number\ of\ years) = 83\ birds\ per\ year\ denied\ to\ California.$

INTERFERENCE WITH WILDLIFE MOVEMENT

One of CEQA's principal concerns regarding potential project impacts is whether a proposed project would interfere with wildlife movement in the region. Unfortunately, the IS/MND's analysis of whether the project would interfere with wildlife movement in the region is flawed and misleading. According to the IS/MND, "Wildlife corridors are not present within the Project site, which is surrounded by fencing and urban development. Thus, the Project would not result in impacts to existing wildlife corridors or affect wildlife movement." The IS/MND's conclusion lacks supporting evidence. The IS/MND reports no survey methodology designed to determine whether wildlife rely on the site for movement in the region. ESA implemented no sampling regime nor any program of observation to record wildlife movement patterns. ESA attempted neither to quantify nor even to qualitatively assess wildlife movement as evidence of the project's contribution to movement in the region. The conclusion in the IS/MND regarding wildlife movement is only speculative and conclusory. Not only is the IS/MND's

conclusion unfounded, but Noriko found that the site was heavily used by wildlife, including by birds flying to, from, and over the site. Because much of the surrounding area is developed, the site is one of the last remaining wildlife stopover opportunities in the region.

Furthermore, the IS/MND's premise that a wildlife corridor must overlap the project site in order for the project to interfere with wildlife movement represents a false CEQA standard, and is therefore inappropriate to the analysis. The primary phrase of the CEQA standard goes to wildlife movement regardless of whether the movement is channeled by a corridor. A site such as the proposed project site is critically important for wildlife movement because it composes an increasingly diminishing area of open space within a growing expanse of anthropogenic uses, forcing more species of volant wildlife to use the site for stopover and staging during migration, dispersal, and home range patrol (Warnock 2010, Taylor et al. 2011, Runge et al. 2014). The project would cut wildlife off from stopover and staging opportunities, forcing volant wildlife to travel even farther between remaining stopover sites. The project would interfere with wildlife movement in the region.

BIRD-WINDOW COLLISIONS

Considering the project would add a five-story, 67.5-foot-tall, 373,069-square-foot residential building with 234 residential units, along with many glass windows on the building's facades, the IS/MND neglects a large portion of habitat that is essential to many species. To understand this part of their habitat, one must consider the definition of habitat, which is a species' use of the environment (Hall et al. 1997, Morrison et al. 1998, Smallwood 2002). The gaseous atmosphere, or aerosphere, is a principal medium of life to volant animals such as birds (Davy et al. 2017, Diehl et al. 2017). The aerosphere is where birds and bats and other volant animals with wings migrate, disperse, forage, perform courtship and where some of them mate. Birds are some of the many types of animals that evolved wings as a morphological adaptation to thrive by moving through the medium of the aerosphere. The aerosphere is habitat. Indeed, an entire discipline of ecology has emerged to study this essential aspect of habitat – the discipline of aeroecology (Kunz et al. 2008).

Many special-status species of birds have been recorded at or near the aerosphere of the project site. My database review and the site visits indicate there are 96 special-status species of birds with potential to use the site's aerosphere (Table 2). Of these, 3 have been recorded on or over the project site, 23 within 1.5 miles of the site ('Very close'), 50 within 1.5 and 4 miles ('Nearby'), and another 20 within 4 to 30 miles ('In region'). The birds reported within all these distance domains from the project site can quickly fly those distances, so they would all be within short flights of the proposed project's windows.

Window collisions are often characterized as either the second or third largest source or human-caused bird mortality. The numbers behind these characterizations are often attributed to Klem's (1990) and Dunn's (1993) estimates of about 100 million to 1 billion bird fatalities in the USA, or more recently by Loss et al.'s (2014) estimate of 365-988

million bird fatalities in the USA or Calvert et al.'s (2013) and Machtans et al.'s (2013) estimates of 22.4 million and 25 million bird fatalities in Canada, respectively. The proposed project would impose windows in the airspace normally used by birds.

Glass-façades of buildings intercept and kill many birds, but these façades are differentially hazardous to birds based on spatial extent, contiguity, orientation, and other factors. At Washington State University, Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a three-story glass walkway (no fatality adjustments attempted). Prior to marking the windows to warn birds of the collision hazard, the collision rate was 84.7 per year. At that rate, and not attempting to adjust the fatality estimate for the proportion of fatalities not found, 4,574 birds were likely killed over the 54 years since the start of their study, and that's at a relatively small building façade. Accounting for the proportion of fatalities not found, the number of birds killed by this walkway over the last 54 years would have been about 14,270. And this is just for one 3-story, glass-sided walkway between two college campus buildings.

Klem's (1990) estimate was based on speculation that 1 to 10 birds are killed per building per year, and this speculated range was extended to the number of buildings estimated by the US Census Bureau in 1986. Klem's speculation was supported by fatality monitoring at only two houses, one in Illinois and the other in New York. Also, the basis of his fatality rate extension has changed greatly since 1986. Whereas his estimate served the need to alert the public of the possible magnitude of the bird-window collision issue, it was highly uncertain at the time and undoubtedly outdated more than three decades hence. Indeed, by 2010 Klem (2010) characterized the upper end of his estimated range – 1 billion bird fatalities – as conservative. Furthermore, the estimate lumped species together as if all birds are the same and the loss of all birds to windows has the same level of impact.

By the time Loss et al. (2014) performed their effort to estimate annual USA bird-window fatalities, many more fatality monitoring studies had been reported or were underway. Loss et al. (2014) incorporated many more fatality rates based on scientific monitoring, and they were more careful about which fatality rates to include. However, they included estimates based on fatality monitoring by homeowners, which in one study were found to detect only 38% of the available window fatalities (Bracey et al. 2016). Loss et al. (2014) excluded all fatality records lacking a dead bird in hand, such as injured birds or feather or blood spots on windows. Loss et al.'s (2014) fatality metric was the number of fatalities per building (where in this context a building can include a house, low-rise, or high-rise structure), but they assumed that this metric was based on window collisions. Because most of the bird-window collision studies were limited to migration seasons, Loss et al. (2014) developed an admittedly assumption-laden correction factor for making annual estimates. Also, only 2 of the studies included adjustments for carcass persistence and searcher detection error, and it was unclear how and to what degree fatality rates were adjusted for these factors. Although Loss et al. (2014) attempted to account for some biases as well as for large sources of uncertainty mostly resulting from an opportunistic rather than systematic sampling data source,

their estimated annual fatality rate across the USA was highly uncertain and vulnerable to multiple biases, most of which would have resulted in fatality estimates biased low.

In my review of bird-window collision monitoring, I found that the search radius around homes and buildings was very narrow, usually 2 meters. Based on my experience with bird collisions in other contexts, I would expect that a large portion of bird-window collision victims would end up farther than 2 m from the windows, especially when the windows are higher up on tall buildings. In my experience, searcher detection rates tend to be low for small birds deposited on ground with vegetation cover or woodchips or other types of organic matter. Also, vertebrate scavengers entrain on anthropogenic sources of mortality and quickly remove many of the carcasses, thereby preventing the fatality searcher from detecting these fatalities. Adjusting fatality rates for these factors – search radius bias, searcher detection error, and carcass persistence rates – would greatly increase nationwide estimates of bird-window collision fatalities.

Buildings can intercept many nocturnal migrants as well as birds flying in daylight. As mentioned above, Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a four-story glass walkway at Washington State University (no adjustments attempted for undetected fatalities). Somerlot (2003) found 21 bird fatalities among 13 buildings on a university campus within only 61 days. Monitoring twice per week, Hager et al. (2008) found 215 bird fatalities of 48 species, or 55 birds/building/year, and at another site they found 142 bird fatalities of 37 species for 24 birds/building/year. Gelb and Delacretaz (2009) recorded 5,400 bird fatalities under buildings in New York City, based on a decade of monitoring only during migration periods, and some of the high-rises were associated with hundreds of fatalities each. Klem et al. (2009) monitored 73 building façades in New York City during 114 days of two migratory periods, tallying 549 collision victims, nearly 5 birds per day. Borden et al. (2010) surveyed a 1.8 km route 3 times per week during 12-month period and found 271 bird fatalities of 50 species. Parkins et al. (2015) found 35 bird fatalities of 16 species within only 45 days of monitoring under 4 building façades. From 24 days of survey over a 48-day span, Porter and Huang (2015) found 47 fatalities under 8 buildings on a university campus. Sabo et al. (2016) found 27 bird fatalities over 61 days of searches under 31 windows. In San Francisco, Kahle et al. (2016) found 355 collision victims within 1,762 days under a 5-story building. Ocampo-Peñuela et al. (2016) searched the perimeters of 6 buildings on a university campus, finding 86 fatalities after 63 days of surveys. One of these buildings produced 61 of the 86 fatalities, and another building with collision-deterrent glass caused only 2 of the fatalities, thereby indicating a wide range in impacts likely influenced by various factors. There is ample evidence available to support my prediction that the proposed project would result in many collision fatalities of birds.

Project Impact Prediction

By the time of these comments, I had reviewed and processed results of bird collision monitoring at 213 buildings and façades for which bird collisions per m² of glass per year could be calculated and averaged (Johnson and Hudson 1976, O'Connell 2001, Somerlot 2003, Hager et al. 2008, Borden et al. 2010, Hager et al. 2013, Porter and

Huang 2015, Parkins et al. 2015, Kahle et al. 2016, Ocampo-Peñuela et al. 2016, Sabo et al. 2016, Barton et al. 2017, Gomez-Moreno et al. 2018, Schneider et al. 2018, Loss et al. 2019, Brown et al. 2020, City of Portland Bureau of Environmental Services and Portland Audubon 2020, Riding et al. 2020). These study results averaged 0.073 bird deaths per m² of glass per year (95% CI: 0.042-0.102). This average and its 95% confidence interval provide a robust basis for predicting fatality rates at a proposed new project.

The IS/MND does not disclose the extent of glass windows and glass railings on the proposed new building. I therefore used the building schematics in the IS/MND to measure the extent of windows. I measured windows along 10% of the building's façades, and then projected the total area of the windows measured to the entire building. I estimated 4,000 m² of exterior glass, not including glass railings. Applying the mean fatality rate (above) to my estimate of 4,000 m² of window glass in the project, I predict annual bird deaths of 292 (95% CI: 174–411).

The vast majority of these deaths would be of birds protected under the Migratory Bird Treaty Act and under the recently revised California Migratory Bird Protection Act, thus causing significant unmitigated impacts. Given the predicted level of bird-window collision mortality, and the lack of any proposed mitigation, it is my opinion that the proposed project would result in potentially significant adverse biological impacts. There is at least a fair argument for the need to prepare an EIR to appropriately analyze the impact of bird-glass collisions that might be caused by the project.

TRAFFIC IMPACTS TO WILDLIFE

Project-generated traffic would endanger wildlife that must, for various reasons, cross roads used by the project's traffic to get to and from the project site (Photos 27–29), including along roads far from the project footprint. Vehicle collisions have accounted for the deaths of many thousands of amphibian, reptile, mammal, bird, and arthropod fauna, and the impacts have often been found to be significant at the population level (Forman et al. 2003). Across North America traffic impacts have taken devastating tolls on wildlife (Forman et al. 2003). In Canada, 3,562 birds were estimated killed per 100 km of road per year (Bishop and Brogan 2013), and the US estimate of avian mortality on roads is 2,200 to 8,405 deaths per 100 km per year, or 89 million to 340 million total per year (Loss et al. 2014). Local impacts can be more intense than nationally.

Photo 27. A Gambel's quail dashes across a road on 3 April 2021. Such road crossings are usually successful, but too often prove fatal to the animal. Photo by Noriko Smallwood.



Photo 28. Mourning dove killed by vehicle on a California road. Photo by Noriko Smallwood, 21 June 2020.



Photo 29 Raccoon killed on Road 31 just east of Highway 505 in Solano County. Photo taken on 10 November 2018.

The nearest study of traffic-caused wildlife mortality was performed along a 2.5-mile stretch of Vasco Road in Contra Costa County, California. Fatality searches in this study found 1,275 carcasses of 49 species of mammals, birds, amphibians and reptiles over 15 months of searches (Mendelsohn et al. 2009). This fatality number needs to be adjusted for the proportion of fatalities that were not found due to scavenger removal and searcher error. This adjustment is typically made by placing carcasses for searchers to find (or not find) during their routine periodic fatality searches. This step was not taken at Vasco Road (Mendelsohn et al. 2009), but it was taken as part of another study next to Vasco Road (Brown et al. 2016). Brown et al.'s (2016) adjustment factors for carcass persistence resembled those of Santos et al. (2011). Also applying searcher detection rates from Brown et al. (2016), the adjusted total number of fatalities was estimated at 12,187 animals killed by traffic on the road. This fatality number over 1.25 years and 2.5 miles of road translates to 3,900 wild animals per mile per year. In terms comparable to the national estimates, the estimates from the Mendelsohn et al. (2009) study would translate to 243,740 animals killed per 100 km of road per year, or 29 times that of Loss

et al.'s (2014) upper bound estimate and 68 times the Canadian estimate. An analysis is needed of whether increased traffic generated by the project site would similarly result in local impacts on wildlife.

For wildlife vulnerable to front-end collisions and crushing under tires, road mortality can be predicted from the study of Mendelsohn et al. (2009) as a basis. My analysis of the Mendelsohn et al. (2009) data resulted in an estimated 3,900 animals killed per mile along a county road in Contra Costa County. Two percent of the estimated number of fatalities were birds, and the balance was composed of 34% mammals (many mice and pocket mice, but also ground squirrels, desert cottontails, striped skunks, American badgers, raccoons, and others), 52.3% amphibians (large numbers of California tiger salamanders and California red-legged frogs, but also Sierran treefrogs, western toads, arboreal salamanders, slender salamanders and others), and 11.7% reptiles (many western fence lizards, but also skinks, alligator lizards, and snakes of various species). VMT is useful for predicting wildlife mortality because I was able to quantify miles traveled along the studied reach of Vasco Road during the time period of the Mendelsohn et al. (2009), hence enabling a rate of fatalities per VMT that can be projected to other sites, assuming similar collision fatality rates.

Predicting project-generated traffic impacts to wildlife

The IS/MND predicts 3,664,270 annual VMT. During the Mendelsohn et al. (2009) study, 19,500 cars traveled Vasco Road daily, so the vehicle miles that contributed to my estimate of non-volant fatalities was $19,500 \text{ cars and trucks} \times 2.5 \text{ miles} \times 365 \text{ days/year} \times 1.25 \text{ years} = 22,242,187.5 \text{ vehicle miles}$ per 12,187 wildlife fatalities, or 1,825 vehicle miles per fatality. This rate divided into the predicted annual VMT, above, would predict 2,008 vertebrate wildlife fatalities per year.

Based on my analysis, the project-generated traffic would cause significant impacts to wildlife. The IS/MND does not address this potential impact, let alone propose to mitigate it. Mitigation measures to improve wildlife safety along roads are available and are feasible, and they need exploration for their suitability with the proposed project. Given the predicted level of project-generated, traffic-caused mortality, and the lack of any proposed mitigation, it is my opinion that the proposed project would result in potentially significant adverse biological impacts. A fair argument can be made for the need to prepare an EIR to appropriately analyze the potential impacts of project-generated automobile traffic on wildlife.

WILDLIFE DEPREDAION BY HOUSE CATS

Considering national trends, it is safe to assume that house cats would be introduced to the project area by residents of the proposed 234 residential units. This is significant because house cats serve as one of the largest sources of avian mortality in North America (Dauphiné and Cooper 2009, Blancher 2013, Loss et al. 2013, Loyd et al. 2017). Loss et al. (2013) estimated 139 million cats in the USA in 2013 (range 114 to 164 million), which killed an estimated 16.95 billion vertebrate wildlife annually (range 7.6 to 26.3 billion). In 2012 there were 0.44 house cats per human, and 122 vertebrate

animals were killed per cat, free-ranging members of which killed disproportionately larger numbers of vertebrate wildlife. The IS/MND predicts the project would add 912 new residents. The above rates of cat ownership applied to this number of new residents **would predict 401 new house cats, which would kill 48,922 vertebrate wildlife per year.**

House cats also contribute to downstream loading of *Toxoplasma gondii*. According to a UC Davis wildlife health research program, *“Toxoplasma gondii is a parasite that can infect virtually all warm-blooded animals, but the only known definitive hosts are cats – domesticated and feral house cats included. Cats catch the parasite through hunting rodents and birds and they offload it into the environment through their feces... and ...rain that falls on cement creates more runoff than rain that falls on natural earth, which contributes to increased runoff that can carry fecal pathogens to the sea”* (<http://www.evotis.org/toxoplasma-gondii-sea-otters/>).

Impacts to wildlife from the introduction of house cats into the environment would be significant, and yet these impacts are not considered in the IS/MND. A fair argument can be made for the need to prepare an EIR to appropriately analyze potential impacts to wildlife due to depredation and parasite-loading by free-ranging house cats introduced by residents of the project. An obvious mitigation measure would be to constrain house cat ownership such as requiring cats to remain indoors.

DOG RUN

The project proposes the inclusion of a dog run, but the IS/MND does not analyze potential impacts to wildlife that could result from it. Dogs disturb and displace wildlife (Hennings 2016), and dog parks accumulate parasites. In one study of dog parks in Portugal (Ferreira et al. 2017), at least 7 different types of parasites were found in fecal and soil samples, and “the soil of all the parks was contaminated with hookworm eggs.” The parasite loading of the dog park could spill-over to wildlife of the immediate area or downstream to marine mammals at the coast. A fair argument can be made for the need to prepare an EIR to appropriately analyze the potential impacts to wildlife caused by the dog park.

CUMULATIVE IMPACTS

The IS/MND’s cumulative effects analysis is flawed. According to the IS/MND, “Because the Project could result in significant impacts related to biological resources ..., the Project could contribute to cumulative impacts to these resources. This contribution could be cumulatively considerable and thus significant. With the implementation of [mitigation measure BIO-1] ..., the Project’s impact related to biological resources ... would be reduced to less than cumulatively considerable and thus less than significant.” Essentially, the IS/MND implies that cumulative effects are simply residual impacts of incomplete mitigation of project-level impacts, and that no residual impacts would remain after the implementation of mitigation measure BIO-1 – the only measure proposed. This notion is inconsistent with CEQA’s definition of cumulative impacts and how to analyze them. If this was CEQA’s standard, then cumulative effects analysis

would be merely an analysis of mitigation efficacy. This is not how cumulative effects are to be analyzed; the cumulative effects analysis is fundamentally flawed.

Even should project-level mitigation be implemented as proposed in the IS/MND, development projects are causing cumulative impacts in California. To measure the impacts of habitat loss to wildlife caused by mitigated development projects, Noriko Smallwood and I revisited 80 sites of proposed projects that we had originally surveyed in support of comments on CEQA review documents (Smallwood and Smallwood 2023). We revisited the sites to repeat the survey methods at the same time of year, the same start time in the day, and the same methods and survey duration in order to measure the effects of mitigated development on wildlife. We structured the experiment in a before-after, control-impact experimental design, as some of the sites had been developed since our initial survey and some had remained undeveloped. We found that mitigated development resulted in a 66% loss of species on site, and 48% loss of species in the project area. Counts of vertebrate animals declined 90%. “Development impacts measured by the mean number of species detected per survey were greatest for amphibians (-100%), followed by mammals (-86%), grassland birds (-75%), raptors (-53%), special-status species (-49%), all birds as a group (-48%), non-native birds (-44%), and synanthropic birds (-28%). Our results indicated that urban development substantially reduced vertebrate species richness and numerical abundance, even after richness and abundance had likely already been depleted by the cumulative effects of loss, fragmentation, and degradation of habitat in the urbanizing environment,” and despite all of the mitigation measures and existing policies and regulations.

A fair argument can be made for the need to prepare an EIR to appropriately analyze potential project contributions to cumulative impacts to wildlife and plants in the region.

INSUFFICIENT MITIGATION

The only mitigation measure proposed in the IS/MND is a preconstruction survey for nesting birds:

Mitigation Measure BIO-1: *If construction activities occur within the bird nesting season (generally defined as February 15 through September 15), a qualified biologist shall conduct a nesting bird survey within 7 days prior to the start of construction. If an active nest is observed within 500 feet of the proposed construction, the nest shall be avoided, and a suitable buffer zone shall be delineated in the field such that no impacts shall occur until the nest has been determined to be inactive by a qualified biologist. Construction buffers are generally 300 feet for passerines and up to 500 feet for raptor species; however, avoidance buffers may be reduced at the discretion of the biologist, depending on the location of the nest and species tolerance to human presence and construction-related noise.*

If activities must take place within an established buffer, steps shall be taken to reduce indirect effects to nesting activity by actively reducing construction noise within proximity to a presumed nest location and/or installing temporary construction noise

barriers. If the reduction of noise is not feasible, construction activities shall be postponed until the nest is deemed inactive and/or the breeding season has concluded.

First, the avian breeding season recognized by the CDFW is now 1 February through 15 September. The IS/MND is skipping the first two weeks of the recognized avian breeding season.

Second, I concur with the implementation of preconstruction surveys, but it should be understood that preconstruction surveys are no substitute for detection surveys. It should be understood that preconstruction surveys, although warranted, actually achieve very little. Preconstruction, take-avoidance surveys consist of two steps, both of which are very difficult. First, the biologist(s) performing the survey must identify birds that are breeding. Second, the biologist(s) must locate the breeding birds' nests. The first step is typically completed by observing bird behaviors such as food deliveries and nest territory defense. These types of observations typically require many surveys on many dates spread throughout the breeding season, and these observations are to find the nest sites of single targeted species (Smallwood et al. 2013, Smallwood and Smallwood 2021). To identify the birds of all species nesting on a site requires a much greater survey effort.

To attempt to find all of the nest sites of all avian species, I completed surveys to complete the steps needed to count nest attempts of all birds on a research site. I constrained my surveys to a relatively small area of 12.74 acres, because I knew that finding all of the nest sites would be extremely difficult. I surveyed this site 30 times from March through mid-August 2023. Any one of my surveys might have resulted in one or a few nest detections, but my estimated total number of nests was 216. Cavity nests proved the easiest to find, because cavity nesters can more effectively defend their nests against predators and therefore have less need to hide the whereabouts of their nests. Nests of large raptors and herons were also relatively easy to find. I could also identify other birds engaged in nest attempts, but those birds using small cup nests in trees and shrubs and nests on the ground carefully avoided visits to their nests in my presence. Small birds in trees and shrubs and ground nesters are highly vulnerable to predation, and thus the most cryptic of nesters. Whereas I estimated lesser goldfinch as the most prolific nester on the study site, I found not one of their nest structures. Even the nesters that nest right out in the open are highly capable of hiding their nests sites from human eyes.

Even assuming all the nests could be found, the mitigation measure would apply only to the breeding season of the survey. After project construction, California would be denied the production of birds from the project site in every subsequent year. The impacts of the project to birds would be permanent and of large magnitude (see my prediction above, under Habitat Loss).

Finally, the mitigation language allows a single individual to make a subjective decision, outside the public's view, to determine and adjust the buffer area for any given species. This measure lacks objective criteria, and is unenforceable.

RECOMMENDED MEASURES

Protocol-level Detection Surveys in Support of Mitigation: If the project goes forward, detection surveys need to be completed for burrowing owl, white-tailed kite, peregrine falcon, and other special-status species. Detection survey protocols and guidelines are available from resource agencies for multiple special-status species. Otherwise, professional standards can be learned from the scientific literature and species' experts.

Pest Control: The project should commit to minimal use of rodenticides and avicides. It should commit to no placement of poison bait stations outside the buildings.

Guidelines on Building Design to Minimize Bird-Window Collisions: If the project goes forward, it should at a minimum adhere to available Bird-Safe Guidelines, such as those prepared by American Bird Conservancy and New York and San Francisco. The American Bird Conservancy (ABC) produced an excellent set of guidelines recommending actions to: (1) Minimize use of glass; (2) Placing glass behind some type of screening (grilles, shutters, exterior shades); (3) Using glass with inherent properties to reduce collisions, such as patterns, window films, decals or tape; and (4) Turning off lights during migration seasons (Sheppard and Phillips 2015). The City of San Francisco (San Francisco Planning Department 2011) also has a set of building design guidelines, based on the excellent guidelines produced by the New York City Audubon Society (Orff et al. 2007). The ABC document and both the New York and San Francisco documents provide excellent alerting of potential bird-collision hazards as well as many visual examples. The San Francisco Planning Department's (2011) building design guidelines are more comprehensive than those of New York City, but they could have gone further. For example, the San Francisco guidelines probably should have also covered scientific monitoring of impacts as well as compensatory mitigation for impacts that could not be avoided, minimized or reduced.

New research results inform the efficacy of marking windows. Whereas Klem (1990) found no deterrent effect from decals on windows, Johnson and Hudson (1976) reported a fatality reduction of about 69% after placing decals on windows. In an experiment of opportunity, Ocampo-Peñuela et al. (2016) found only 2 of 86 fatalities at one of 6 buildings – the only building with windows treated with a bird deterrent film. At the building with fritted glass, bird collisions were 82% lower than at other buildings with untreated windows. Kahle et al. (2016) added external window shades to some windowed façades to reduce fatalities 82% and 95%. Brown et al. (2020) reported an 84% lower collision probability among fritted glass windows and windows treated with ORNILUX R UV. City of Portland Bureau of Environmental Services and Portland Audubon (2020) reduced bird collision fatalities 94% by affixing marked Solyx window film to existing glass panels of Portland's Columbia Building. Many external and internal glass markers have been tested experimentally, some showing no effect and some showing strong deterrent effects (Klem 1989, 1990, 2009, 2011; Klem and Saenger 2013; Rössler et al. 2015). For example, Feather Friendly® circular adhesive markers applied in a grid pattern across all windows reduced bird-window collision mortality by 95% in one study (Riggs et al. 2023) and by 95% in another (de Groot et al. 2021).

Another study tested the efficacy of two filmshades to be applied exteriorly to windows prior to installations: BirdShades increased bird-window avoidance by 47% and Haverkamp increased avoidance by 39% (Swaddle et al. 2023).

Monitoring and the use of compensatory mitigation should be incorporated at any new building project because the measures recommended in the available guidelines remain of uncertain efficacy, and even if these measures are effective, they will not reduce collision fatalities to zero. The only way to assess mitigation efficacy and to quantify post-construction fatalities is to monitor the project for fatalities, including at residential dwelling units.

Road Mortality: Compensatory mitigation is needed for the increased wildlife mortality that would be caused by bird-window collisions and the project-generated road traffic in the region. I suggest that this mitigation can be directed toward funding research to identify fatality patterns and effective impact reduction measures such as reduced speed limits and wildlife under-crossings or overcrossings of particularly dangerous road segments. Compensatory mitigation can also be provided in the form of donations to wildlife rehabilitation facilities (see below).

House Cats: If the Specific Plan goes forward, homeowners should not be allowed to let their cats range free. A fund should be established for long-term management of house cats in the project. Management could include public education about the environmental effects of outdoor and free-ranging cats. It could also include a program to spade and neuter cats, especially free-ranging cats. It could also involve some removals of feral cats.

Fund Wildlife Rehabilitation Facilities: Compensatory mitigation ought also to include funding contributions to wildlife rehabilitation facilities to cover the costs of injured animals that will be delivered to these facilities for care. Many animals would likely be injured by collisions with windows and automobiles, and by attacks by house cats.

Landscaping: If the project goes forward, California native plant landscaping (i.e. chaparral, grassland, and locally appropriate scrub plants) should be considered to be used in residential yards, street-ways, and parks, as opposed to landscaping with lawn and exotic shrubs. Native plants offer more structure, cover, food resources, and nesting substrate for wildlife than landscaping with lawn. Native plant landscaping has been shown to increase the abundance of arthropods which act as importance sources of food for wildlife and are crucial for pollination and plant reproduction (Narango et al. 2017, Adams et al. 2020, Smallwood and Wood 2022.). Further, many endangered and threatened insects require native host plants for reproduction and migration (e.g. El Segundo blue butterfly, monarch butterfly). Around the world, landscaping with native plants over exotic plants increases the abundance and diversity of birds, and is particularly valuable to native birds (Lerman and Warren 2011, Burghardt et al. 2008, Berthon et al. 2021, Smallwood and Wood 2022). Landscaping with native plants is a way to maintain or to bring back some of the natural habitat and lessen the footprint of urbanization by acting as interconnected patches of habitat for wildlife (Goddard et al.

2009, Tallamy 2020). Lastly, not only does native plant landscaping benefit wildlife, it requires less water and maintenance than traditional landscaping with lawn and hedges.

Thank you for your attention,



Shawn Smallwood, Ph.D.

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Photo 40. Yellow-rumped warbler at the project site. Noriko Smallwood.

Exhibit B

Shawn Smallwood, PhD
3108 Finch Street
Davis, CA 95616

Attn: Joe Pearson II
City of Oxnard Community Development Department
Planning Division
214 South C Street
Oxnard, California 93030

26 July 2024

RE: Lockwood III Apartments IS/MND

Dear Mr. Pearson,

I write to reply to the City's responses to my comments of 31 March 2024, which I prepared regarding potential impacts to biological resources that could result from the proposed Lockwood III Apartments Project, as analyzed in the City's IS/MND. My replies follow responses in the order and numbering in which the responses appeared. However, I added sequential letters to responses that I had to break up in order to coherently reply. Most of the responses included multiple issues, and multiple issues were often addressed in single paragraphs.

Response A-6a The City notes that Ms. Smallwood was only able to survey the site from publicly accessible areas and did not have full site access, unlike ESA's biologists who undertook the biological resources assessment on the Project site.

Reply: To clarify, in case the City did not understand, Noriko's lack of access to the project site handicapped her survey relative to the ESA biologist, who enjoyed unrestricted access to the site. Despite Noriko's relative handicap, she detected more than eight times the number of species that the ESA biologist detected.

Response A-6b The commenter's assertion that significant impacts to biological resources, other than to nesting birds, is not supported.

Reply: I reported the three special-status species Noriko Smallwood saw on the project site, along with 23 other species of vertebrate wildlife. I used the pattern in her species detections to predict the number of species that were available to be detected during her survey. These species were not limited to nesting birds. I bridged Noriko's findings to a larger research effort of my own to predict the site supports 100 species of vertebrate wildlife, including 12 special-status species, over a period of at least one year. Again, these 100 species were not limited to nesting birds. I also predicted the project-generated traffic would kill 2,008 vertebrate wildlife fatalities per year, and these deaths would not be limited to birds. Underlying all of my impact predictions were data and inference drawn from those data; which as a scientist I posit to be the greatest support for impacts determinations.

Response A-6c ...with the implementation of Mitigation Measure BIO-1, potential impacts to nesting birds would be reduced to less than significant.

Reply: A preconstruction survey addresses only direct take-avoidance, and does nothing to avoid or minimize the permanent loss of productive capacity of the species that would result from habitat loss. The most significant impacts are neither avoided nor minimized, nor are they compensated in any way. This measure would inadequately mitigate the impacts of the project to wildlife.

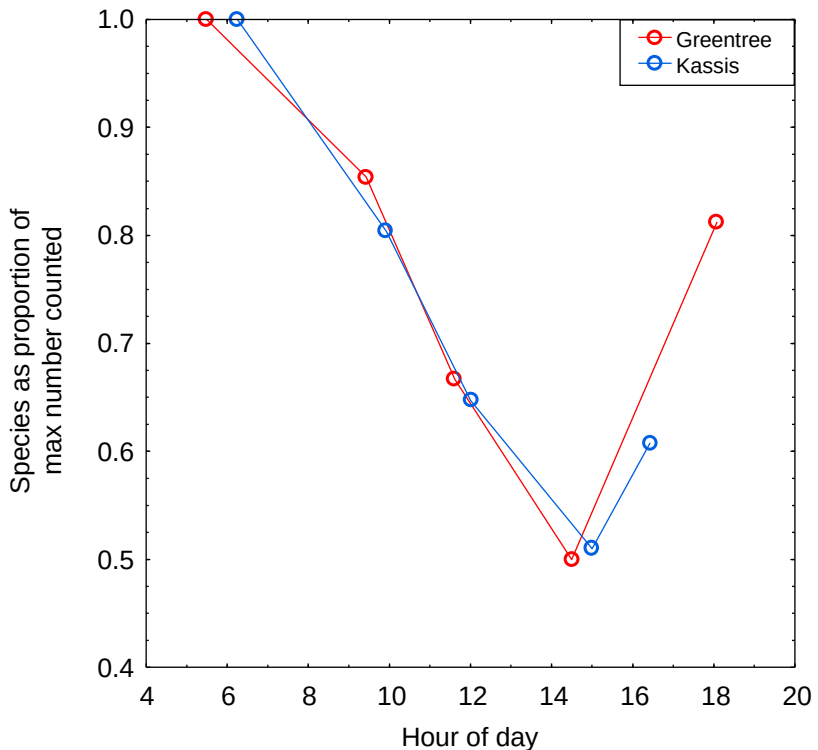
Response A-7a The comment asserts that the field survey and baseline conditions prepared by ESA, and required under CEQA guidelines, is deficient. The comment also asserts that the survey methodology was unclear. ... The methodology of conducting the site survey is also discussed in Section 3.4 of the Public Review Draft IS/MND. The biological survey consisted of walking throughout the accessible portions of the survey area that included the Project site and the 200-foot buffer area. Walking within the Project site allowed visual observations of flora and fauna, including signs (i.e., presence of scat) as well as audible detections. These observations allowed visual coverage of potentially suitable plant and wildlife habitat that assisted in characterizing the existing conditions as well as to determine the potential for special-status plant and wildlife species to occur.

Reply: The response fails to address the specifics of my comment, which were the following: “The IS/MND neglects to report when the survey started and how long the survey lasted.” The appropriate response would have been to report what time of day the biologist arrived on site, and for how long the biologist surveyed for wildlife on the project site. In my comment letter, I explained why these two methodological details are important, and why they need to be reported. The time of day when a survey is begun will have a large effect on the number of species detected (Figure 1). Beginning the survey at 14:00 hours results in half the number of species detected as compared to when surveys are begun at 06:00 hours. Survey duration is even more critical to survey outcome, as it took Noriko only 4 minutes to detect her first e species of wildlife. Did ESA’s biologist survey for only 4 minutes? Decision-makers and the public need to know the level of effort ESA committed to the survey.

Response A-7b ...resource inventory databases and various publications were reviewed...

Reply: This response does not address my comments. In my letter of 31 March 2024, I commented that the database review is incomplete, and the IS/MND misuses the CNDDB to determine most of the potentially-occurring special-status species absent before their potential occurrences have even been analyzed. It is a misuse to rely on lack of CNDDB records as evidence of absence. I further commented that the IS/MND fails to explain why disturbance at the project site prevents 45 special-status species of wildlife from occurring at the project site, and I pointed out that every place in California is disturbed to some degree. If special-status species cannot tolerate “disturbance,” then they would all be extinct already.

Figure 1. Effects of time of day when reconnaissance-level survey is begun. Data were from five 2-hour-long surveys at a project site in Vacaville and at another in Rancho Cordova in May and June 2022. (K. S. Smallwood, unpublished data)



Response A-8 The comment asserts that these three bird species [western gull, red-tailed hawk and American kestrel] are “special status species” and are therefore protected under state law. These three species are not identified as “special status species” by the California Department of Fish and Wildlife (CDFW) because they do not appear on CDFW’s Special Animals List (also known as the list of “species at risk” or “special status species” list). Therefore, these species, except for nesting activities, are not protected under state law.

Reply: CDFW is not the sole determiner of special-status species. Raptors are protected by California Fish and Game Code §3503.5, otherwise known as the Birds of Prey Code. They are indeed protected by state law. Raptors are protected by this Code because raptors are top predators wherever they live. Their positions in the food chain naturally require that they are rare, which is one of the key conditions – and one of the key words – that meets the CEQA definition of special-status species. Species that are naturally rare, such as species of raptor, are more likely identified as special-status species, e.g., California condor, bald eagle, peregrine falcon, burrowing owl, spotted owl, whereas fewer of the naturally abundant species are so identified, such as songbirds.

The California Resources Agency’s Guidelines for Implementation of CEQA specifically identifies the U.S. Fish and Wildlife Service as one of the agencies to have identified any species as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations. The U.S. Fish and Wildlife Service is the agency that identified species of birds as Birds of Conservation Concern. One of these species is western gull, which Noriko saw and photographed on the project site.

Response A-9a The comment asserts that ESA's onsite survey failed to identify suitable habitat for burrowing owls (*Athene cunicularia*) based on the commenter's siting of California ground squirrels (*Ostospermophilus beecheyi*), a species often closely associated with burrowing owls. California ground squirrels were not observed during the site surveys; however, ESA obtained full visual coverage of suitable habitat within the survey area and detected small burrows of approximately 2-3 inches in diameter. As discussed in Section 3.4 of the Public Review Draft IS/MND, these small mammal burrows were not the appropriate size or morphology for burrowing owl.

Reply: That ESA missed the ground squirrels is not surprising to me, given that ESA missed 25 of the 26 species of vertebrate wildlife Noriko detected at and adjacent to the project site. I do not contend that ESA observed mammal burrows with diameters of greater than 2-3 inches as the response states, although I do note that neither the draft IS/MND nor the responses to my comments have produced evidence that the diameters of the burrows seen by ESA were within the range of diameters reported. ESA failed to detect the occurrence of ground squirrels, and these squirrels were located well within the 150 m of the project site's boundary that the CDFW (2012) guidelines recommends be surveyed. The presence of ground squirrels warrants the implementation of CDFW's (2012) guidelines for performing breeding-season surveys.

Regardless of who saw the ground squirrels, the ground squirrels are present, and ground squirrels construct burrows with diameters >11 cm. Given that ground squirrels are present, the appropriate action is to complete breeding-season surveys for burrowing owls that achieve or exceed the minimum standards of CDFW (2012). The need to complete these surveys has become especially important since burrowing owls began rapid statewide decline that appears headed to extirpation from most of California (Miller 2024). A petition has been submitted for the listing of burrowing owls in California (Miller 2024).

Response A-9b In addition, no pellets, white-wash, or feathers were detected at the burrows which are common occurrences with the presence of burrowing owl.

Reply: As I have witnessed many times, burrowing owls do not always leave evidence of their use of a burrow. It is for this reason why the CDFW (2012) guidelines recommend the presence of burrows be treated as significant evidence of the potential presence of burrowing owls "regardless of a lack of any burrowing owl sign and/or burrow surrogates."

Response A-10a The commenter asserts that the ESA onsite survey was a desktop survey and states that the biological resources findings in the Public Review Draft IS/MND is incorrect.

Reply: I made no such assertion. Responder must have misread my comments.

Response A-10b The comment asserts that species that have been previously documented to occur within 1.5 miles and 4 miles from the site also have the potential to occur on the Project site. This assertion is incorrect because the potential is based on the

condition of the onsite habitat as well as the condition of the immediately surrounding area.

Reply: The response's premise is testable, so I tested it even though I know from experience there is no need to test it. Of the 27 species of vertebrate wildlife detected by the ESA biologist and by Noriko Smallwood, none have been reported to eBird or iNaturalist as having occurred on the project site, 23 have been documented within 1.5 miles of the site, 2 have been documented between 1.5 and 4 miles, and 2 have been documented between 4 and 30 miles of the site (Table 1). Nevertheless, all 27 of these species were detected by ESA or Noriko on the site of the proposed project, despite the condition of the site.

As I explained in my comment letter, species occurrence databases include occurrence records only of the species detected and reported by volunteers and at whatever locations the volunteers chose to visit. For example, even though California ground squirrels occur just across the street from the project site, the nearest recorded location with California ground squirrels was 2.47 miles to the west. The nearest record of California ground squirrels does not mean that the record's location is the nearest the species actually occurs to the project site. The nearest records of Great Basin fence lizard and Botta's pocket gopher are from locations farther than 4 miles from the project site, but Noriko saw them right on the project site. In fact, Noriko photographed a pocket gopher surveilling its surroundings from a burrow on the project site (see Photo 23 in my 31 March 2024 comment letter).

The argument that the condition of the project site would preclude the occurrences of special-status species also qualifies as a false premise to the response's conclusion. Wildlife endeavor to survive in environments that humans are transforming to their own immediate needs. Wildlife exploit opportunities to find forage, and they make do with the conditions that humans leave them. Noriko and I have surveyed hundreds of project sites, many of the sites in poor condition, and many that were treated in a manner to suppress wildlife just prior to our survey visits. We detected wildlife, including special-status species of wildlife, at all of these sites (Smallwood and Smallwood 2023), even at sites that had no vegetation cover due to disking or grading.

Compared to the many sites that Noriko and I have surveyed for wildlife, the project site was in relatively good condition at the time of Noriko's survey. It had last been disked about four years earlier, and at the time of Noriko's survey it was covered by non-native annual grassland. Non-native annual grassland is important to wildlife in California (Kie 2005), since about from 80% to 99.9% of California original grasslands have been lost over the past two centuries (Allen 1989). Not only do special-status species often occur in disturbed grasslands, but some are known to seek out such environments. Examples include burrowing owls, Swainson's hawks, ferruginous hawks, and California horned larks.

As for the surrounding areas, the response offers no evidence that the setting of the site would discourage its use by special-status species. Burrowing owls, white-tailed kites, northern harriers, and many other special-status species make use of the site at one time

or another. It is for this reason that protocol-level detection surveys require multiple surveys at spaced intervals by qualified biologists. Those who formulated the protocols know from experience what it takes to detect species that make their round over large home ranges or that are otherwise rare or cryptic in their nature. It is inappropriate of the City to determine species absences not based on surveys recommended by experts, but based on speculation and a flawed premise.

Table 1. Species of wildlife detected during surveys completed by ESA and Noriko Smallwood, and proximity of database records where ‘Very close’ indicates within 1.5 miles of the site, “nearby” indicates within 1.5 and 4 miles, and “in region” indicates within 4 and 30 miles.

Common name	Species name	Status ¹	Survey-detected		Database records
			ESA	Noriko	
Great Basin fence lizard	<i>Sceloporus occidentalis longipes</i>			X	In region
Western side-blotched lizard	<i>Uta stansburiana elegans</i>			X	Very close
Mallard	<i>Anas platyrhynchos</i>			X	Nearby
Rock pigeon	<i>Columba livia</i>			X	Very close
Eurasian collared-dove	<i>Streptopelia decaocto</i>			X	Very close
Mourning dove	<i>Zenaida macroura</i>			X	Very close
Anna’s hummingbird	<i>Calypte anna</i>			X	Very close
California gull	<i>Larus californicus</i>	BCC, TWL	X		Very close
Western gull	<i>Larus occidentalis</i>	BCC		X	Very close
Red-tailed hawk	<i>Buteo jamaicensis</i>	BOP		X	Very close
American kestrel	<i>Falco sparverius</i>	BOP		X	Very close
Cassin’s kingbird	<i>Tyrannus vociferans</i>			X	Very close
Black phoebe	<i>Sayornis nigricans</i>		X		Very close
American crow	<i>Corvus brachyrhynchos</i>		X	X	Very close
Common raven	<i>Corvus corax</i>			X	Very close
Barn swallow	<i>Hirundo rustica</i>			X	Very close
Bushtit	<i>Psaltirparus minimus</i>			X	Very close
Northern mockingbird	<i>Mimus polyglottos</i>			X	Very close
European starling	<i>Sturnus vulgaris</i>			X	Very close
House sparrow	<i>Passer domesticus</i>			X	Very close
House finch	<i>Haemorphous mexicanus</i>			X	Very close
Lesser goldfinch	<i>Spinus psaltria</i>			X	Very close
White-crowned sparrow	<i>Zonotrichia leucophrys</i>			X	Very close
California towhee	<i>Melozone crissalis</i>			X	Very close
Yellow-rumped warbler	<i>Setophaga coronata</i>			X	Very close
California ground squirrel	<i>Otospermophilus beecheyi</i>			X	Nearby
Botta’s pocket gopher	<i>Thomomys bottae</i>			X	In region

¹ BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, and BOP = Birds of Prey (California Fish and Game Code 3503.5).

Response A-11 The comment asserts that the IS/MND is deficient in explaining why habitat for special-status species is not available on the Project site. As discussed in the Public Review Draft IS/MND, there are a total of 8 wildlife species that have a low to moderate potential to occur within the study area. Other species that have been detected within an area larger than the study area and within the Oxnard and surrounding five U.S. Geological Survey 7.5-minute quadrangle maps based on the most recent CNDDDB, CNPS and Information for Planning and Consultation databases, do not have a potential to occur within the survey area due to the habitat requirements of the special-status species, the disturbed nature of the study area, and the absence of suitable habitat. There were 8 special-status wildlife species that were determined to have a low to moderate potential to occur within the study area. Each of these 8 special-status species identified above and their potential to occur on the Project site is discussed in Appendix C-3. No additional surveys are required to characterize the potential for special-status species to occur on the Project site.

Reply: The response does not directly address the issues I raised in my 31 March 2024 comment letter. I pointed out that critical details of the survey methodology are not reported, such as survey start time and survey duration. These details are needed because an explanation is needed as to why ESA's biologist detected only three species of vertebrate wildlife, whereas Noriko detected 27 species in only 3.63 hours. The discrepancies between the survey outcomes are vast, and in need of explanation.

The response repeats the approach that ESA (2024) describes over how the CNDDDB queries were used to identify the pool of special-status species subject to occurrence-likelihood analysis, and it notes that the occurrence potentials of the species that were selected based on the CNDDDB queries are discussed in App. C-3. This part of the response also fails to address the issues I raised about ESA's improper use of the CNDDDB. As warned by the CNDDDB, the CNDDDB should not be used to determine absence of any species at any place simply because the CNDDDB lacks occurrence records. Nearly all of the CNDDDB's occurrence records originate from volunteer reporting of opportune observations or observations from reconnaissance surveys; very few records originate from protocol-level detection surveys and none originate from the negative findings of any protocol-level detection surveys. Therefore, CNDDDB's occurrence records or lack thereof cannot be used to determine absence, and neither can it be used to filter out special-status species from the occurrence likelihood analysis. Because of how ESA (2024) misused the CNDDDB, its App. C-3 fails to discuss the occurrence potentials of too many special-status species that were improperly filtered out of the pool of species that should have been included in the analysis.

Response A-12 The comment asserts that the Project will have significant adverse impacts to wildlife through removal of habitat, impediment to wildlife movement, increased mortality through traffic and window collisions, and impacts from domestic animals. Please see Response to Comment A-25 for a discussion of each of the issues raised in this comment.

Reply: Based on the response, I moved Response A-25 up in the order (see below).

Response A-25a The comment asserts that the Project will have significant adverse impacts to wildlife through removal of habitat, impediment to wildlife movement, increased mortality through traffic and window collisions, and impacts from domestic animals. The commenter asserts that the Project site located in the City of Oxnard and adjacent to U.S. 101 would have the same productive capacity or nest density as San Jacinto Wildlife Area which is conserved land surrounded by open space and agriculture. The San Jacinto Wildlife Area is not a representative study for the Project site location. Therefore, given the lack of substantial evidence at a representative study for the Project site location, habitat loss for plants and wildlife would not be significant.

Reply: Without evidence or explanation, the response claims that total nesting density at the San Jacinto Wildlife Area is not representative of total nest density at the project site. I cannot say that I am certain the grassland of the San Jacinto Wildlife Area is representative of the project site, but I cannot say with certainty that it is not, either. But this is 2024, so Noriko and I have three new estimates of total nest density from grassland environments. From a 2.95-acre grassland east of Davis, California, I estimated 5.08 nest sites/acre. From a 4.83-acre grassland site in Murrieta, California, Noriko estimated 0.62 nest sites/acre. And from a 3.16-acre grassland site at another site in Murrieta, Noriko estimated 3.8 nest sites/acre. These estimates averaged 3.17 nest sites/acre. Applying the balance of the assumptions used in my comment letter, this average nest density would predict 16.4 bird nest sites and 22.8 nest attempts per year, and the project would deny 73 birds per year to California. The difference would be 10 fewer birds, but still too many birds.

And again, as I commented in my 31 March 2024 comment letter, “The IS/MND makes no attempt to estimate this lost capacity for any of the wildlife species potentially affected.” Neither does the response to my comment make any attempt to estimate the lost productive capacity of any wildlife that would result from the project. There remains no analysis of this obviously likely impact.

Response A-25b The commenter asserts that the Project site is a wildlife stopover and staging during migration, dispersal, and home range patrol, and therefore, affect wildlife movement. While the commenter provided source citations (Warnock 2010, Taylor et al. 2011, Runge et al. 2014) for his assumptions, these sources were not listed in the comment letter.

Reply: I somehow missed the step of including these references. They appear below:

Runge, C. A., T. G. Martin, H. P. Possingham, S. G. Willis, and R. A. Fuller. 2014. Conserving mobile species. *Frontiers in Ecology and Environment* 12(7): 395–402, doi:10.1890/130237.

Taylor, P. D., S. A. Mackenzie, B. G. Thurber, A. M. Calvert, A. M. Mills, L. P. McGuire, and C. G. Guglielmo. 2011. Landscape movements of migratory birds and bats reveal an expanded scale of stopover. *PlosOne* 6(11): e27054. doi:10.1371/journal.pone.0027054.

Warnock, N. 2010. Stopping vs. staging: the difference between a hop and a jump. *Journal of Avian Biology* 41:621-626.

As for the characterization of my comments as assumptions, they were not assumptions. Noriko and I have observed wildlife make stopover and staging use of many patches of open space that remain in highly fragmented urbanizing landscape. These patches of open space are all that many birds have left to rely on for stopover and staging. The project site itself was used by many western gulls this way, while Noriko was doing her survey.

Response A-25c While reviewing a Runge et al 2014 document, the source indicates that conservation objectives, if known, for mobile species should be applied including the connectivity between breeding and non-breeding sites. Runge et al 2014 also states that information is limited regarding migratory connectivity and requires further research. The Project site is not known to be a breeding or non-breeding site or connectivity between the two. Therefore, the current impacts would be considered less than significant for wildlife movement.

Reply: The response asserts the following standard: Lack of certainty of a relationship predetermines a less-than-significant impact. This is a false standard. In fact, there is a long tradition in science that when involving potential consequences to rare and precious resources such as special-status species of plants or wildlife, the appropriate conclusion in the face of high uncertainty is to err on the side of caution (National Research Council 1986). In risk analysis involving special-status species, which is what an impacts analysis pursuant to CEQA really is, the precautionary principle is the appropriate standard (O'Brien 1990). For example, if it remains uncertain whether a particular special-status species occurs on the site, erring on the side of caution would require the assumption that the species *does* occur. In another example, if it remains uncertain whether the project site supports the movement of wildlife within the region, then erring on the side of caution would require the assumption that the site *is* important to wildlife movement in the region. If the latter assumption is made, which would be the more appropriate assumption per the Precautionary Principle in risk analysis, then the development of the site would cause significant interference with wildlife movement in the region. This is because there would be no other patch of open space in the vicinity where wildlife can find stopover and staging opportunities. As of this writing, development of the open space across the road to the south is already well underway. As a result, the project site has likely increased in its importance to wildlife movement in the region.

Response A-25d The commenter suggested that the Project site would cause significant unmitigated impacts to birds due to bird-glass collisions associated with the project. The commenter conducted their own analysis from multiple sources at large scales or buildings with known high window collision fatalities. There is no specific source suggesting that a mid-rise building adding to an existing urban landscape and not immediately adjacent to open space, such as park, bike trail, or riparian area, would increase window collision mortality to a significant level. Therefore, the estimates

provided by the commenter are speculative and do not appropriately represent the Project site.

Reply: Among the many studies I reviewed on bird-window collision mortality, some of the buildings searched for bird fatalities were selected for their known or suspected high rates of collision. Many, however, were not selected for study this way. The response is a mischaracterization of the studies I reviewed. I will also point out that some of the most lethal buildings were located in urbanized areas and not adjacent to natural areas. My review reveals that factors contributing to bird-window collision mortality are complex, though several factors stand out: window transparency, window reflectivity, and expanse of windows on a building. Landscaping around the building is another factor.

My comments on bird-window collision mortality are not “speculative.” I reviewed the scientific literature that was directed to measurement of bird-window collision mortality and to the efficacy of mitigation intended to minimize or reduce mortality. My comments are evidence-based and well-founded. The response, however, is unreasonable in that it disregards my comments because I failed to produce a source that suggests “a mid-rise building adding to an existing urban landscape and not immediately adjacent to open space, such as park, bike trail, or riparian area, would increase window collision mortality to a significant level.” A bike trail? A riparian area? How is any of this derived from the scientific literature? The response’s standard is contrived, and inconsistent with the precautionary principal in risk analysis. And in fact, it is inaccurate. The very highest recorded bird-collision fatality rate was at a mid-rise building in a densely urban environment.

As I commented, the IS/MND fails to analyze the potential impacts of wildlife-window collision mortality. The response only attempts to discredit my comments, and fails to analyze the potential impacts.

Response A-25e The commenter suggested that the Project site would generate an increase in traffic and therefore, traffic-caused wildlife mortality which would result in potentially significant adverse biological impacts. The commenter references a publicly unavailable wildlife movement study (Mendelsohn et al 2009) but the Vasco Road as described in the Brown et al 2013 is a publicly available wildlife movement study.

Reply: I do not understand the last sentence of the above-response, but the studies I cited are both publicly available. If anyone has trouble finding them, they can always request copies from me.

Response A-25f The commenter identifies that the Project site located in the City of Oxnard and adjacent to U.S. 101 would have the same traffic-caused wildlife mortality as Vasco Road which bisects grassland habitat. The Vasco Road is a 2.5 mile stretch with known medium to large-mammal presence and is not a representative study for the Project site location. The Project site may increase traffic, but the impacts would not be significant compared to the adjacent U.S. 101, an existing site condition. Therefore, given the lack of substantial evidence at a representative study for the Project site location, traffic-caused wildlife mortality would not be significant.

Reply: I made no such assertion about U.S. 101. I did not even mention U.S. 101. This pointed out, the response assumes without evidence that U.S. 101 is safer to wildlife than is Vasco Road in Contra Costa County. The Wallis Annenberg Wildlife Crossing and the Liberty Canyon Wildlife Underpass are under construction partly out of concern for the high levels of wildlife mortality on U.S. 101.

The following passage from my comments identifies the scope of my analysis: “Project-generated traffic would endanger wildlife that must, for various reasons, cross roads used by the project’s traffic to get to and from the project site ..., including along roads far from the project footprint.” Project-generated traffic would not be confined to U.S. 101.

As I commented, the IS/MND fails to analyze the potential impacts of wildlife-automobile collision mortality. The response only attempts to discredit my comments, and fails to analyze the potential impacts.

Response A-25g The commenter also suggested that the Project site would introduce more domestic animals to the immediate vicinity which would result in an increase in wildlife depredation and parasites. As discussed in Section 3.4(a) in the IS/MND, construction activities could result in significant impact to nesting birds. As stated in the IS/MND, these potential impacts to nesting birds are reduced to less than significant with the implementation of Mitigation Measure MM BIO-1. During operation of the Project, the Project site would include ornamental landscaping and would not provide suitable habitat for special-status species. Therefore, the introduction of domestic animals such as cats and dogs to the Project site, which is located within an existing urban area, including an area immediately south of the Project site that has been graded for development, would result in less than significant impacts to special-status wildlife species.

Reply: I am not sure that I understand the response, which rambles. I think what it is saying is that a preconstruction survey would avoid or minimize the impacts of house cats and dogs after the project is built. If this is what is being said, then the assertion lacks any logical connection between preconstruction survey and the wildlife that would occur at the site post-construction. Wildlife would occur at the site post-construction, as wildlife always does, but the wildlife that would occur there would be synanthropic species that are able to adapt to urbanized environments. It is these synanthropes that would become vulnerable to house cats and dogs, though there could be impacts to downstream wildlife from the flow of parasites originated from cats and dogs. MM BIO-1 does not address the potential impacts I addressed in my comments regarding house cats and dogs.

Response A-25h The commenter suggested that the development of the Project site would cause significant cumulative impacts on biological resources. However, the disturbed nature of the Project site and survey area, the lack of special-status species or their habitat, and its distant proximity to the nearest available open space (i.e., almost

0.4 mile to the east) suggest that these impacts would be less than significant with the implementation of Mitigation Measure MM-BIO-1 prior to construction.

Reply: The response repeats the flawed argument of the IS/MND, and fails to address my comments.

Response A-13 The comment asserts that the cumulative impacts to wildlife will be significant and that Mitigation Measure BIO-1 would not resolve these impacts. The Project site and survey area are isolated from adjacent open space areas and as such, don't function as important wildlife corridors. Additionally, CDFW sensitive communities/riparian vegetation, critical habitat, aquatic resources, and city-protected trees and/or other resources are absent from the survey area. Finally, potential for special-status species has been adequately assessed, and it has been determined that one special-status species (i.e., California horned lark) and nesting migratory birds have the potential to occur onsite. Therefore, implementation of Mitigation Measure BIO-1 of the Public Review Draft IS/MND would ensure that impacts to special-status species and nesting birds would be reduced to less than significant. In addition, the implementation of Mitigation Measure BIO-1 would reduce the Project's impact to less than cumulatively considerable.

Reply: The response is flawed, starting with its expectation of what a preconstruction survey can achieve. The implementation of Bio-1 would not *reduce* impacts of any kind. A preconstruction survey is often referred to as a "take-avoidance" survey, because that is the only type of mitigation a preconstruction survey can provide. The idea is to find and protect, or find and salvage, bird nests before the heavy machinery of construction destroys them. A preconstruction survey cannot reduce impacts because the impacts have yet to happen. Neither do these surveys rectify, minimize or compensate for impacts; the only purpose is to avoid direct take to the degree that is feasible.

As I commented, preconstruction surveys cannot avoid the direct take of most of the bird nests that would be present during construction if construction is initiated during the avian breeding season. Ground-nesting birds are expert at concealing their nests. The City has done nothing to identify the general locations where birds might be nesting, because the City only required a reconnaissance survey that was obviously prone to missing most of the birds that occur at the site. It is entirely unrealistic to expect that a preconstruction survey would avoid direct take of nesting birds, let alone any single nest.

Moreover, the take that the preconstruction survey would be intended to avoid is the direct take of nests of the year. A preconstruction survey would in no way avoid the take of the productive capacity of the site. In my comments, I predicted a level of permanent loss of avian productive capacity, and in my replies to responses herein I provided a revised prediction based on additional surveys for total nest density that have been completed by Noriko and I. The project's most significant impact to birds cannot be mitigated by Mitigation Measure BIO-1 of the IS/MND. The IS/MND includes no mitigation for the potential impacts caused by habitat loss.

Response A-16a The comment asserts that Mitigation Measure BIO-1 is insufficient to reduce the Project impacts to less than significant, suggesting that it doesn't address impacts to birds during future breeding seasons, that the preconstruction nesting bird survey relies on an outdated breeding season, and that it provides "unfettered" control to the qualified biologist to adjust nest buffers, among other critiques. These concerns reflect Dr. Smallwood's opinion of what should be included in the mitigation measure in question. The Public Review Draft IS/MND identifies that the Project could result in significant impacts to nesting birds. This impact could occur during construction activities. The implementation of Mitigation Measure BIO-1 would include a preconstruction nesting bird survey and construction buffers, if warranted, and would reduce potential impacts to less than significant.

Reply: This part of the response is merely a summary of the mitigation proposed in the IS/MND and my comments on the measure.

Response A-16b If birds have future breeding (nesting) activities on the Project site subsequent to development of the Project, the nesting activities are protected under the Migratory Bird Act as well as CDFW regulations.

Reply: The birds that currently nest on the project site are not the birds that would nest on the site post-construction. For example, northern harriers nest in grasslands, but not in apartment complexes. As for the protections afforded to birds by the Migratory Bird Treaty Act or CDFW regulations, they are meaningless after avian habitat has been destroyed for the project. Regulations provide no protections to birds that have been extirpated from a site.

Response A-16c As for the provision of adjusting buffers for nesting activities during construction, the adjustment would be based on the bird species as well as the existing ambient noise levels because not all bird species require the same buffering from noise activities.

Reply: I understand the bases for the establishment and adjustments to buffers around nesting activities. This is not the issue. The issue is that the mitigation language allows a single individual to make a subjective decision, outside the public's view, to determine and adjust the buffer area for any given species. This measure lacks objective criteria, and is unenforceable.

Response A-24a The comment critiques the methodology (e.g., timing and survey duration) to characterize the environmental setting and the results of the survey. Additionally, Dr. Smallwood asks, "How did ESA miss all of these species?" and "How is it that western side-blotched lizards and Great Basin fence lizards both occur in abundance, but the disturbance of the site prevents other special-status species (i.e., coastal whiptail and coast horned lizard)?" ... The survey conducted by ESA was intended to characterize the Project site and survey area for the purposes of analyzing potential impacts of the Project under CEQA. Standards regarding survey timing, duration and/or number of species detected have not been established for general reconnaissance surveys.

Reply: It is true that specific standards have yet to be established for survey timing, duration and/or number of species detected, but there are scientific standards of reporting of methods, and there are scientific standards of interpretation of survey findings. It is simply unacceptable to report that only three species of wildlife were detected while not reporting what time the survey began or how long it lasted. As I replied earlier, Noriko detected her first three species within four minutes of her survey start time (actually, she detected four species in her first four minutes). Was it only four minutes the ESA biologist surveyed? The City needs to inform the decision-makers and the public of the methodological context of ESA's survey finding. Without the appropriate context, the survey finding is meaningless and has no bearing on the questions of whether and to what degrees the project would cause impacts to wildlife.

The response could have easily included the survey start time, and the survey duration, but it did not. The IS/MND fails to disclose an accurate characterization of the existing environmental setting, as well as potential impacts to wildlife.

Response A-24b Furthermore, the number of species observed during the survey reflects what the biologist was able to detect at the time they were present onsite.

Reply: Generally agreed, which is why the IS/MND must disclose the time spent on the project site by ESA's biologist.

Response A-24c Protocol-level detection survey for burrowing owls are warranted only if adequate burrows are available, which were not detected during the ESA survey.

Reply: Again, the City chooses not to disclose the survey start time or the survey duration, so it is impossible for the reader to ascertain whether the survey was given sufficient effort to detect ground squirrels and their burrows. In fact, ground squirrels and their burrows were present, as reported by Noriko Smallwood. That ESA's biologist failed to detect ground squirrels is all the more reason to conclude that the biologist did not survey for a sufficiently time, either that or the biologist was not qualified to detect ground squirrels. In fact, ESA (2024) does not provide the biologist's qualifications, or whether the biologist holds a degree in wildlife biology.

Implementation of the CDFW (2012) survey guidelines was warranted, and remains warranted.

Response A-24d Also, as stated in the Potential to Occur Table in Appendix C-3 of the Public Review Draft IS/MND, the vegetation was dense and tall which is not preferred by burrowing owl. Ms. Smallwood observed "California ground squirrels just to the south side of Lockwood Street". This is outside of the Project site but within the survey area. There was a seven-month gap between ESA and Ms. Smallwood's survey in which California ground squirrels could move into the survey area. The closest CDFW CNDDDB and eBird record for burrowing owl is located 2.5 miles to the east of the Project site at the Camarillo airport.

Reply: California ground squirrels do not establish colonies suddenly from nowhere. I have studied ground squirrels for many years, including 13 years of monitoring at Naval Air Station Lemoore (Smallwood and Morrison 2013) and 14 years of monitoring at Vasco Caves Regional Preserve (Smallwood and Bell 2022). The ground squirrels found by Noriko had been there for a long time, as by the time she detected them, their colony was surrounded by urban developments on all sides except for the project site. And yes, the ground squirrels were within ESA's study area and well within the survey buffer recommended by CDFW (2012).

As for vegetation height, it is not true that burrowing owls require only short-stature grassland. I have recorded burrowing owl nests located in vegetation taller than I am (Smallwood et al. 2013, and K. S. Smallwood unpubl. data through 2019), as well as under tree canopies and in tall grass (Smallwood and Morrison 2018). The vegetation at the project site is not too tall for burrowing owls.

Response A-24e Western side-blotched lizards and Great Basin fence lizards are species generalists and are expected to occur within the disturbed habitats present within the Project site and survey area; whereas, the coastal whiptail and coast horned lizard require specific habitat types, such as coastal sage scrub and chaparral, both of which do not occur onsite. Additionally, western side-blotched lizards and Great Basin fence lizards are not defined as special-status species (as described in Response to Comment A-8).

Reply: It is unclear what the response means by "species generalists." As for coastal whiptail, Noriko and I have found them in disturbed environments. The densest population of whiptails I ever encountered was on bare ground under a roadside next to a freeway – a highly disturbed site. As I replied earlier, pristine environments have been absent from California for decades (also see Allen 1989), and all that remain are environments in various levels of disturbance. The response is unclear about what degree of disturbance any of the species at issue can tolerate, but based on my experience, I posit that the project site could support coastal whiptail and possibly coast horned lizard. It is improper to determine that these species are absent without even looking for them.

Response A-24f The comment also states: "The IS/MND provides one over-arching reason for its decisions to omit all special-status plant species and 45 special-status species of wildlife from its analysis, which was the disturbed nature of the survey area and the absence of suitable habitat." While the disturbed nature of the survey area was a factor in determining species' occurrence, the main reason was the absence of suitable habitat. The majority of the special-status plants and animals including coastal whiptail and coast horned lizard require tree groves, woodland, riparian, scrub, or wetland habitat which are not present in the Project site or survey area.

Reply: The species at issue require sufficient open space to survive, including opportunities to move around the landscape. What the IS/MND does, and what the response repeats, is to pigeon-hole species into unrealistically narrow portions of the environment, which can then be said not to exist on the project site. No wildlife habitat

study would proceed on such a premise that each species will occur only in the narrow environments where the investigator expects them to occur. This is why use-and-availability studies designed to measure the habitat of a given species seek to detect or count the species among all of the categorized and mapped vegetation cover types that compose the study area. We allow the species to inform us of its habitat, rather than we decide for the species what is its habitat. It is the very rare species that only occurs in wetlands, or only occurs in riparian environments, or only in grasslands. The response claims a false degree of specialization of all of the species the IS/MND dismissed from the analysis of occurrence potential, and it offers no evidence in support of its claims.

Response A-24g The commenter mentions that the Crotch's bumble bee high quality habitat was not explained. In the Potential to Occur Table in Appendix C-3, the preferred habitat is explained as "open grassland and scrub habitats that support potential nectar sources such as plants within the Fabaceae, Apocynaceae, Asteraceae, Lamiaceae, and Boraginaceae families". The preferred habitat is open grassland with potential nectar sources, and the Project site lacks both the open grassland and most of the preferred nectar sources.

Reply: The response misuses the term "preferred" when characterizing Crotch's bumble bee selection of vegetation cover types. Those who perform use and availability analysis to measure habitat refrain from use of the term preferred because none of us can know which vegetation cover types any species truly prefers. What we measure is proportional use, which we then translate as relative degrees of selection of the vegetation cover type relative to its availability. Even with this approach, however, caution is warranted because the distribution of the animals under study might have been affected by some other factor such as sociality (Smallwood 2002).

The responder cannot know which vegetation cover types are sought out by Crotch's bumble bee. The CDFW (2023) survey guidelines for Crotch's bumble bee instruct survey personnel to "record all flowering plants including non-natives and invasives as foraging plants." This instruction would not be provided if CDFW thought that enough is known of which plants Crotch's bumble bee requires for forage.

Response A-24h The comment asserts that monarch migratory habitat is just as important as overwintering groves as identified by the Western Monarch Butterfly Conservation Plan. However, the Western Monarch Butterfly Conservation Plan also states that "In contrast to the eastern population, information is lacking on established migration routes for both spring and fall western migrants". It continues that "... fall migrants often followed riparian corridors ..." The Project site lacks a riparian corridor. Therefore, the Western Monarch Butterfly Conservation Plan does not support the commenter's opinion that the Project site has other resources for the monarch.

Reply: The response represents another two leaps of logic. The first is a repeat of the notion that uncertainty in a relationship predetermines absence of the species. The second is that because someone wrote somewhere that migratory monarchs tend to follow riparian corridors, and because the project site lacks riparian environments, therefore monarchs are not going to occur on the project site. Anyone can select a

passage from a document to support an argument. I will note that the response did not include an important phrase that preceded its quoted passage; the full quote should have read “Historical records of monarch collections in the western North America suggested fall migrants often followed riparian corridors.” Historical records are not the same as scientific sampling as part of a use and availability analysis, and the word “suggested” is suggestive of what the authors thought of the pattern’s reliability. Both Noriko and I have detected monarchs traveling across open fields nowhere near riparian environments. We recently saw one fly across an alfalfa field near Calexico. I recently saw and photographed multiple monarchs flying across a Bakersfield grassland that was in about the same condition as the grassland of the project site.

Response A-24i The comment also asserts that the Project site has foraging habitat for ferruginous hawk and the inactive nest on the tower could have potential for nesting peregrine falcons. Each of these points are discussed in the Potential to Occur Table in Appendix C-3. As discussed in Appendix C-3, the closest foraging habitat for the peregrine falcon is located over two miles northwest of the Project site.

Reply: The response does not address my comments regarding ferruginous hawk. As I commented, foraging opportunities over the non-breeding season are essential to the nesting success of winter migrants such as ferruginous hawk. Ferruginous hawk migrates from its breeding grounds to southern California for non-breeding season forage. If members of this species cannot find sufficient forage over the non-breeding season, they will not be capable of producing chicks in the more northern regions where they breed. The response ignores this relationship.

Regarding peregrine falcon, the habitat characterization in App. C-3 of the IS/MND is incorrect. Peregrine falcons do not require wetland environments for foraging. Just last year I recorded a peregrine falcon nest to CNDDDB – a nest I found in north Bakersfield, far from any wetlands. I observed and photographed the peregrine falcons foraging on ground squirrels, western meadowlarks, and mourning doves on grasslands that looked similar in condition to the grassland of the project site. The response ignores my comment on peregrine falcons in my letter of 31 March 2024.

Response A-26 The comment asserts that Mitigation Measure BIO-1 is insufficient to reduce the Project impacts to less than significant. Please see Response to Comment A-16 regarding the adequacy of Mitigation Measure BIO-1.

Reply: Please see my reply to Response A-13.

PARTING REPLY

The responses to comments skipped my comments on recommended protocol-level detection surveys and mitigation measures. I provided recommendations on detection surveys for special-status species. I also provided recommendations for minimizing the effects of habitat loss, bird-window collision mortality, wildlife-automobile collision mortality, and cumulative impacts. The City does not address my recommendations.

Thank you for your attention,



Shawn Smallwood, Ph.D.

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Exhibit C



Technical Consultation, Data Analysis and
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April 24, 2024

Marjan Abubo
Lozeau | Drury LLP
1939 Harrison Street, Suite 150
Oakland, CA 94618

Subject: Comments on the Lockwood III Apartments Project

Dear Mr. Abubo,

We have reviewed the March 2024 Initial Study and Mitigated Negative Declaration (“IS/MND”) for the Lockwood III Apartments (“Project”) located in the City of Oxnard (“City”). The Project proposes to construct 373,069-square-feet (“SF”) of residential space, including 234 residential units and 351 parking spaces, on the 5.17-acre site.

Our review concludes that the IS/MND fails to adequately evaluate the Project’s health risk impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project may be underestimated and inadequately addressed. An Environmental Impact Report (“EIR”) should be prepared to adequately assess and mitigate the potential health risk impacts that the project may have on the environment.

Diesel Particulate Matter Emissions Inadequately Evaluated

The IS/MND concludes that the Project would have a less-than-significant health risk impact without conducting a quantified construction or operational health risk analysis (“HRA”). Regarding the health risk impacts associated with the Project construction, the IS/MND states:

“The greatest potential for diesel particulate emissions would only occur during excavation/grading activities, which are scheduled for approximately 46 days. Other construction activities which are estimated to take approximately 2 years, would result in a reduced use of heavy-duty diesel construction equipment in comparison to excavation/grading activities. The Project would therefore not result in a long-term (i.e., 70 year) source of TAC emissions. No residual TAC emissions and corresponding individual cancer risks are anticipated

after construction. Because there is such a short-term exposure period (25 out of 840 months of a 70-year lifetime), further evaluation of construction TAC emissions is not warranted” (p. 36, 37).

As discussed, the IS/MND claims that since the Project is expected to have a short construction duration, the Project will result in a less-than-significant construction-related health risk impact. However, the IS/MND’s evaluation of the Project’s potential health risk impacts, as well as the subsequent less-than-significant impact conclusion, is unsubstantiated for three reasons.

First, by failing to prepare a quantified construction and operational HRA, the Project is inconsistent with CEQA’s requirement to make “a reasonable effort to substantively connect a project’s air quality impacts to likely health consequences.”¹ This poses a problem, as according to the IS/MND, construction of the Project would produce diesel particulate matter (“DPM”) emissions through the exhaust stacks of construction equipment over a duration of approximately 27 months (p. 5). Furthermore, according to the IS/MND, operation of the Project is expected to generate 1,175 daily vehicle trips, which would produce additional exhaust emissions and continue to expose nearby, existing sensitive receptors to DPM emissions (p. 101). However, the IS/MND and associated documents fail to evaluate the toxic air contaminants (“TAC”) emissions associated with Project construction and operation or indicate the concentrations at which such pollutants would trigger adverse health effects. Without making a reasonable effort to connect the Project’s TAC emissions to the potential health risks posed to nearby receptors, the IS/MND is inconsistent with CEQA’s requirement to correlate Project-generated emissions with potential adverse impacts on human health.

Second, the Office of Environmental Health Hazard Assessment (“OEHHA”), the organization responsible for providing guidance on conducting HRAs in California, as well as local air district guidelines² released its most recent *Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments* in February 2015.³ This guidance document describes the types of projects that warrant the preparation of an HRA. Specifically, OEHHA recommends that all short-term projects lasting at least 2 months assess cancer risks.⁴ Furthermore, according to OEHHA:

¹ “Sierra Club v. County of Fresno.” Supreme Court of California, December 2018, *available at*: <https://ceqaportal.org/decisions/1907/Sierra%20Club%20v.%20County%20of%20Fresno.pdf>.

² “Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act.” State of California Department of Justice, *available at*: <https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/warehouse-best-practices.pdf>, p. 6.

³ “Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act.” State of California Department of Justice, *available at*: <https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/warehouse-best-practices.pdf>, p. 6.

⁴ “Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, *available at*: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 8-18.

“Exposure from projects lasting more than 6 months should be evaluated for the duration of the project. In all cases, for assessing risk to residential receptors, the exposure should be assumed to start in the third trimester to allow for the use of the ASFs (OEHHA, 2009).”⁵

As the Project’s anticipated construction duration exceeds the 2-month and 6-month requirements set forth by OEHHA, construction of the Project meets the threshold warranting a quantified HRA under OEHHA guidance and should be evaluated for the entire 27-month construction period. Furthermore, OEHHA recommends that an exposure duration of 30 years should be used to estimate the individual cancer risk at the maximally exposed individual resident (“MEIR”).⁶ While the IS/MND fails to provide the expected lifetime of the proposed Project, we can reasonably assume that the Project would operate for at least 30 years, if not more. Therefore, operation of the Project also exceeds the 2-month and 6-month requirements set forth by OEHHA and should be evaluated for the entire 30-year residential exposure duration, as indicated by OEHHA guidance. These recommendations reflect the most recent state health risk policies, and as such, an EIR should be prepared to include an analysis of health risk impacts posed to nearby sensitive receptors from Project-generated DPM emissions.

Third, by claiming a less-than-significant impact without conducting a quantified construction or operational HRA for nearby, existing sensitive receptors, the IS/MND fails to compare the Project’s excess cancer risk to the Ventura County Air Pollution Control District’s (“VCAPCD”) specific numeric threshold of 10 in one million.⁷ In accordance with the most relevant guidance, an assessment of the health risk posed to nearby, existing receptors as a result of Project construction and operation should be conducted.

Screening-Level Analysis Demonstrates Potentially Significant Health Risk Impact

In order to conduct our screening-level risk assessment we relied upon AERSCREEN, which is a screening level air quality dispersion model.⁸ The model replaced SCREEN3, and AERSCREEN is included in the OEHHA and the California Air Pollution Control Officers Associated (“CAPCOA”) guidance as the appropriate air dispersion model for Level 2 health risk screening assessments (“HRSAs”).^{9, 10} A Level 2 HRSA utilizes a limited amount of site-specific information to generate maximum reasonable downwind concentrations of air contaminants to which nearby sensitive receptors may be exposed. If an

⁵ “Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 8-18.

⁶ “Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 2-4.

⁷ “Ventura County Air Quality Assessment Guidelines.” Ventura County Air Pollution Control District (VCAPCD), October 2003, available at: <http://www.vcapcd.org/pubs/Planning/VCAQGuidelines.pdf>, p. 3-5.

⁸ “Air Quality Dispersion Modeling - Screening Models,” U.S. EPA, available at: <https://www.epa.gov/scram/air-quality-dispersion-modeling-screening-models>.

⁹ “Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>.

¹⁰ “Health Risk Assessments for Proposed Land Use Projects.” CAPCOA, July 2009, available at: http://www.valleyair.org/transportation/CAPCOA_HRA_LU_Guidelines_8-6-09.pdf.

unacceptable air quality hazard is determined to be possible using AERSCREEN, a more refined modeling approach should be conducted prior to approval of the Project.

We prepared a preliminary HRA of the Project's construction and operational health risk impact to residential sensitive receptors using the annual PM₁₀ exhaust estimates from the IS/MND's CalEEMod output files. Consistent with recommendations set forth by OEHHA, we assumed residential exposure begins during the third trimester stage of life.¹¹ The IS/MND's CalEEMod model indicates that construction activities will generate approximately 240 pounds of DPM over the 909-day construction period.¹² The AERSCREEN model relies on a continuous average emission rate to simulate maximum downward concentrations from point, area, and volume emission sources. To account for the variability in equipment usage and truck trips over Project construction, we calculated an average DPM emission rate by the following equation:

$$\text{Emission Rate} \left(\frac{\text{grams}}{\text{second}} \right) = \frac{239.7 \text{ lbs}}{909 \text{ days}} \times \frac{453.6 \text{ grams}}{\text{lbs}} \times \frac{1 \text{ day}}{24 \text{ hours}} \times \frac{1 \text{ hour}}{3,600 \text{ seconds}} = \mathbf{0.001385 \text{ g/s}}$$

Using this equation, we estimated a construction emission rate of 0.00139 grams per second ("g/s"). Subtracting the 909-day construction period from the total residential duration of 30 years, we assumed that after Project construction, the sensitive receptor would be exposed to the Project's operational DPM for an additional 27.51 years. The IS/MND's operational CalEEMod emissions indicate that operational activities will generate approximately 40 pounds of DPM per year throughout operation. Applying the same equation used to estimate the construction DPM rate, we estimated the following emission rate for Project operation:

$$\text{Emission Rate} \left(\frac{\text{grams}}{\text{second}} \right) = \frac{40 \text{ lbs}}{365 \text{ days}} \times \frac{453.6 \text{ grams}}{\text{lbs}} \times \frac{1 \text{ day}}{24 \text{ hours}} \times \frac{1 \text{ hour}}{3,600 \text{ seconds}} = \mathbf{0.0005753 \text{ g/s}}$$

Using this equation, we estimated an operational emission rate of 0.000575 g/s. Construction and operation were simulated as a 5.17-acre rectangular area source in AERSCREEN, with approximate dimensions of 205- by 102-meters. A release height of three meters was selected to represent the height of stacks of operational equipment and other heavy-duty vehicles, and an initial vertical dimension of one and a half meters was used to simulate instantaneous plume dispersion upon release. A rural meteorological setting was selected with model-default inputs for wind speed and direction distribution. The population of Oxnard was obtained from U.S. 2020 Census data.¹³

The AERSCREEN model generates maximum reasonable estimates of single-hour DPM concentrations from the Project Site. The United States Environmental Protection Agency ("U.S. EPA") suggests that the annualized average concentration of an air pollutant be estimated by multiplying the single-hour

¹¹ "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 8-18.

¹² See Attachment B for health risk calculations.

¹³ "Oxnard." U.S. Census Bureau, 2021, available at: <https://datacommons.org/place/geoid/0654652>.

concentration by 10% in screening procedures.¹⁴ According to the IS/MND, the nearest sensitive receptor is located 25 feet, or 7.62 meters, from the Project site. Additionally, the IS/MND states “since air emissions disperse rapidly in the environment and decrease with distance from the source, exposure associated with emissions from construction activities would be limited” (p. 35). Thus, the single-hour concentration estimated by AERSCREEN for Project construction is approximately 2.207 $\mu\text{g}/\text{m}^3$ DPM at approximately 100 meters downwind. Multiplying this single-hour concentration by 10%, we get an annualized average concentration of 0.2207 $\mu\text{g}/\text{m}^3$ for Project construction at the MEIR. For Project operation, the single-hour concentration estimated by AERSCREEN is 0.9167 $\mu\text{g}/\text{m}^3$ DPM at approximately 100 meters downwind. Multiplying this single-hour concentration by 10%, we get an annualized average concentration of 0.09167 $\mu\text{g}/\text{m}^3$ for Project operation at the MEIR.¹⁵

We calculated the excess cancer risk to the MEIR using applicable HRA methodologies prescribed by OEHHA, as recommended by VCAPCD.¹⁶ Specifically, guidance from OEHHA and the California Air Resources Board (“CARB”) recommends the use of a standard point estimate approach, including high-point estimate (i.e. 95th percentile) breathing rates and age sensitivity factors (“ASF”) in order to account for the increased sensitivity to carcinogens during early-in-life exposure and accurately assess risk for susceptible subpopulations such as children. The residential exposure parameters, such as the daily breathing rates (“BR/BW”), exposure duration (“ED”), ASFs, fraction of time at home (“FAH”), and exposure frequency (“EF”) utilized for the various age groups in our screening-level HRA are as follows:

¹⁴ “Screening Procedures for Estimating the Air Quality Impact of Stationary Sources Revised.” U.S. EPA, October 1992, available at: https://www.epa.gov/sites/default/files/2020-09/documents/epa-454r-92-019_ocr.pdf.

¹⁵ See Attachment C for AERSCREEN output files.

¹⁶ “Ventura County Air Quality Assessment Guidelines.” Ventura County Air Pollution Control District, October 2003, available at: <http://www.vcapcd.org/pubs/Planning/VCAQGuidelines.pdf>, p. 6-6 – 6-8.

Exposure Assumptions for Residential Individual Cancer Risk						
Age Group	Breathing Rate (L/kg-day) ¹⁷	Age Sensitivity Factor ¹⁸	Exposure Duration (years)	Fraction of Time at Home ¹⁹	Exposure Frequency (days/year) ²⁰	Exposure Time (hours/day)
3rd Trimester	361	10	0.25	0.85	350	24
Infant (0 - 2)	1090	10	2	0.85	350	24
Child (2 - 16)	572	3	14	0.72	350	24
Adult (16 - 30)	261	1	14	0.73	350	24

For the inhalation pathway, the procedure requires the incorporation of several discrete variates to effectively quantify dose for each age group. Once determined, contaminant dose is multiplied by the cancer potency factor (“CPF”) in units of inverse dose expressed in milligrams per kilogram per day (mg/kg/day⁻¹) to derive the cancer risk estimate. Therefore, to assess exposures, we utilized the following dose algorithm:

$$Dose_{AIR, per\ age\ group} = C_{air} \times EF \times \left[\frac{BR}{BW} \right] \times A \times CF$$

where:

Dose_{AIR} = dose by inhalation (mg/kg/day), per age group
C_{air} = concentration of contaminant in air (µg/m³)
EF = exposure frequency (number of days/365 days)
BR/BW = daily breathing rate normalized to body weight (L/kg/day)
A = inhalation absorption factor (default = 1)
CF = conversion factor (1x10⁻⁶, µg to mg, L to m³)

To calculate the overall cancer risk, we used the following equation for each appropriate age group:

$$Cancer\ Risk_{AIR} = Dose_{AIR} \times CPF \times ASF \times FAH \times \frac{ED}{AT}$$

where:

¹⁷ “Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>.

¹⁸ “Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 8-5 Table 8.3.

¹⁹ “Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 8-5, Table 8.4.

²⁰ “Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 5-24.

$Dose_{AIR}$ = dose by inhalation (mg/kg/day), per age group
 CPF = cancer potency factor, chemical-specific (mg/kg/day)⁻¹
 ASF = age sensitivity factor, per age group
 FAH = fraction of time at home, per age group (for residential receptors only)
 ED = exposure duration (years)
 AT = averaging time period over which exposure duration is averaged (always 70 years)

Consistent with the 909-day construction schedule, the annualized average concentration for construction was used for the entire third trimester of pregnancy (0.25 years), the entire infantile stage of life (0—2 years), and the first 0.24 years of the child stage of life (2—16). The annualized average concentration for operation was used for the remainder 30-year exposure period, which makes up for the latter 13.76 years of the child stage of life, as well as the entire adult (16—30 years) stage of life. The results of our calculations are shown in the table below.

The Maximally Exposed Individual at an Existing Residential Receptor				
Age Group	Emissions Source	Duration (years)	Concentration (ug/m3)	Cancer Risk
3rd Trimester	Construction	0.25	0.2207	2.55E-06
Infant (0 - 2)	Construction	2	0.2207	6.16E-05
	<i>Construction</i>	<i>0.24</i>	<i>0.2207</i>	<i>9.88E-07</i>
	<i>Operation</i>	<i>13.76</i>	<i>0.0917</i>	<i>2.35E-05</i>
Child (2 - 16)	Total	14		2.45E-05
Adult (16 - 30)	Operation	14	0.0917	3.68E-06
Lifetime		30		9.23E-05

As demonstrated in the table above, the excess cancer risks for the 3rd trimester of pregnancy, infants, children, and adults at the MEIR located approximately 100 meters away, over the course of Project construction and operation, are approximately 2.55, 61.6, 24.5, and 36.8 in one million, respectively. The excess cancer risk over the course of a residential lifetime (30 years) is approximately 92.3 in one million, which exceeds the VCAPCD threshold of 10 in one million and results in a potentially significant impact not previously addressed or identified by the IS/MND.

Our analysis represents a screening-level HRA, which is known to be conservative and tends to err on the side of health protection. The purpose of the screening-level HRA is to demonstrate the potential link between Project-generated emissions and adverse health risk impacts. According to the U.S. EPA:

“EPA’s Exposure Assessment Guidelines recommend completing exposure assessments iteratively using a tiered approach to ‘strike a balance between the costs of adding detail and refinement to an assessment and the benefits associated with that additional refinement’ (U.S. EPA, 1992).

In other words, an assessment using basic tools (e.g., simple exposure calculations, default values, rules of thumb, conservative assumptions) can be conducted as the first phase (or tier) of the overall assessment (i.e., a screening-level assessment).

The exposure assessor or risk manager can then determine whether the results of the screening-level assessment warrant further evaluation through refinements of the input data and exposure assumptions or by using more advanced models.”

As demonstrated above, screening-level analyses warrant further evaluation in a refined modeling approach. As our screening-level HRA demonstrates that construction and operation of the Project could result in a potentially significant health risk impact, an EIR should be prepared to include a refined health risk analysis which adequately and accurately evaluates health risk impacts associated with both Project construction and operation. If the refined analysis similarly concludes that the Project would result in a significant health risk impact, then mitigation measures should be incorporated, as described below in the “Feasible Mitigation Measures Available to Reduce Emissions” section.

Mitigation

Feasible Mitigation Measures Available to Reduce Emissions

Our analysis demonstrates that the Project would result in potentially significant health risk impacts that should be mitigated further. In an effort to reduce the Project’s emissions, we identified several mitigation measures that are applicable to the proposed Project. To reduce the Project’s emissions, we recommend consideration of SCAG’s 2020 RTP/SCS PEIR’s Air Quality Project Level Mitigation Measures (“PMM-AQ-1”), as described below: ²¹

SCAG RTP/SCS 2020-2045	
Air Quality Project Level Mitigation Measures – PMM-AQ-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the <i>State CEQA Guidelines</i>, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to violating air quality standards. Such measures may include the following or other comparable measures identified by the Lead Agency:	
a)	Minimize land disturbance.

²¹ “4.0 Mitigation Measures.” Connect SoCal Program Environmental Impact Report Addendum #1, September 2020, available at: https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocial_addendum_4_mitigationmeasures.pdf?1606004420, p. 4.0-2 – 4.0-10; 4.0-19 – 4.0-23; See also: “Certified Final Connect SoCal Program Environmental Impact Report.” Southern California Association of Governments (SCAG), May 2020, available at: <https://scag.ca.gov/peir>.

b) Suspend grading and earth moving when wind gusts exceed 25 miles per hour unless the soil is wet enough to prevent dust plumes.
c) Cover trucks when hauling dirt.
d) Stabilize the surface of dirt piles if not removed immediately.
e) Limit vehicular paths on unpaved surfaces and stabilize any temporary roads.
f) Minimize unnecessary vehicular and machinery activities.
g) Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
h) Revegetate disturbed land, including vehicular paths created during construction to avoid future off-road vehicular activities.
j) Require contractors to assemble a comprehensive inventory list (i.e., make, model, engine year, horsepower, emission rates) of all heavy-duty off-road (portable and mobile) equipment (50 horsepower and greater) that could be used an aggregate of 40 or more hours for the construction project. Prepare a plan for approval by the applicable air district demonstrating achievement of the applicable percent reduction for a CARB-approved fleet.
k) Ensure that all construction equipment is properly tuned and maintained.
l) Minimize idling time to 5 minutes—saves fuel and reduces emissions.
m) Provide an operational water truck on-site at all times. Use watering trucks to minimize dust; watering should be sufficient to confine dust plumes to the project work areas. Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
n) Utilize existing power sources (e.g., power poles) or clean fuel generators rather than temporary power generators.
o) Develop a traffic plan to minimize traffic flow interference from construction activities. The plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service. Schedule operations affecting traffic for off-peak hours. Minimize obstruction of through-traffic lanes. Provide a flag person to guide traffic properly and ensure safety at construction sites.
p) As appropriate require that portable engines and portable engine-driven equipment units used at the project work site, with the exception of on-road and off-road motor vehicles, obtain CARB Portable Equipment Registration with the state or a local district permit. Arrange appropriate consultations with the CARB or the District to determine registration and permitting requirements prior to equipment operation at the site.
q) Require projects within 500 feet of residences, hospitals, or schools to use Tier 4 equipment for all engines above 50 horsepower (hp) unless the individual project can demonstrate that Tier 4 engines would not be required to mitigate emissions below significance thresholds.
r) Projects located within the South Coast Air Basin should consider applying for South Coast AQMD “SOON” funds which provides funds to applicable fleets for the purchase of commercially available low-emission heavy-duty engines to achieve near-term reduction of NOx emissions from in-use off-road diesel vehicles.
s) Projects located within AB 617 communities should review the applicable Community Emissions Reduction Plan (CERP) for additional mitigation that can be applied to individual projects.
t) Where applicable, projects should provide information about air quality related programs to schools, including the Environmental Justice Community Partnerships (EJCP), Clean Air Ranger Education (CARE), and Why Air Quality Matters programs.
u) Projects should work with local cities and counties to install adequate signage that prohibits truck idling in certain locations (e.g., near schools and sensitive receptors).
y) Projects that will introduce sensitive receptors within 500 feet of freeways and other sources should consider installing high efficiency of enhanced filtration units, such as Minimum Efficiency Reporting Value (MERV) 13 or better. Installation of enhanced filtration units can be verified during occupancy inspection prior to the issuance of an occupancy permit.
z) Develop an ongoing monitoring, inspection, and maintenance program for the MERV filters.

aa) Consult the SCAG Environmental Justice Toolbox for potential measures to address impacts to low-income and/or minority communities.

bb) The following criteria related to diesel emissions shall be implemented on by individual project sponsors as appropriate and feasible:

- Diesel nonroad vehicles on site for more than 10 total days shall have either (1) engines that meet EPA on road emissions standards or (2) emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%
- Diesel generators on site for more than 10 total days shall be equipped with emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%.
- Nonroad diesel engines on site shall be Tier 2 or higher.
- Diesel nonroad construction equipment on site for more than 10 total days shall have either (1) engines meeting EPA Tier 4 nonroad emissions standards or (2) emission control technology verified by EPA or CARB for use with nonroad engines to reduce PM emissions by a minimum of 85% for engines for 50 hp and greater and by a minimum of 20% for engines less than 50 hp.
- Emission control technology shall be operated, maintained, and serviced as recommended by the emission control technology manufacturer.
- Diesel vehicles, construction equipment, and generators on site shall be fueled with ultra-low sulfur diesel fuel (ULSD) or a biodiesel blend approved by the original engine manufacturer with sulfur content of 15 ppm or less.
- The construction contractor shall maintain a list of all diesel vehicles, construction equipment, and generators to be used on site. The list shall include the following:
 - i. Contractor and subcontractor name and address, plus contact person responsible for the vehicles or equipment.
 - ii. Equipment type, equipment manufacturer, equipment serial number, engine manufacturer, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation.
 - iii. For the emission control technology installed: technology type, serial number, make, model, manufacturer, EPA/CARB verification number/level, and installation date and hour-meter reading on installation date.
- The contractor shall establish generator sites and truck-staging zones for vehicles waiting to load or unload material on site. Such zones shall be located where diesel emissions have the least impact on abutters, the general public, and especially sensitive receptors such as hospitals, schools, daycare facilities, elderly housing, and convalescent facilities.
- The contractor shall maintain a monthly report that, for each on road diesel vehicle, nonroad construction equipment, or generator onsite, includes:
 - i. Hour-meter readings on arrival on-site, the first and last day of every month, and on off-site date.
 - ii. Any problems with the equipment or emission controls.
 - iii. Certified copies of fuel deliveries for the time period that identify:
 - 1. Source of supply
 - 2. Quantity of fuel
 - 3. Quantity of fuel, including sulfur content (percent by weight)

cc) Project should exceed Title-24 Building Envelope Energy Efficiency Standards (California Building Standards Code). The following measures can be used to increase energy efficiency:

- Provide pedestrian network improvements, such as interconnected street network, narrower roadways and shorter block lengths, sidewalks, accessibility to transit and transit shelters, traffic calming measures, parks and public spaces, minimize pedestrian barriers.
- Provide traffic calming measures, such as:
 - i. Marked crosswalks
 - ii. Count-down signal timers
 - iii. Curb extensions
 - iv. Speed tables
 - iv. Raised crosswalks

- v. Raised intersections
- vi. Median islands
- vii. Tight corner radii
- viii. Roundabouts or mini-circles
- ix. On-street parking
- x. Chicanes/chokers
- Create urban non-motorized zones
- Provide bike parking in non-residential and multi-unit residential projects
- Dedicate land for bike trails
- Limit parking supply through:
 - i. Elimination (or reduction) of minimum parking requirements
 - ii. Creation of maximum parking requirements
 - iii. Provision of shared parking
- Require residential area parking permit.
- Provide ride-sharing programs
 - i. Designate a certain percentage of parking spacing for ride sharing vehicles
 - ii. Designating adequate passenger loading and unloading and waiting areas for ride-sharing vehicles
 - iii. Providing a web site or messaging board for coordinating rides
 - iv. Permanent transportation management association membership and finding requirement.

These measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently, reduce emissions released during Project construction and operation.

An EIR should be prepared to include all feasible mitigation measures, as well as include updated health risk analysis to ensure that the necessary mitigation measures are implemented to reduce emissions to maximum extent feasible. The EIR should also demonstrate a commitment to the implementation of these measures prior to Project approval, to ensure that the Project's significant emissions are reduced to the maximum extent possible.

Disclaimer

SWAPE has received limited discovery regarding this project. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

Sincerely,



Matt Hagemann, P.G., C.Hg.



Paul E. Rosenfeld, Ph.D.

Attachment A: Health Risk Calculations
Attachment B: SWAPE's AERSCREEN Output Files
Attachment C: Matt Hagemann CV
Attachment D: Paul Rosenfeld CV

Construction			
2025		Total	
Annual Emissions (tons/year)	0.06	Total DPM (lbs)	239.7260274
Daily Emissions (lbs/day)	0.328767123	Total DPM (g)	108739.726
Construction Duration (days)	306	Emission Rate (g/s)	0.001384556
Total DPM (lbs)	100.6027397	Release Height (meters)	3
Total DPM (g)	45633.40274	Total Acreage	5.17
Start Date	3/1/2025	Max Horizontal (meters)	204.56
End Date	1/1/2026	Min Horizontal (meters)	102.28
Construction Days	306	Initial Vertical Dimension (meters)	1.5
2026		Setting	Oxnard
Annual Emissions (tons/year)	0.05	Population	200,415
Daily Emissions (lbs/day)	0.273972603	Start Date	3/1/2025
Construction Duration (days)	365	End Date	8/27/2027
Total DPM (lbs)	100	Total Construction Days	909
Total DPM (g)	45360	Total Years of Construction	2.49
Start Date	1/1/2026	Total Years of Operation	27.51
End Date	1/1/2027		
Construction Days	365		
2027			
Annual Emissions (tons/year)	0.03		
Daily Emissions (lbs/day)	0.164383562		
Construction Duration (days)	238		
Total DPM (lbs)	39.12328767		
Total DPM (g)	17746.32329		
Start Date	1/1/2027		
End Date	8/27/2027		
Construction Days	238		

Operation	
Emission Rate	
Annual Emissions (tons/year)	0.02
Daily Emissions (lbs/day)	0.109589041
Total DPM (lbs)	40
Emission Rate (g/s)	0.000575342
Release Height (meters)	3
Total Acreage	5.17
Max Horizontal (meters)	204.56
Min Horizontal (meters)	102.28
Initial Vertical Dimension (meters)	1.5
Setting	Oxnard
Population	200,415

AERSCREEN 21112 / AERMOD 21112

04/23/24

10:52:13

TITLE: LockwoodIIIIApartments, Construction

 ***** AREA PARAMETERS *****

SOURCE EMISSION RATE:	0.138E-02 g/s	0.110E-01 lb/hr
AREA EMISSION RATE:	0.662E-07 g/(s-m2)	0.525E-06 lb/(hr-m2)
AREA HEIGHT:	3.00 meters	9.84 feet
AREA SOURCE LONG SIDE:	204.56 meters	671.13 feet
AREA SOURCE SHORT SIDE:	102.28 meters	335.56 feet
INITIAL VERTICAL DIMENSION:	1.50 meters	4.92 feet
RURAL OR URBAN:	URBAN	
POPULATION:	198586	
INITIAL PROBE DISTANCE =	5000. meters	16404. feet

 ***** BUILDING DOWNWASH PARAMETERS *****

BUILDING DOWNWASH NOT USED FOR NON-POINT SOURCES

 ***** FLOW SECTOR ANALYSIS *****
 25 meter receptor spacing: 1. meters - 5000. meters

MAXIMUM IMPACT RECEPTOR

Zo SECTOR	SURFACE ROUGHNESS	1-HR CONC (ug/m3)	RADIAL (deg)	DIST (m)	TEMPORAL PERIOD
1*	1.000	2.207	0	100.0	WIN

* = worst case diagonal

***** MAKEMET METEOROLOGY PARAMETERS *****

MIN/MAX TEMPERATURE: 250.0 / 310.0 (K)

MINIMUM WIND SPEED: 0.5 m/s

ANEMOMETER HEIGHT: 10.000 meters

SURFACE CHARACTERISTICS INPUT: AERMET SEASONAL TABLES

DOMINANT SURFACE PROFILE: Urban

DOMINANT CLIMATE TYPE: Average Moisture

DOMINANT SEASON: Winter

ALBEDO: 0.35

BOWEN RATIO: 1.50

ROUGHNESS LENGTH: 1.000 (meters)

SURFACE FRICTION VELOCITY (U*) NOT ADJUSTED

METEOROLOGY CONDITIONS USED TO PREDICT OVERALL MAXIMUM IMPACT

YR MO DY JDY HR

10 01 10 10 01

H0	U*	W*	DT/DZ	ZICNV	ZIMCH	M-O	LEN	Z0	BOWEN	ALBEDO	REF WS
-1.30	0.043	-9.000	0.020	-999.	21.	6.0	1.000	1.50	0.35	0.50	

HT	REF TA	HT
10.0	310.0	2.0

***** AERSCREEN AUTOMATED DISTANCES *****

OVERALL MAXIMUM CONCENTRATIONS BY DISTANCE

DIST (m)	MAXIMUM 1-HR CONC (ug/m3)	DIST (m)	MAXIMUM 1-HR CONC (ug/m3)
1.00	1.690	2525.00	0.2757E-01

25.00	1.847	2550.00	0.2720E-01
50.00	1.980	2575.00	0.2684E-01
75.00	2.091	2600.00	0.2648E-01
100.00	2.207	2625.00	0.2614E-01
125.00	1.711	2650.00	0.2580E-01
150.00	1.225	2675.00	0.2547E-01
175.00	0.9973	2700.00	0.2515E-01
200.00	0.8371	2725.00	0.2483E-01
225.00	0.7162	2750.00	0.2453E-01
250.00	0.6231	2775.00	0.2422E-01
275.00	0.5487	2800.00	0.2393E-01
300.00	0.4886	2825.00	0.2364E-01
325.00	0.4393	2850.00	0.2336E-01
350.00	0.3976	2875.00	0.2308E-01
375.00	0.3627	2900.00	0.2281E-01
400.00	0.3326	2925.00	0.2254E-01
425.00	0.3067	2950.00	0.2228E-01
450.00	0.2839	2975.00	0.2202E-01
475.00	0.2640	3000.00	0.2177E-01
500.00	0.2464	3025.00	0.2153E-01
525.00	0.2309	3050.00	0.2128E-01
550.00	0.2169	3075.00	0.2105E-01
575.00	0.2042	3100.00	0.2082E-01
600.00	0.1928	3125.00	0.2059E-01
625.00	0.1824	3150.00	0.2036E-01
650.00	0.1731	3174.99	0.2015E-01
675.00	0.1645	3200.00	0.1993E-01
700.00	0.1566	3225.00	0.1972E-01
725.00	0.1493	3250.00	0.1951E-01
750.00	0.1427	3275.00	0.1931E-01
775.00	0.1365	3300.00	0.1911E-01
800.00	0.1308	3325.00	0.1891E-01
825.00	0.1254	3350.00	0.1872E-01
850.00	0.1205	3375.00	0.1853E-01
875.00	0.1158	3400.00	0.1834E-01
900.00	0.1115	3425.00	0.1816E-01
925.00	0.1074	3450.00	0.1798E-01
950.00	0.1036	3475.00	0.1780E-01
975.00	0.1000	3500.00	0.1763E-01
1000.00	0.9662E-01	3525.00	0.1746E-01
1025.00	0.9343E-01	3550.00	0.1729E-01
1050.00	0.9042E-01	3575.00	0.1713E-01
1075.00	0.8758E-01	3600.00	0.1696E-01
1100.00	0.8489E-01	3625.00	0.1680E-01
1125.00	0.8235E-01	3650.00	0.1665E-01
1150.00	0.7994E-01	3675.00	0.1649E-01
1175.00	0.7764E-01	3700.00	0.1634E-01
1200.00	0.7547E-01	3725.00	0.1619E-01
1225.00	0.7338E-01	3750.00	0.1604E-01
1250.00	0.7140E-01	3775.00	0.1590E-01

1275.00	0.6950E-01	3800.00	0.1575E-01
1300.00	0.6770E-01	3825.00	0.1561E-01
1325.00	0.6597E-01	3850.00	0.1547E-01
1350.00	0.6430E-01	3875.00	0.1534E-01
1375.00	0.6271E-01	3900.00	0.1520E-01
1400.00	0.6119E-01	3925.00	0.1507E-01
1425.00	0.5973E-01	3950.00	0.1494E-01
1450.00	0.5833E-01	3975.00	0.1481E-01
1475.00	0.5699E-01	4000.00	0.1469E-01
1500.00	0.5570E-01	4025.00	0.1456E-01
1525.00	0.5446E-01	4050.00	0.1444E-01
1550.00	0.5327E-01	4075.00	0.1432E-01
1575.00	0.5212E-01	4100.00	0.1420E-01
1600.00	0.5102E-01	4125.00	0.1408E-01
1625.00	0.4995E-01	4150.00	0.1396E-01
1650.00	0.4893E-01	4175.00	0.1385E-01
1675.00	0.4794E-01	4200.00	0.1374E-01
1700.00	0.4698E-01	4225.00	0.1363E-01
1725.00	0.4606E-01	4250.00	0.1352E-01
1750.00	0.4517E-01	4275.00	0.1341E-01
1775.00	0.4430E-01	4300.00	0.1330E-01
1800.00	0.4347E-01	4325.00	0.1320E-01
1825.00	0.4266E-01	4350.00	0.1309E-01
1850.00	0.4188E-01	4375.00	0.1299E-01
1875.01	0.4112E-01	4400.00	0.1289E-01
1900.00	0.4070E-01	4425.00	0.1279E-01
1925.00	0.3997E-01	4450.00	0.1269E-01
1950.00	0.3927E-01	4475.00	0.1260E-01
1975.00	0.3859E-01	4500.00	0.1250E-01
2000.00	0.3793E-01	4525.00	0.1241E-01
2025.00	0.3729E-01	4550.00	0.1231E-01
2050.00	0.3667E-01	4575.00	0.1222E-01
2075.00	0.3607E-01	4600.00	0.1213E-01
2100.00	0.3548E-01	4625.00	0.1204E-01
2125.00	0.3491E-01	4650.00	0.1195E-01
2150.00	0.3436E-01	4675.00	0.1187E-01
2175.00	0.3382E-01	4700.00	0.1178E-01
2200.00	0.3329E-01	4725.00	0.1169E-01
2225.00	0.3278E-01	4750.00	0.1161E-01
2250.00	0.3228E-01	4775.00	0.1153E-01
2275.00	0.3180E-01	4800.00	0.1144E-01
2300.00	0.3132E-01	4825.00	0.1136E-01
2325.00	0.3086E-01	4850.00	0.1128E-01
2350.00	0.3042E-01	4875.00	0.1120E-01
2375.00	0.2998E-01	4900.00	0.1113E-01
2400.00	0.2955E-01	4925.00	0.1105E-01
2425.00	0.2913E-01	4950.00	0.1097E-01
2450.00	0.2873E-01	4975.00	0.1090E-01
2475.00	0.2833E-01	5000.00	0.1082E-01
2500.00	0.2794E-01		

 ***** AERSCREEN MAXIMUM IMPACT SUMMARY *****

3-hour, 8-hour, and 24-hour scaled
 concentrations are equal to the 1-hour concentration as referenced in
 SCREENING PROCEDURES FOR ESTIMATING THE AIR QUALITY
 IMPACT OF STATIONARY SOURCES, REVISED (Section 4.5.4)
 Report number EPA-454/R-92-019
http://www.epa.gov/scram001/guidance_permit.htm
 under Screening Guidance

CALCULATION PROCEDURE	MAXIMUM 1-HOUR CONC (ug/m3)	SCALED 3-HOUR CONC (ug/m3)	SCALED 8-HOUR CONC (ug/m3)	SCALED 24-HOUR CONC (ug/m3)	SCALED ANNUAL CONC (ug/m3)
FLAT TERRAIN	2.218	2.218	2.218	2.218	N/A
DISTANCE FROM SOURCE	103.00 meters				
IMPACT AT THE AMBIENT BOUNDARY	1.690	1.690	1.690	1.690	N/A
DISTANCE FROM SOURCE	1.00 meters				

TITLE: LockwoodIIIIApartments, Operational

***** AREA PARAMETERS *****

SOURCE EMISSION RATE:	0.575E-03 g/s	0.457E-02 lb/hr
AREA EMISSION RATE:	0.275E-07 g/(s-m2)	0.218E-06 lb/(hr-m2)
AREA HEIGHT:	3.00 meters	9.84 feet
AREA SOURCE LONG SIDE:	204.56 meters	671.13 feet
AREA SOURCE SHORT SIDE:	102.28 meters	335.56 feet
INITIAL VERTICAL DIMENSION:	1.50 meters	4.92 feet
RURAL OR URBAN:	URBAN	
POPULATION:	200415	
INITIAL PROBE DISTANCE =	5000. meters	16404. feet

***** BUILDING DOWNWASH PARAMETERS *****

BUILDING DOWNWASH NOT USED FOR NON-POINT SOURCES

***** FLOW SECTOR ANALYSIS *****
25 meter receptor spacing: 1. meters - 5000. meters

MAXIMUM IMPACT RECEPTOR

Zo SECTOR	SURFACE ROUGHNESS	1-HR CONC (ug/m3)	RADIAL (deg)	DIST (m)	TEMPORAL PERIOD
1*	1.000	0.9167	0	100.0	WIN

* = worst case diagonal

***** MAKEMET METEOROLOGY PARAMETERS *****

MIN/MAX TEMPERATURE: 250.0 / 310.0 (K)

MINIMUM WIND SPEED: 0.5 m/s

ANEMOMETER HEIGHT: 10.000 meters

SURFACE CHARACTERISTICS INPUT: AERMET SEASONAL TABLES

DOMINANT SURFACE PROFILE: Urban

DOMINANT CLIMATE TYPE: Average Moisture

DOMINANT SEASON: Winter

ALBEDO: 0.35

BOWEN RATIO: 1.50

ROUGHNESS LENGTH: 1.000 (meters)

SURFACE FRICTION VELOCITY (U*) NOT ADJUSTED

METEOROLOGY CONDITIONS USED TO PREDICT OVERALL MAXIMUM IMPACT

YR MO DY JDY HR

10 01 10 10 01

H0	U*	W*	DT/DZ	ZICNV	ZIMCH	M-O	LEN	Z0	BOWEN	ALBEDO	REF WS
-1.30	0.043	-9.000	0.020	-999.	21.	6.0	1.000	1.50	0.35	0.50	

HT	REF TA	HT
10.0	310.0	2.0

***** AERSCREEN AUTOMATED DISTANCES *****

OVERALL MAXIMUM CONCENTRATIONS BY DISTANCE

DIST (m)	MAXIMUM 1-HR CONC (ug/m3)	DIST (m)	MAXIMUM 1-HR CONC (ug/m3)
1.00	0.7019	2525.00	0.1144E-01

25.00	0.7673	2550.00	0.1129E-01
50.00	0.8224	2575.00	0.1114E-01
75.00	0.8687	2600.00	0.1099E-01
100.00	0.9167	2625.00	0.1085E-01
125.00	0.7104	2650.00	0.1071E-01
150.00	0.5087	2675.00	0.1057E-01
175.00	0.4141	2700.00	0.1044E-01
200.00	0.3476	2725.00	0.1031E-01
225.00	0.2974	2750.00	0.1018E-01
250.00	0.2587	2775.00	0.1005E-01
275.00	0.2278	2800.00	0.9932E-02
300.00	0.2028	2825.00	0.9812E-02
325.00	0.1824	2850.00	0.9694E-02
350.00	0.1651	2875.00	0.9579E-02
375.00	0.1506	2900.00	0.9466E-02
400.00	0.1381	2925.00	0.9356E-02
425.00	0.1273	2950.00	0.9247E-02
450.00	0.1179	2975.00	0.9141E-02
475.00	0.1096	3000.00	0.9037E-02
500.00	0.1023	3025.00	0.8935E-02
525.00	0.9586E-01	3050.00	0.8835E-02
550.00	0.9003E-01	3075.00	0.8737E-02
575.00	0.8476E-01	3100.00	0.8640E-02
600.00	0.8002E-01	3125.00	0.8546E-02
625.00	0.7573E-01	3150.00	0.8453E-02
650.00	0.7185E-01	3174.99	0.8362E-02
675.00	0.6829E-01	3199.99	0.8273E-02
700.00	0.6500E-01	3225.00	0.8185E-02
725.00	0.6199E-01	3250.00	0.8099E-02
750.00	0.5922E-01	3275.00	0.8015E-02
775.00	0.5666E-01	3300.00	0.7932E-02
800.00	0.5428E-01	3325.00	0.7850E-02
825.00	0.5206E-01	3350.00	0.7770E-02
850.00	0.5000E-01	3375.00	0.7691E-02
875.00	0.4809E-01	3400.00	0.7614E-02
900.00	0.4629E-01	3425.00	0.7538E-02
925.00	0.4459E-01	3450.00	0.7464E-02
950.00	0.4300E-01	3475.00	0.7390E-02
975.00	0.4151E-01	3500.00	0.7318E-02
1000.00	0.4011E-01	3525.00	0.7247E-02
1025.00	0.3878E-01	3550.00	0.7177E-02
1050.00	0.3753E-01	3575.00	0.7109E-02
1075.00	0.3635E-01	3600.00	0.7041E-02
1100.00	0.3524E-01	3625.00	0.6975E-02
1125.00	0.3418E-01	3650.00	0.6910E-02
1150.00	0.3318E-01	3675.00	0.6845E-02
1175.00	0.3223E-01	3700.00	0.6782E-02
1200.00	0.3133E-01	3724.99	0.6720E-02
1225.00	0.3046E-01	3750.00	0.6659E-02
1250.00	0.2964E-01	3775.00	0.6599E-02

1275.00	0.2885E-01	3800.00	0.6539E-02
1300.00	0.2810E-01	3825.00	0.6481E-02
1325.00	0.2738E-01	3849.99	0.6423E-02
1350.00	0.2669E-01	3875.00	0.6367E-02
1375.00	0.2603E-01	3900.00	0.6311E-02
1400.00	0.2540E-01	3925.00	0.6256E-02
1425.00	0.2479E-01	3950.00	0.6202E-02
1450.00	0.2421E-01	3975.00	0.6149E-02
1475.00	0.2366E-01	4000.00	0.6096E-02
1500.00	0.2312E-01	4025.00	0.6044E-02
1525.00	0.2261E-01	4050.00	0.5993E-02
1550.00	0.2211E-01	4075.00	0.5943E-02
1575.00	0.2164E-01	4100.00	0.5894E-02
1600.00	0.2118E-01	4125.00	0.5845E-02
1625.00	0.2073E-01	4150.00	0.5797E-02
1650.00	0.2031E-01	4175.00	0.5749E-02
1675.00	0.1990E-01	4200.00	0.5702E-02
1700.00	0.1950E-01	4225.00	0.5656E-02
1725.00	0.1912E-01	4250.00	0.5611E-02
1750.00	0.1875E-01	4275.00	0.5566E-02
1775.00	0.1839E-01	4300.00	0.5522E-02
1800.00	0.1804E-01	4325.00	0.5478E-02
1825.00	0.1771E-01	4350.00	0.5435E-02
1850.00	0.1738E-01	4375.00	0.5393E-02
1875.01	0.1707E-01	4400.00	0.5351E-02
1900.00	0.1689E-01	4425.00	0.5309E-02
1925.00	0.1659E-01	4450.00	0.5269E-02
1950.00	0.1630E-01	4475.00	0.5228E-02
1975.00	0.1602E-01	4500.00	0.5189E-02
2000.00	0.1575E-01	4525.00	0.5150E-02
2025.00	0.1548E-01	4550.00	0.5111E-02
2050.00	0.1522E-01	4575.00	0.5073E-02
2075.00	0.1497E-01	4600.00	0.5035E-02
2100.00	0.1473E-01	4625.00	0.4998E-02
2125.00	0.1449E-01	4650.00	0.4961E-02
2150.00	0.1426E-01	4675.00	0.4925E-02
2175.00	0.1404E-01	4700.00	0.4889E-02
2200.00	0.1382E-01	4725.00	0.4854E-02
2225.00	0.1361E-01	4750.00	0.4819E-02
2250.00	0.1340E-01	4775.00	0.4784E-02
2275.00	0.1320E-01	4800.00	0.4750E-02
2300.00	0.1300E-01	4825.00	0.4717E-02
2325.00	0.1281E-01	4850.00	0.4683E-02
2350.00	0.1262E-01	4875.00	0.4651E-02
2375.00	0.1244E-01	4900.00	0.4618E-02
2400.00	0.1227E-01	4924.99	0.4586E-02
2425.00	0.1209E-01	4950.00	0.4555E-02
2450.00	0.1192E-01	4975.00	0.4523E-02
2475.00	0.1176E-01	5000.00	0.4492E-02
2500.00	0.1160E-01		

 ***** AERSCREEN MAXIMUM IMPACT SUMMARY *****

3-hour, 8-hour, and 24-hour scaled
 concentrations are equal to the 1-hour concentration as referenced in
 SCREENING PROCEDURES FOR ESTIMATING THE AIR QUALITY
 IMPACT OF STATIONARY SOURCES, REVISED (Section 4.5.4)
 Report number EPA-454/R-92-019
http://www.epa.gov/scram001/guidance_permit.htm
 under Screening Guidance

CALCULATION PROCEDURE	MAXIMUM 1-HOUR CONC (ug/m3)	SCALED 3-HOUR CONC (ug/m3)	SCALED 8-HOUR CONC (ug/m3)	SCALED 24-HOUR CONC (ug/m3)	SCALED ANNUAL CONC (ug/m3)
FLAT TERRAIN	0.9213	0.9213	0.9213	0.9213	N/A
DISTANCE FROM SOURCE	103.00 meters				
IMPACT AT THE AMBIENT BOUNDARY	0.7019	0.7019	0.7019	0.7019	N/A
DISTANCE FROM SOURCE	1.00 meters				



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Matthew F. Hagemann, P.G., C.Hg., QSD, QSP

**Geologic and Hydrogeologic Characterization
Investigation and Remediation Strategies
Litigation Support and Testifying Expert
Industrial Stormwater Compliance
CEQA Review**

Education:

M.S. Degree, Geology, California State University Los Angeles, Los Angeles, CA, 1984.

B.A. Degree, Geology, Humboldt State University, Arcata, CA, 1982.

Professional Certifications:

California Professional Geologist

California Certified Hydrogeologist

Qualified SWPPP Developer and Practitioner

Professional Experience:

Matt has 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Matt also served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring. For the past 15 years, as a founding partner with SWAPE, Matt has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality and greenhouse gas emissions.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2014, 2017;
- Senior Environmental Analyst, Komex H2O Science, Inc. (2000 -- 2003);

- Executive Director, Orange Coast Watch (2001 – 2004);
- Senior Science Policy Advisor and Hydrogeologist, U.S. Environmental Protection Agency (1989–1998);
- Hydrogeologist, National Park Service, Water Resources Division (1998 – 2000);
- Adjunct Faculty Member, San Francisco State University, Department of Geosciences (1993 – 1998);
- Instructor, College of Marin, Department of Science (1990 – 1995);
- Geologist, U.S. Forest Service (1986 – 1998); and
- Geologist, Dames & Moore (1984 – 1986).

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt’s responsibilities have included:

- Lead analyst and testifying expert in the review of over 300 environmental impact reports and negative declarations since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, greenhouse gas emissions, and geologic hazards. Make recommendations for additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce worker exposure to hazards from toxins and Valley Fever.
- Stormwater analysis, sampling and best management practice evaluation at more than 100 industrial facilities.
- Expert witness on numerous cases including, for example, perfluorooctanoic acid (PFOA) contamination of groundwater, MTBE litigation, air toxins at hazards at a school, CERCLA compliance in assessment and remediation, and industrial stormwater contamination.
- Technical assistance and litigation support for vapor intrusion concerns.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.

With Komex H2O Science Inc., Matt’s duties included the following:

- Senior author of a report on the extent of perchlorate contamination that was used in testimony by the former U.S. EPA Administrator and General Counsel.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of MTBE use, research, and regulation.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of perchlorate use, research, and regulation.
- Senior researcher in a study that estimates nationwide costs for MTBE remediation and drinking water treatment, results of which were published in newspapers nationwide and in testimony against provisions of an energy bill that would limit liability for oil companies.
- Research to support litigation to restore drinking water supplies that have been contaminated by MTBE in California and New York.

- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.
- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

Executive Director:

As Executive Director with Orange Coast Watch, Matt led efforts to restore water quality at Orange County beaches from multiple sources of contamination including urban runoff and the discharge of wastewater. In reporting to a Board of Directors that included representatives from leading Orange County universities and businesses, Matt prepared issue papers in the areas of treatment and disinfection of wastewater and control of the discharge of grease to sewer systems. Matt actively participated in the development of countywide water quality permits for the control of urban runoff and permits for the discharge of wastewater. Matt worked with other nonprofits to protect and restore water quality, including Surfrider, Natural Resources Defense Council and Orange County CoastKeeper as well as with business institutions including the Orange County Business Council.

Hydrogeology:

As a Senior Hydrogeologist with the U.S. Environmental Protection Agency, Matt led investigations to characterize and cleanup closing military bases, including Mare Island Naval Shipyard, Hunters Point Naval Shipyard, Treasure Island Naval Station, Alameda Naval Station, Moffett Field, Mather Army Airfield, and Sacramento Army Depot. Specific activities were as follows:

- Led efforts to model groundwater flow and contaminant transport, ensured adequacy of monitoring networks, and assessed cleanup alternatives for contaminated sediment, soil, and groundwater.
- Initiated a regional program for evaluation of groundwater sampling practices and laboratory analysis at military bases.
- Identified emerging issues, wrote technical guidance, and assisted in policy and regulation development through work on four national U.S. EPA workgroups, including the Superfund Groundwater Technical Forum and the Federal Facilities Forum.

At the request of the State of Hawaii, Matt developed a methodology to determine the vulnerability of groundwater to contamination on the islands of Maui and Oahu. He used analytical models and a GIS to show zones of vulnerability, and the results were adopted and published by the State of Hawaii and County of Maui.

As a hydrogeologist with the EPA Groundwater Protection Section, Matt worked with provisions of the Safe Drinking Water Act and NEPA to prevent drinking water contamination. Specific activities included the following:

- Received an EPA Bronze Medal for his contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. He prepared geologic reports, conducted

public hearings, and responded to public comments from residents who were very concerned about the impact of designation.

- Reviewed a number of Environmental Impact Statements for planned major developments, including large hazardous and solid waste disposal facilities, mine reclamation, and water transfer.

Matt served as a hydrogeologist with the RCRA Hazardous Waste program. Duties were as follows:

- Supervised the hydrogeologic investigation of hazardous waste sites to determine compliance with Subtitle C requirements.
- Reviewed and wrote "part B" permits for the disposal of hazardous waste.
- Conducted RCRA Corrective Action investigations of waste sites and led inspections that formed the basis for significant enforcement actions that were developed in close coordination with U.S. EPA legal counsel.
- Wrote contract specifications and supervised contractor's investigations of waste sites.

With the National Park Service, Matt directed service-wide investigations of contaminant sources to prevent degradation of water quality, including the following tasks:

- Applied pertinent laws and regulations including CERCLA, RCRA, NEPA, NRDA, and the Clean Water Act to control military, mining, and landfill contaminants.
- Conducted watershed-scale investigations of contaminants at parks, including Yellowstone and Olympic National Park.
- Identified high-levels of perchlorate in soil adjacent to a national park in New Mexico and advised park superintendent on appropriate response actions under CERCLA.
- Served as a Park Service representative on the Interagency Perchlorate Steering Committee, a national workgroup.
- Developed a program to conduct environmental compliance audits of all National Parks while serving on a national workgroup.
- Co-authored two papers on the potential for water contamination from the operation of personal watercraft and snowmobiles, these papers serving as the basis for the development of nation-wide policy on the use of these vehicles in National Parks.
- Contributed to the Federal Multi-Agency Source Water Agreement under the Clean Water Action Plan.

Policy:

Served senior management as the Senior Science Policy Advisor with the U.S. Environmental Protection Agency, Region 9.

Activities included the following:

- Advised the Regional Administrator and senior management on emerging issues such as the potential for the gasoline additive MTBE and ammonium perchlorate to contaminate drinking water supplies.
- Shaped EPA's national response to these threats by serving on workgroups and by contributing to guidance, including the Office of Research and Development publication, *Oxygenates in Water: Critical Information and Research Needs*.
- Improved the technical training of EPA's scientific and engineering staff.
- Earned an EPA Bronze Medal for representing the region's 300 scientists and engineers in negotiations with the Administrator and senior management to better integrate scientific

principles into the policy-making process.

- Established national protocol for the peer review of scientific documents.

Geology:

With the U.S. Forest Service, Matt led investigations to determine hillslope stability of areas proposed for timber harvest in the central Oregon Coast Range. Specific activities were as follows:

- Mapped geology in the field, and used aerial photographic interpretation and mathematical models to determine slope stability.
- Coordinated his research with community members who were concerned with natural resource protection.
- Characterized the geology of an aquifer that serves as the sole source of drinking water for the city of Medford, Oregon.

As a consultant with Dames and Moore, Matt led geologic investigations of two contaminated sites (later listed on the Superfund NPL) in the Portland, Oregon, area and a large hazardous waste site in eastern Oregon. Duties included the following:

- Supervised year-long effort for soil and groundwater sampling.
- Conducted aquifer tests.
- Investigated active faults beneath sites proposed for hazardous waste disposal.

Teaching:

From 1990 to 1998, Matt taught at least one course per semester at the community college and university levels:

- At San Francisco State University, held an adjunct faculty position and taught courses in environmental geology, oceanography (lab and lecture), hydrogeology, and groundwater contamination.
- Served as a committee member for graduate and undergraduate students.
- Taught courses in environmental geology and oceanography at the College of Marin.

Matt is currently a part time geology instructor at Golden West College in Huntington Beach, California where he taught from 2010 to 2014 and in 2017.

Invited Testimony, Reports, Papers and Presentations:

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Presentation to the Public Environmental Law Conference, Eugene, Oregon.

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Invited presentation to U.S. EPA Region 9, San Francisco, California.

Hagemann, M.F., 2005. Use of Electronic Databases in Environmental Regulation, Policy Making and Public Participation. Brownfields 2005, Denver, Colorado.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Nevada and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Las Vegas, NV (served on conference organizing committee).

Hagemann, M.F., 2004. Invited testimony to a California Senate committee hearing on air toxins at schools in Southern California, Los Angeles.

Brown, A., Farrow, J., Gray, A. and **Hagemann, M.**, 2004. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to the Ground Water and Environmental Law Conference, National Groundwater Association.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Arizona and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Phoenix, AZ (served on conference organizing committee).

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in the Southwestern U.S. Invited presentation to a special committee meeting of the National Academy of Sciences, Irvine, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a tribal EPA meeting, Pechanga, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a meeting of tribal representatives, Parker, AZ.

Hagemann, M.F., 2003. Impact of Perchlorate on the Colorado River and Associated Drinking Water Supplies. Invited presentation to the Inter-Tribal Meeting, Torres Martinez Tribe.

Hagemann, M.F., 2003. The Emergence of Perchlorate as a Widespread Drinking Water Contaminant. Invited presentation to the U.S. EPA Region 9.

Hagemann, M.F., 2003. A Deductive Approach to the Assessment of Perchlorate Contamination. Invited presentation to the California Assembly Natural Resources Committee.

Hagemann, M.F., 2003. Perchlorate: A Cold War Legacy in Drinking Water. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. From Tank to Tap: A Chronology of MTBE in Groundwater. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. A Chronology of MTBE in Groundwater and an Estimate of Costs to Address Impacts to Groundwater. Presentation to the annual meeting of the Society of Environmental Journalists.

Hagemann, M.F., 2002. An Estimate of the Cost to Address MTBE Contamination in Groundwater (and Who Will Pay). Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to a meeting of the U.S. EPA and State Underground Storage Tank Program managers.

Hagemann, M.F., 2001. From Tank to Tap: A Chronology of MTBE in Groundwater. Unpublished report.

Hagemann, M.F., 2001. Estimated Cleanup Cost for MTBE in Groundwater Used as Drinking Water. Unpublished report.

Hagemann, M.F., 2001. Estimated Costs to Address MTBE Releases from Leaking Underground Storage Tanks. Unpublished report.

Hagemann, M.F., and VanMouwerik, M., 1999. Potential Water Quality Concerns Related to Snowmobile Usage. Water Resources Division, National Park Service, Technical Report.

VanMouwerik, M. and **Hagemann, M.F.** 1999, Water Quality Concerns Related to Personal Watercraft Usage. Water Resources Division, National Park Service, Technical Report.

Hagemann, M.F., 1999, Is Dilution the Solution to Pollution in National Parks? The George Wright Society Biannual Meeting, Asheville, North Carolina.

Hagemann, M.F., 1997, The Potential for MTBE to Contaminate Groundwater. U.S. EPA Superfund Groundwater Technical Forum Annual Meeting, Las Vegas, Nevada.

Hagemann, M.F., and Gill, M., 1996, Impediments to Intrinsic Remediation, Moffett Field Naval Air Station, Conference on Intrinsic Remediation of Chlorinated Hydrocarbons, Salt Lake City.

Hagemann, M.F., Fukunaga, G.L., 1996, The Vulnerability of Groundwater to Anthropogenic Contaminants on the Island of Maui, Hawaii. Hawaii Water Works Association Annual Meeting, Maui, October 1996.

Hagemann, M. F., Fukunaga, G. L., 1996, Ranking Groundwater Vulnerability in Central Oahu, Hawaii. Proceedings, Geographic Information Systems in Environmental Resources Management, Air and Waste Management Association Publication VIP-61.

Hagemann, M.F., 1994. Groundwater Characterization and Cleanup at Closing Military Bases in California. Proceedings, California Groundwater Resources Association Meeting.

Hagemann, M.F. and Sabol, M.A., 1993. Role of the U.S. EPA in the High Plains States Groundwater Recharge Demonstration Program. Proceedings, Sixth Biennial Symposium on the Artificial Recharge of Groundwater.

Hagemann, M.F., 1993. U.S. EPA Policy on the Technical Impracticability of the Cleanup of DNAPL-contaminated Groundwater. California Groundwater Resources Association Meeting.

Hagemann, M.F., 1992. Dense Nonaqueous Phase Liquid Contamination of Groundwater: An Ounce of Prevention... Proceedings, Association of Engineering Geologists Annual Meeting, v. 35.

Other Experience:

Selected as subject matter expert for the California Professional Geologist licensing examinations, 2009-2011.



Technical Consultation, Data Analysis and
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Paul Rosenfeld, Ph.D.

Principal Environmental Chemist

Chemical Fate and Transport & Air Dispersion Modeling

Risk Assessment & Remediation Specialist

Education

Ph.D. Soil Chemistry, University of Washington, 1999. Dissertation on volatile organic compound filtration.

M.S. Environmental Science, U.C. Berkeley, 1995. Thesis on organic waste economics.

B.A. Environmental Studies, U.C. Santa Barbara, 1991. Focus on wastewater treatment.

Professional Experience

Dr. Rosenfeld has over 25 years of experience conducting environmental investigations and risk assessments for evaluating impacts to human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risk, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, industrial, military and agricultural sources, unconventional oil drilling operations, and locomotive and construction engines. His project experience ranges from monitoring and modeling of pollution sources to evaluating impacts of pollution on workers at industrial facilities and residents in surrounding communities. Dr. Rosenfeld has also successfully modeled exposure to contaminants distributed by water systems and via vapor intrusion.

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particulate matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, creosote, perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants. Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at sites and has testified as an expert witness on numerous cases involving exposure to soil, water and air contaminants from industrial, railroad, agricultural, and military sources.

Professional History:

Soil Water Air Protection Enterprise (SWAPE); 2003 to present; Principal and Founding Partner
UCLA School of Public Health; 2007 to 2011; Lecturer (Assistant Researcher)
UCLA School of Public Health; 2003 to 2006; Adjunct Professor
UCLA Environmental Science and Engineering Program; 2002-2004; Doctoral Intern Coordinator
UCLA Institute of the Environment, 2001-2002; Research Associate
Komex H₂O Science, 2001 to 2003; Senior Remediation Scientist
National Groundwater Association, 2002-2004; Lecturer
San Diego State University, 1999-2001; Adjunct Professor
Anteon Corp., San Diego, 2000-2001; Remediation Project Manager
Ogden (now Amec), San Diego, 2000-2000; Remediation Project Manager
Bechtel, San Diego, California, 1999 – 2000; Risk Assessor
King County, Seattle, 1996 – 1999; Scientist
James River Corp., Washington, 1995-96; Scientist
Big Creek Lumber, Davenport, California, 1995; Scientist
Plumas Corp., California and USFS, Tahoe 1993-1995; Scientist
Peace Corps and World Wildlife Fund, St. Kitts, West Indies, 1991-1993; Scientist

Publications:

Rosenfeld P. E., Spaeth K., Hallman R., Bressler R., Smith, G., (2022) [Cancer Risk and Diesel Exhaust Exposure Among Railroad Workers](#). *Water Air Soil Pollution*. **233**, 171.

Remy, L.L., Clay T., Byers, V., **Rosenfeld P. E.** (2019) Hospital, Health, and Community Burden After Oil Refinery Fires, Richmond, California 2007 and 2012. *Environmental Health*. 18:48

Simons, R.A., Seo, Y. **Rosenfeld, P.**, (2015) Modeling the Effect of Refinery Emission On Residential Property Value. *Journal of Real Estate Research*. 27(3):321-342

Chen, J. A, Zapata A. R., Sutherland A. J., Molmen, D.R., Chow, B. S., Wu, L. E., **Rosenfeld, P. E.**, Hesse, R. C., (2012) Sulfur Dioxide and Volatile Organic Compound Exposure To A Community In Texas City Texas Evaluated Using Aermid and Empirical Data. *American Journal of Environmental Science*, 8(6), 622-632.

Rosenfeld, P.E. & Feng, L. (2011). *The Risks of Hazardous Waste*. Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2011). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Agrochemical Industry*, Amsterdam: Elsevier Publishing.

Gonzalez, J., Feng, L., Sutherland, A., Waller, C., Sok, H., Hesse, R., **Rosenfeld, P.** (2010). PCBs and Dioxins/Furans in Attic Dust Collected Near Former PCB Production and Secondary Copper Facilities in Sauget, IL. *Procedia Environmental Sciences*. 113–125.

Feng, L., Wu, C., Tam, L., Sutherland, A.J., Clark, J.J., **Rosenfeld, P.E.** (2010). Dioxin and Furan Blood Lipid and Attic Dust Concentrations in Populations Living Near Four Wood Treatment Facilities in the United States. *Journal of Environmental Health*. 73(6), 34-46.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2010). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Wood and Paper Industries*. Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2009). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Petroleum Industry*. Amsterdam: Elsevier Publishing.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P.** (2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. *WIT Transactions on Ecology and the Environment, Air Pollution*, 123 (17), 319-327.

Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). A Statistical Analysis Of Attic Dust And Blood Lipid Concentrations Of Tetrachloro-p-Dibenzodioxin (TCDD) Toxicity Equivalency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. *Organohalogen Compounds*, 70, 002252-002255.

Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. *Organohalogen Compounds*, 70, 000527-000530.

Hensley, A.R. A. Scott, J. J. J. Clark, **Rosenfeld, P.E.** (2007). Attic Dust and Human Blood Samples Collected near a Former Wood Treatment Facility. *Environmental Research*. 105, 194-197.

Rosenfeld, P.E., J. J. J. Clark, A. R. Hensley, M. Suffet. (2007). The Use of an Odor Wheel Classification for Evaluation of Human Health Risk Criteria for Compost Facilities. *Water Science & Technology* 55(5), 345-357.

Rosenfeld, P. E., M. Suffet. (2007). The Anatomy Of Odour Wheels For Odours Of Drinking Water, Wastewater, Compost And The Urban Environment. *Water Science & Technology* 55(5), 335-344.

Sullivan, P. J. Clark, J.J.J., Agardy, F. J., **Rosenfeld, P.E.** (2007). *Toxic Legacy, Synthetic Toxins in the Food, Water, and Air in American Cities*. Boston Massachusetts: Elsevier Publishing

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash. *Water Science and Technology*. 49(9),171-178.

Rosenfeld P. E., J.J. Clark, I.H. (Mel) Suffet (2004). The Value of An Odor-Quality-Wheel Classification Scheme For The Urban Environment. *Water Environment Federation's Technical Exhibition and Conference (WEFTEC) 2004*. New Orleans, October 2-6, 2004.

Rosenfeld, P.E., and Suffet, I.H. (2004). Understanding Odorants Associated With Compost, Biomass Facilities, and the Land Application of Biosolids. *Water Science and Technology*. 49(9), 193-199.

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash, *Water Science and Technology*, 49(9), 171-178.

Rosenfeld, P. E., Grey, M. A., Sellew, P. (2004). Measurement of Biosolids Odor and Odorant Emissions from Windrows, Static Pile and Biofilter. *Water Environment Research*. 76(4), 310-315.

Rosenfeld, P.E., Grey, M and Suffet, M. (2002). Compost Demonstration Project, Sacramento California Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Integrated Waste Management Board Public Affairs Office*, Publications Clearinghouse (MS-6), Sacramento, CA Publication #442-02-008.

Rosenfeld, P.E., and C.L. Henry. (2001). Characterization of odor emissions from three different biosolids. *Water Soil and Air Pollution*. 127(1-4), 173-191.

Rosenfeld, P.E., and Henry C. L., (2000). Wood ash control of odor emissions from biosolids application. *Journal of Environmental Quality*. 29, 1662-1668.

Rosenfeld, P.E., C.L. Henry and D. Bennett. (2001). Wastewater dewatering polymer affect on biosolids odor emissions and microbial activity. *Water Environment Research*. 73(4), 363-367.

Rosenfeld, P.E., and C.L. Henry. (2001). Activated Carbon and Wood Ash Sorption of Wastewater, Compost, and Biosolids Odorants. *Water Environment Research*, 73, 388-393.

Rosenfeld, P.E., and Henry C. L., (2001). High carbon wood ash effect on biosolids microbial activity and odor. *Water Environment Research*. 131(1-4), 247-262.

Chollack, T. and **P. Rosenfeld**. (1998). Compost Amendment Handbook For Landscaping. Prepared for and distributed by the City of Redmond, Washington State.

Rosenfeld, P. E. (1992). The Mount Liamuiga Crater Trail. *Heritage Magazine of St. Kitts*, 3(2).

Rosenfeld, P. E. (1993). High School Biogas Project to Prevent Deforestation On St. Kitts. *Biomass Users Network*, 7(1).

Rosenfeld, P. E. (1998). Characterization, Quantification, and Control of Odor Emissions From Biosolids Application To Forest Soil. Doctoral Thesis. University of Washington College of Forest Resources.

Rosenfeld, P. E. (1994). Potential Utilization of Small Diameter Trees on Sierra County Public Land. Masters thesis reprinted by the Sierra County Economic Council. Sierra County, California.

Rosenfeld, P. E. (1991). How to Build a Small Rural Anaerobic Digester & Uses Of Biogas In The First And Third World. Bachelors Thesis. University of California.

Presentations:

Rosenfeld, P.E., "The science for Perfluorinated Chemicals (PFAS): What makes remediation so hard?" Law Seminars International, (May 9-10, 2018) 800 Fifth Avenue, Suite 101 Seattle, WA.

Rosenfeld, P.E., Sutherland, A; Hesse, R.; Zapata, A. (October 3-6, 2013). Air dispersion modeling of volatile organic emissions from multiple natural gas wells in Decatur, TX. *44th Western Regional Meeting, American Chemical Society*. Lecture conducted from Santa Clara, CA.

Sok, H.L.; Waller, C.C.; Feng, L.; Gonzalez, J.; Sutherland, A.J.; Wisdom-Stack, T.; Sahai, R.K.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Atrazine: A Persistent Pesticide in Urban Drinking Water. *Urban Environmental Pollution*. Lecture conducted from Boston, MA.

Feng, L.; Gonzalez, J.; Sok, H.L.; Sutherland, A.J.; Waller, C.C.; Wisdom-Stack, T.; Sahai, R.K.; La, M.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Bringing Environmental Justice to East St. Louis, Illinois. *Urban Environmental Pollution*. Lecture conducted from Boston, MA.

Rosenfeld, P.E. (April 19-23, 2009). Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS) Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*, Lecture conducted from Tuscon, AZ.

Rosenfeld, P.E. (April 19-23, 2009). Cost to Filter Atrazine Contamination from Drinking Water in the United States" Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*. Lecture conducted from Tuscon, AZ.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P.** (20-22 July, 2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. Brebbia, C.A. and Popov, V., eds., *Air Pollution XVII: Proceedings of the Seventeenth International Conference on Modeling, Monitoring and Management of Air Pollution*. Lecture conducted from Tallinn, Estonia.

Rosenfeld, P. E. (October 15-18, 2007). Moss Point Community Exposure To Contaminants From A Releasing Facility. *The 23rd Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). The Repeated Trespass of Tritium-Contaminated Water Into A Surrounding Community Form Repeated Waste Spills From A Nuclear Power Plant. *The 23rd Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). Somerville Community Exposure To Contaminants From Wood Treatment Facility Emissions. *The 23rd Annual International Conferences on Soils Sediment and Water*. Lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld P. E. (March 2007). Production, Chemical Properties, Toxicology, & Treatment Case Studies of 1,2,3-Trichloropropane (TCP). *The Association for Environmental Health and Sciences (AEHS) Annual Meeting*. Lecture conducted from San Diego, CA.

Rosenfeld P. E. (March 2007). Blood and Attic Sampling for Dioxin/Furan, PAH, and Metal Exposure in Florala, Alabama. *The AEHS Annual Meeting*. Lecture conducted from San Diego, CA.

Hensley A.R., Scott, A., **Rosenfeld P.E.**, Clark, J.J.J. (August 21 – 25, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006*. Lecture conducted from Radisson SAS Scandinavia Hotel in Oslo Norway.

Hensley A.R., Scott, A., **Rosenfeld P.E.**, Clark, J.J.J. (November 4-8, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *APHA 134 Annual Meeting & Exposition*. Lecture conducted from Boston Massachusetts.

Paul Rosenfeld Ph.D. (October 24-25, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. Mealey's C8/PFOA. *Science, Risk & Litigation Conference*. Lecture conducted from The Rittenhouse Hotel, Philadelphia, PA.

Paul Rosenfeld Ph.D. (September 19, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, *Toxicology and Remediation PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel, Irvine California.

Paul Rosenfeld Ph.D. (September 19, 2005). Fate, Transport, Toxicity, And Persistence of 1,2,3-TCP. *PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel in Irvine, California.

Paul Rosenfeld Ph.D. (September 26-27, 2005). Fate, Transport and Persistence of PDBEs. *Mealey's Groundwater Conference*. Lecture conducted from Ritz Carlton Hotel, Marina Del Ray, California.

Paul Rosenfeld Ph.D. (June 7-8, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. *International Society of Environmental Forensics: Focus On Emerging Contaminants*. Lecture conducted from Sheraton Oceanfront Hotel, Virginia Beach, Virginia.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Fate Transport, Persistence and Toxicology of PFOA and Related Perfluorochemicals. *2005 National Groundwater Association Ground Water And Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, Toxicology and Remediation. *2005 National Groundwater Association Ground Water and Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. and Rob Hesse R.G. (May 5-6, 2004). Tert-butyl Alcohol Liability and Toxicology, A National Problem and Unquantified Liability. *National Groundwater Association. Environmental Law Conference*. Lecture conducted from Congress Plaza Hotel, Chicago Illinois.

Paul Rosenfeld, Ph.D. (March 2004). Perchlorate Toxicology. *Meeting of the American Groundwater Trust*. Lecture conducted from Phoenix Arizona.

Hagemann, M.F., **Paul Rosenfeld, Ph.D.** and Rob Hesse (2004). Perchlorate Contamination of the Colorado River. *Meeting of tribal representatives*. Lecture conducted from Parker, AZ.

Paul Rosenfeld, Ph.D. (April 7, 2004). A National Damage Assessment Model For PCE and Dry Cleaners. *Drycleaner Symposium. California Ground Water Association*. Lecture conducted from Radison Hotel, Sacramento, California.

Rosenfeld, P. E., Grey, M., (June 2003) Two stage biofilter for biosolids composting odor control. *Seventh International In Situ And On Site Bioremediation Symposium Battelle Conference Orlando, FL*.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. (February 20-21, 2003) Understanding Historical Use, Chemical Properties, Toxicity and Regulatory Guidance of 1,4 Dioxane. *National Groundwater Association. Southwest Focus Conference. Water Supply and Emerging Contaminants..* Lecture conducted from Hyatt Regency Phoenix Arizona.

Paul Rosenfeld, Ph.D. (February 6-7, 2003). Underground Storage Tank Litigation and Remediation. *California CUPA Forum*. Lecture conducted from Marriott Hotel, Anaheim California.

Paul Rosenfeld, Ph.D. (October 23, 2002) Underground Storage Tank Litigation and Remediation. *EPA Underground Storage Tank Roundtable*. Lecture conducted from Sacramento California.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Understanding Odor from Compost, *Wastewater and Industrial Processes. Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Using High Carbon Wood Ash to Control Compost Odor. *Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Grey, M. A. (September 22-24, 2002). Biocycle Composting For Coastal Sage Restoration. *Northwest Biosolids Management Association*. Lecture conducted from Vancouver Washington..

Rosenfeld, P.E. and Grey, M. A. (November 11-14, 2002). Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Soil Science Society Annual Conference*. Lecture conducted from Indianapolis, Maryland.

Rosenfeld, P.E. (September 16, 2000). Two stage biofilter for biosolids composting odor control. *Water Environment Federation*. Lecture conducted from Anaheim California.

Rosenfeld, P.E. (October 16, 2000). Wood ash and biofilter control of compost odor. *Biofest*. Lecture conducted from Ocean Shores, California.

Rosenfeld, P.E. (2000). Bioremediation Using Organic Soil Amendments. *California Resource Recovery Association*. Lecture conducted from Sacramento California.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. *Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings*. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., and C.L. Henry. (1999). An evaluation of ash incorporation with biosolids for odor reduction. *Soil Science Society of America*. Lecture conducted from Salt Lake City Utah.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Comparison of Microbial Activity and Odor Emissions from Three Different Biosolids Applied to Forest Soil. *Brown and Caldwell*. Lecture conducted from Seattle Washington.

Rosenfeld, P.E., C.L. Henry. (1998). Characterization, Quantification, and Control of Odor Emissions from Biosolids Application To Forest Soil. *Biofest*. Lecture conducted from Lake Chelan, Washington.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., C.L. Henry, R. B. Harrison, and R. Dills. (1997). Comparison of Odor Emissions From Three Different Biosolids Applied to Forest Soil. *Soil Science Society of America*. Lecture conducted from Anaheim California.

Teaching Experience:

UCLA Department of Environmental Health (Summer 2003 through 20010) Taught Environmental Health Science 100 to students, including undergrad, medical doctors, public health professionals and nurses. Course focused on the health effects of environmental contaminants.

National Ground Water Association, Successful Remediation Technologies. Custom Course in Sante Fe, New Mexico. May 21, 2002. Focused on fate and transport of fuel contaminants associated with underground storage tanks.

National Ground Water Association; Successful Remediation Technologies Course in Chicago Illinois. April 1, 2002. Focused on fate and transport of contaminants associated with Superfund and RCRA sites.

California Integrated Waste Management Board, April and May, 2001. Alternative Landfill Caps Seminar in San Diego, Ventura, and San Francisco. Focused on both prescriptive and innovative landfill cover design.

UCLA Department of Environmental Engineering, February 5, 2002. Seminar on Successful Remediation Technologies focusing on Groundwater Remediation.

University Of Washington, Soil Science Program, Teaching Assistant for several courses including: Soil Chemistry, Organic Soil Amendments, and Soil Stability.

U.C. Berkeley, Environmental Science Program Teaching Assistant for Environmental Science 10.

Academic Grants Awarded:

California Integrated Waste Management Board. \$41,000 grant awarded to UCLA Institute of the Environment. Goal: To investigate effect of high carbon wood ash on volatile organic emissions from compost. 2001.

Synagro Technologies, Corona California: \$10,000 grant awarded to San Diego State University. Goal: investigate effect of biosolids for restoration and remediation of degraded coastal sage soils. 2000.

King County, Department of Research and Technology, Washington State. \$100,000 grant awarded to University of Washington: Goal: To investigate odor emissions from biosolids application and the effect of polymers and ash on VOC emissions. 1998.

Northwest Biosolids Management Association, Washington State. \$20,000 grant awarded to investigate effect of polymers and ash on VOC emissions from biosolids. 1997.

James River Corporation, Oregon: \$10,000 grant was awarded to investigate the success of genetically engineered Poplar trees with resistance to round-up. 1996.

United State Forest Service, Tahoe National Forest: \$15,000 grant was awarded to investigating fire ecology of the Tahoe National Forest. 1995.

Kellogg Foundation, Washington D.C. \$500 grant was awarded to construct a large anaerobic digester on St. Kitts in West Indies. 1993

Deposition and/or Trial Testimony:

In the Superior Court of the State of California, County of San Bernardino
Billy Wildrick, Plaintiff vs. BNSF Railway Company
Case No. CIVDS1711810
Rosenfeld Deposition 10-17-2022

In the State Court of Bibb County, State of Georgia
Richard Hutcherson, Plaintiff vs Norfolk Southern Railway Company
Case No. 10-SCCV-092007
Rosenfeld Deposition 10-6-2022

In the Civil District Court of the Parish of Orleans, State of Louisiana
Millard Clark, Plaintiff vs. Dixie Carriers, Inc. et al.
Case No. 2020-03891
Rosenfeld Deposition 9-15-2022

In The Circuit Court of Livingston County, State of Missouri, Circuit Civil Division
Shirley Ralls, Plaintiff vs. Canadian Pacific Railway and Soo Line Railroad
Case No. 18-LV-CC0020
Rosenfeld Deposition 9-7-2022

In The Circuit Court of the 13th Judicial Circuit Court, Hillsborough County, Florida Civil Division
Jonny C. Daniels, Plaintiff vs. CSX Transportation Inc.
Case No. 20-CA-5502
Rosenfeld Deposition 9-1-2022

In The Circuit Court of St. Louis County, State of Missouri
Kieth Luke et. al. Plaintiff vs. Monsanto Company et. al.
Case No. 19SL-CC03191
Rosenfeld Deposition 8-25-2022

In The Circuit Court of the 13th Judicial Circuit Court, Hillsborough County, Florida Civil Division
Jeffery S. Lamotte, Plaintiff vs. CSX Transportation Inc.
Case No. NO. 20-CA-0049
Rosenfeld Deposition 8-22-2022

In State of Minnesota District Court, County of St. Louis Sixth Judicial District
Greg Bean, Plaintiff vs. Soo Line Railroad Company
Case No. 69-DU-CV-21-760
Rosenfeld Deposition 8-17-2022

In United States District Court Western District of Washington at Tacoma, Washington
John D. Fitzgerald Plaintiff vs. BNSF
Case No. 3:21-cv-05288-RJB
Rosenfeld Deposition 8-11-2022

In Circuit Court of the Sixth Judicial Circuit, Macon Illinois
Rocky Bennyhoff Plaintiff vs. Norfolk Southern
Case No. 20-L-56
Rosenfeld Deposition 8-3-2022

In Court of Common Pleas, Hamilton County Ohio
Joe Briggins Plaintiff vs. CSX
Case No. A2004464
Rosenfeld Deposition 6-17-2022

In the Superior Court of the State of California, County of Kern
George LaFazia vs. BNSF Railway Company.
Case No. BCV-19-103087
Rosenfeld Deposition 5-17-2022

In the Circuit Court of Cook County Illinois
Bobby Earles vs. Penn Central et. al.
Case No. 2020-L-000550
Rosenfeld Deposition 4-16-2022

In United States District Court Easter District of Florida
Albert Hartman Plaintiff vs. Illinois Central
Case No. 2:20-cv-1633
Rosenfeld Deposition 4-4-2022

In the Circuit Court of the 4th Judicial Circuit, in and For Duval County, Florida
Barbara Steele vs. CSX Transportation
Case No.16-219-Ca-008796
Rosenfeld Deposition 3-15-2022

In United States District Court Easter District of New York
Romano et al. vs. Northrup Grumman Corporation
Case No. 16-cv-5760
Rosenfeld Deposition 3-10-2022

In the Circuit Court of Cook County Illinois
Linda Benjamin vs. Illinois Central
Case No. No. 2019 L 007599
Rosenfeld Deposition 1-26-2022

In the Circuit Court of Cook County Illinois
Donald Smith vs. Illinois Central
Case No. No. 2019 L 003426
Rosenfeld Deposition 1-24-2022

In the Circuit Court of Cook County Illinois
Jan Holeman vs. BNSF
Case No. 2019 L 000675
Rosenfeld Deposition 1-18-2022

In the State Court of Bibb County State of Georgia
Dwayne B. Garrett vs. Norfolk Southern
Case No. 20-SCCV-091232
Rosenfeld Deposition 11-10-2021

In the Circuit Court of Cook County Illinois
Joseph Ruepke vs. BNSF
Case No. 2019 L 007730
Rosenfeld Deposition 11-5-2021

In the United States District Court For the District of Nebraska
Steven Gillett vs. BNSF
Case No. 4:20-cv-03120
Rosenfeld Deposition 10-28-2021

In the Montana Thirteenth District Court of Yellowstone County
James Eadus vs. Soo Line Railroad and BNSF
Case No. DV 19-1056
Rosenfeld Deposition 10-21-2021

In the Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al.cvs. Cerro Flow Products, Inc.
Case No. 0i9-L-2295
Rosenfeld Deposition 5-14-2021
Trial October 8-4-2021

In the Circuit Court of Cook County Illinois
Joseph Rafferty vs. Consolidated Rail Corporation and National Railroad Passenger Corporation d/b/a AMTRAK,
Case No. 18-L-6845
Rosenfeld Deposition 6-28-2021

In the United States District Court For the Northern District of Illinois
Theresa Romcoe vs. Northeast Illinois Regional Commuter Railroad Corporation d/b/a METRA Rail
Case No. 17-cv-8517
Rosenfeld Deposition 5-25-2021

In the Superior Court of the State of Arizona In and For the Cuntly of Maricopa
Mary Tryon et al. vs. The City of Pheonix v. Cox Cactus Farm, L.L.C., Utah Shelter Systems, Inc.
Case No. CV20127-094749
Rosenfeld Deposition 5-7-2021

In the United States District Court for the Eastern District of Texas Beaumont Division
Robinson, Jeremy et al vs. CNA Insurance Company et al.
Case No. 1:17-cv-000508
Rosenfeld Deposition 3-25-2021

In the Superior Court of the State of California, County of San Bernardino
Gary Garner, Personal Representative for the Estate of Melvin Garner vs. BNSF Railway Company.
Case No. 1720288
Rosenfeld Deposition 2-23-2021

In the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse
Benny M Rodriguez vs. Union Pacific Railroad, A Corporation, et al.
Case No. 18STCV01162
Rosenfeld Deposition 12-23-2020

In the Circuit Court of Jackson County, Missouri
Karen Cornwell, Plaintiff, vs. Marathon Petroleum, LP, Defendant.
Case No. 1716-CV10006
Rosenfeld Deposition 8-30-2019

In the United States District Court For The District of New Jersey
Duarte et al, Plaintiffs, vs. United States Metals Refining Company et. al. Defendant.
Case No. 2:17-cv-01624-ES-SCM
Rosenfeld Deposition 6-7-2019

In the United States District Court of Southern District of Texas Galveston Division
M/T Carla Maersk vs. Conti 168., Schiffahrts-GMBH & Co. Bulker KG MS “Conti Perdido” Defendant.
Case No. 3:15-CV-00106 consolidated with 3:15-CV-00237
Rosenfeld Deposition 5-9-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
Carole-Taddeo-Bates et al., vs. Ifran Khan et al., Defendants
Case No. BC615636
Rosenfeld Deposition 1-26-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
The San Gabriel Valley Council of Governments et al. vs El Adobe Apts. Inc. et al., Defendants
Case No. BC646857
Rosenfeld Deposition 10-6-2018; Trial 3-7-19

In United States District Court For The District of Colorado
Bells et al. Plaintiffs vs. The 3M Company et al., Defendants
Case No. 1:16-cv-02531-RBJ
Rosenfeld Deposition 3-15-2018 and 4-3-2018

In The District Court Of Regan County, Texas, 112th Judicial District
Phillip Bales et al., Plaintiff vs. Dow Agrosiences, LLC, et al., Defendants
Cause No. 1923
Rosenfeld Deposition 11-17-2017

In The Superior Court of the State of California In And For The County Of Contra Costa
Simons et al., Plaintiffs vs. Chevron Corporation, et al., Defendants
Cause No. C12-01481
Rosenfeld Deposition 11-20-2017

In The Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition 8-23-2017

In United States District Court For The Southern District of Mississippi
Guy Manuel vs. The BP Exploration et al., Defendants
Case No. 1:19-cv-00315-RHW
Rosenfeld Deposition 4-22-2020

In The Superior Court of the State of California, For The County of Los Angeles
Warrn Gilbert and Penny Gilbert, Plaintiff vs. BMW of North America LLC
Case No. LC102019 (c/w BC582154)
Rosenfeld Deposition 8-16-2017, Trail 8-28-2018

In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., Plaintiffs, vs. Meritor Inc., et al., Defendants
Case No. 4:16-cv-52-DMB-JVM
Rosenfeld Deposition July 2017

In The Superior Court of the State of Washington, County of Snohomish
Michael Davis and Julie Davis et al., Plaintiff vs. Cedar Grove Composting Inc., Defendants
Case No. 13-2-03987-5
Rosenfeld Deposition, February 2017
Trial March 2017

In The Superior Court of the State of California, County of Alameda
Charles Spain., Plaintiff vs. Thermo Fisher Scientific, et al., Defendants
Case No. RG14711115
Rosenfeld Deposition September 2015

In The Iowa District Court In And For Poweshiek County
Russell D. Winburn, et al., Plaintiffs vs. Doug Hoksbergen, et al., Defendants
Case No. LALA002187
Rosenfeld Deposition August 2015

In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action No. 14-C-30000
Rosenfeld Deposition June 2015

In The Iowa District Court for Muscatine County
Laurie Freeman et. al. Plaintiffs vs. Grain Processing Corporation, Defendant
Case No. 4980
Rosenfeld Deposition May 2015

In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case No. CACE07030358 (26)
Rosenfeld Deposition December 2014

In the County Court of Dallas County Texas
Lisa Parr et al, Plaintiff, vs. Aruba et al, Defendant.
Case No. cc-11-01650-E
Rosenfeld Deposition: March and September 2013
Rosenfeld Trial April 2014

In the Court of Common Pleas of Tuscarawas County Ohio
John Michael Abicht, et al., Plaintiffs, vs. Republic Services, Inc., et al., Defendants
Case No. 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)
Rosenfeld Deposition October 2012

In the United States District Court for the Middle District of Alabama, Northern Division
James K. Benefield, et al., Plaintiffs, vs. International Paper Company, Defendant.
Civil Action No. 2:09-cv-232-WHA-TFM
Rosenfeld Deposition July 2010, June 2011

In the Circuit Court of Jefferson County Alabama
Jaeanette Moss Anthony, et al., Plaintiffs, vs. Drummond Company Inc., et al., Defendants
Civil Action No. CV 2008-2076
Rosenfeld Deposition September 2010

In the United States District Court, Western District Lafayette Division
Ackle et al., Plaintiffs, vs. Citgo Petroleum Corporation, et al., Defendants.
Case No. 2:07CV1052
Rosenfeld Deposition July 2009

EXHIBIT D

Date: April 2, 2024

To: Marjan Kris Abubo
Lozeau | Drury LLP
1939 Harrison Street, Suite 150
Oakland, California 94612

From: Francis J. Offermann PE CIH

Subject: Indoor Air Quality: Lockwood III Apartments Project, Oxnard, CA.
(IEE File Reference: P-4789)

Pages: 18

Indoor Air Quality Impacts

Indoor air quality (IAQ) directly impacts the comfort and health of building occupants, and the achievement of acceptable IAQ in newly constructed and renovated buildings is a well-recognized design objective. For example, IAQ is addressed by major high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014). Indoor air quality in homes is particularly important because occupants, on average, spend approximately ninety percent of their time indoors with the majority of this time spent at home (EPA, 2011). Some segments of the population that are most susceptible to the effects of poor IAQ, such as the very young and the elderly, occupy their homes almost continuously. Additionally, an increasing number of adults are working from home at least some of the time during the workweek. Indoor air quality also is a serious concern for workers in hotels, offices and other business establishments.

The concentrations of many air pollutants often are elevated in homes and other buildings relative to outdoor air because many of the materials and products

used indoors contain and release a variety of pollutants to air (Hodgson et al., 2002; Offermann and Hodgson, 2011). With respect to indoor air contaminants for which inhalation is the primary route of exposure, the critical design and construction parameters are the provision of adequate ventilation and the reduction of indoor sources of the contaminants.

Indoor Formaldehyde Concentrations Impact. In the California New Home Study (CNHS) of 108 new homes in California (Offermann, 2009), 25 air contaminants were measured, and formaldehyde was identified as the indoor air contaminant with the highest cancer risk as determined by the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), No Significant Risk Levels (NSRL) for carcinogens. The NSRL is the daily intake level calculated to result in one excess case of cancer in an exposed population of 100,000 (i.e., ten in one million cancer risk) and for formaldehyde is 40 µg/day. The NSRL concentration of formaldehyde that represents a daily dose of 40 µg is 2 µg/m³, assuming a continuous 24-hour exposure, a total daily inhaled air volume of 20 m³, and 100% absorption by the respiratory system. All of the CNHS homes exceeded this NSRL concentration of 2 µg/m³. The median indoor formaldehyde concentration was 36 µg/m³, and ranged from 4.8 to 136 µg/m³, which corresponds to a median exceedance of the 2 µg/m³ NSRL concentration of 18 and a range of 2.3 to 68.

Therefore, the cancer risk of a resident living in a California home with the median indoor formaldehyde concentration of 36 µg/m³, is 180 per million as a result of formaldehyde alone. The CEQA significance threshold for airborne cancer risk is 10 per million, as established by the San Diego County Air Pollution Control District (SDAPCD, 2021).

Besides being a human carcinogen, formaldehyde is also a potent eye and respiratory irritant. In the CNHS, many homes exceeded the non-cancer reference exposure levels (RELs) prescribed by California Office of Environmental Health Hazard Assessment (OEHHA, 2017b). The percentage of homes exceeding the RELs ranged from 98% for the Chronic REL of 9 µg/m³ to 28% for the Acute REL of 55 µg/m³.

The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.

In January 2009, the California Air Resources Board (CARB) adopted an airborne toxics control measure (ATCM) to reduce formaldehyde emissions from composite wood products, including hardwood plywood, particleboard, medium density fiberboard, and also furniture and other finished products made with these wood products (California Air Resources Board 2009). While this formaldehyde ATCM has resulted in reduced emissions from composite wood products sold in California, they do not preclude that homes built with composite wood products meeting the CARB ATCM will have indoor formaldehyde concentrations below cancer and non-cancer exposure guidelines.

A follow up study to the California New Home Study (CNHS) was conducted in 2016-2018 (Singer et. al., 2019), and found that the median indoor formaldehyde in new homes built after 2009 with CARB Phase 2 Formaldehyde ATCM materials had lower indoor formaldehyde concentrations, with a median indoor concentrations of $22.4 \mu\text{g}/\text{m}^3$ (18.2 ppb) as compared to a median of $36 \mu\text{g}/\text{m}^3$ found in the 2007 CNHS. Unlike in the CNHS study where formaldehyde concentrations were measured with pumped DNPH samplers, the formaldehyde concentrations in the HENGH study were measured with passive samplers, which were estimated to under-measure the true indoor formaldehyde concentrations by approximately 7.5%. Applying this correction to the HENGH indoor formaldehyde concentrations results in a median indoor concentration of $24.1 \mu\text{g}/\text{m}^3$, which is 33% lower than the $36 \mu\text{g}/\text{m}^3$ found in the 2007 CNHS.

Thus, while new homes built after the 2009 CARB formaldehyde ATCM have a 33% lower median indoor formaldehyde concentration and cancer risk, the median lifetime cancer risk is still 120 per million for homes built with CARB compliant composite wood products. This median lifetime cancer risk is more than 12 times the OEHHA 10 in a million cancer risk threshold (OEHHA, 2017a).

With respect to the Lockwood III Apartments Project, Oxnard, CA, the buildings consist of residential spaces.

The residential occupants will potentially have continuous exposure (e.g. 24 hours per day, 52 weeks per year). These exposures are anticipated to result in significant cancer risks resulting from exposures to formaldehyde released by the building materials and furnishing commonly found in residential construction.

Because these residences will be constructed with CARB Phase 2 Formaldehyde ATCM materials, and be ventilated with the minimum code required amount of outdoor air, the indoor residential formaldehyde concentrations are likely similar to those concentrations observed in residences built with CARB Phase 2 Formaldehyde ATCM materials, which is a median of 24.1 $\mu\text{g}/\text{m}^3$ (Singer et. al., 2020)

Assuming that the residential occupants inhale 20 m^3 of air per day, the average 70-year lifetime formaldehyde daily dose is 482 $\mu\text{g}/\text{day}$ for continuous exposure in the residences. This exposure represents a cancer risk of 120 per million, which is more than 12 times the CEQA cancer risk of 10 per million. For occupants that do not have continuous exposure, the cancer risk will be proportionally less but still substantially over the CEQA cancer risk of 10 per million (e.g. for 12/hour/day occupancy, more than 6 times the CEQA cancer risk of 10 per million).

In addition, we note that the average outdoor air concentration of formaldehyde in California is 3 ppb, or 3.7 $\mu\text{g}/\text{m}^3$, (California Air Resources Board, 2004), and thus represents an average pre-existing background airborne cancer risk of 1.85 per million. Thus, the indoor air formaldehyde exposures describe above exacerbate this pre-existing risk resulting from outdoor air formaldehyde exposures.

Appendix A, Indoor Formaldehyde Concentrations and the CARB Formaldehyde ATCM, provides analyses that show utilization of CARB Phase 2 Formaldehyde ATCM materials will not ensure acceptable cancer risks with respect to formaldehyde emissions from composite wood products.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

The following describes a method that should be used, prior to construction in the environmental review under CEQA, for determining whether the indoor concentrations resulting from the formaldehyde emissions of specific building materials/furnishings selected exceed cancer and non-cancer guidelines. Such a design analyses can be used to identify those materials/furnishings prior to the completion of the City's CEQA review and project approval, that have formaldehyde emission rates that contribute to indoor concentrations that exceed cancer and non-cancer guidelines, so that alternative lower emitting materials/furnishings may be selected and/or higher minimum outdoor air ventilation rates can be increased to achieve acceptable indoor concentrations and incorporated as mitigation measures for this project.

Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment

This formaldehyde emissions assessment should be used in the environmental review under CEQA to assess the indoor formaldehyde concentrations from the proposed loading of building materials/furnishings, the area-specific formaldehyde emission rate data for building materials/furnishings, and the design minimum outdoor air ventilation rates. This assessment allows the applicant (and the City) to determine, before the conclusion of the environmental review process and the building materials/furnishings are specified, purchased, and installed, if the total chemical emissions will exceed cancer and non-cancer guidelines, and if so, allow for changes in the selection of specific

material/furnishings and/or the design minimum outdoor air ventilations rates such that cancer and non-cancer guidelines are not exceeded.

1.) Define Indoor Air Quality Zones. Divide the building into separate indoor air quality zones, (IAQ Zones). IAQ Zones are defined as areas of well-mixed air. Thus, each ventilation system with recirculating air is considered a single zone, and each room or group of rooms where air is not recirculated (e.g. 100% outdoor air) is considered a separate zone. For IAQ Zones with the same construction material/furnishings and design minimum outdoor air ventilation rates. (e.g. hotel rooms, apartments, condominiums, etc.) the formaldehyde emission rates need only be assessed for a single IAQ Zone of that type.

2.) Calculate Material/Furnishing Loading. For each IAQ Zone, determine the building material and furnishing loadings (e.g., m^2 of material/ m^2 floor area, units of furnishings/ m^2 floor area) from an inventory of all potential indoor formaldehyde sources, including flooring, ceiling tiles, furnishings, finishes, insulation, sealants, adhesives, and any products constructed with composite wood products containing urea-formaldehyde resins (e.g., plywood, medium density fiberboard, particleboard).

3.) Calculate the Formaldehyde Emission Rate. For each building material, calculate the formaldehyde emission rate ($\mu\text{g}/\text{h}$) from the product of the area-specific formaldehyde emission rate ($\mu\text{g}/\text{m}^2\text{-h}$) and the area (m^2) of material in the IAQ Zone, and from each furnishing (e.g. chairs, desks, etc.) from the unit-specific formaldehyde emission rate ($\mu\text{g}/\text{unit-h}$) and the number of units in the IAQ Zone.

NOTE: As a result of the high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014), most manufacturers of building materials furnishings sold in the United States conduct chemical emission rate tests using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers,” (CDPH, 2017), or other equivalent chemical emission rate testing methods. Most manufacturers of building furnishings sold in the United States conduct chemical emission rate tests using ANSI/BIFMA M7.1 Standard Test Method for

Determining VOC Emissions (BIFMA, 2018), or other equivalent chemical emission rate testing methods.

CDPH, BIFMA, and other chemical emission rate testing programs, typically certify that a material or furnishing does not create indoor chemical concentrations in excess of the maximum concentrations permitted by their certification. For instance, the CDPH emission rate testing requires that the measured emission rates when input into an office, school, or residential model do not exceed one-half of the OEHHA Chronic Exposure Guidelines (OEHHA, 2017b) for the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017). These certifications themselves do not provide the actual area-specific formaldehyde emission rate (i.e., $\mu\text{g}/\text{m}^2\text{-h}$) of the product, but rather provide data that the formaldehyde emission rates do not exceed the maximum rate allowed for the certification. Thus, for example, the data for a certification of a specific type of flooring may be used to calculate that the area-specific emission rate of formaldehyde is less than 31 $\mu\text{g}/\text{m}^2\text{-h}$, but not the actual measured specific emission rate, which may be 3, 18, or 30 $\mu\text{g}/\text{m}^2\text{-h}$. These area-specific emission rates determined from the product certifications of CDPH, BIFA, and other certification programs can be used as an initial estimate of the formaldehyde emission rate.

If the actual area-specific emission rates of a building material or furnishing is needed (i.e. the initial emission rates estimates from the product certifications are higher than desired), then that data can be acquired by requesting from the manufacturer the complete chemical emission rate test report. For instance if the complete CDPH emission test report is requested for a CDHP certified product, that report will provide the actual area-specific emission rates for not only the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017), but also all of the cancer and reproductive/developmental chemicals listed in the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), all of the toxic air contaminants (TACs) in the California Air Resources Board Toxic Air Contamination List (CARB, 2011), and the 10 chemicals with the greatest emission rates.

Alternatively, a sample of the building material or furnishing can be submitted to a chemical emission rate testing laboratory, such as Berkeley Analytical Laboratory (<https://berkeleyanalytical.com>), to measure the formaldehyde emission rate.

4.) Calculate the Total Formaldehyde Emission Rate. For each IAQ Zone, calculate the total formaldehyde emission rate (i.e. $\mu\text{g/h}$) from the individual formaldehyde emission rates from each of the building material/furnishings as determined in Step 3.

5.) Calculate the Indoor Formaldehyde Concentration. For each IAQ Zone, calculate the indoor formaldehyde concentration ($\mu\text{g/m}^3$) from Equation 1 by dividing the total formaldehyde emission rates (i.e. $\mu\text{g/h}$) as determined in Step 4, by the design minimum outdoor air ventilation rate (m^3/h) for the IAQ Zone.

(Equation 1)

where:

C_{in} = indoor formaldehyde concentration ($\mu\text{g/m}^3$)

E_{total} = total formaldehyde emission rate ($\mu\text{g/h}$) into the IAQ Zone.

Q_{oa} = design minimum outdoor air ventilation rate to the IAQ Zone (m^3/h)

The above Equation 1 is based upon mass balance theory, and is referenced in Section 3.10.2 “Calculation of Estimated Building Concentrations” of the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers”, (CDPH, 2017).

6.) Calculate the Indoor Exposure Cancer and Non-Cancer Health Risks. For each IAQ Zone, calculate the cancer and non-cancer health risks from the indoor formaldehyde concentrations determined in Step 5 and as described in the OEHHA Air Toxics Hot Spots Program Risk Assessment Guidelines; Guidance Manual for Preparation of Health Risk Assessments (OEHHA, 2015).

7.) Mitigate Indoor Formaldehyde Exposures of exceeding the CEQA Cancer and/or Non-Cancer Health Risks. In each IAQ Zone, provide mitigation for any formaldehyde exposure risk as determined in Step 6, that exceeds the CEQA cancer risk of 10 per

million or the CEQA non-cancer Hazard Quotient of 1.0.

Provide the source and/or ventilation mitigation required in all IAQ Zones to reduce the health risks of the chemical exposures below the CEQA cancer and non-cancer health risks.

Source mitigation for formaldehyde may include:

- 1.) reducing the amount materials and/or furnishings that emit formaldehyde
- 2.) substituting a different material with a lower area-specific emission rate of formaldehyde

Ventilation mitigation for formaldehyde emitted from building materials and/or furnishings may include:

- 1.) increasing the design minimum outdoor air ventilation rate to the IAQ Zone.

NOTE: Mitigating the formaldehyde emissions through use of less material/furnishings, or use of lower emitting materials/furnishings, is the preferred mitigation option, as mitigation with increased outdoor air ventilation increases initial and operating costs associated with the heating/cooling systems.

Further, we are not asking that the builder “speculate” on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers,” (CDPH, 2017), and use the procedure described earlier above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Impact. Another important finding of the CNHS, was that the outdoor air ventilation rates in the homes were very low. Outdoor air ventilation is a very

important factor influencing the indoor concentrations of air contaminants, as it is the primary removal mechanism of all indoor air generated contaminants. Lower outdoor air exchange rates cause indoor generated air contaminants to accumulate to higher indoor air concentrations. Many homeowners rarely open their windows or doors for ventilation as a result of their concerns for security/safety, noise, dust, and odor concerns (Price, 2007). In the CNHS field study, 32% of the homes did not use their windows during the 24-hour Test Day, and 15% of the homes did not use their windows during the entire preceding week. Most of the homes with no window usage were homes in the winter field session. Thus, a substantial percentage of homeowners never open their windows, especially in the winter season. The median 24-hour measurement was 0.26 air changes per hour (ach), with a range of 0.09 ach to 5.3 ach. A total of 67% of the homes had outdoor air exchange rates below the minimum California Building Code (2001) requirement of 0.35 ach. Thus, the relatively tight envelope construction, combined with the fact that many people never open their windows for ventilation, results in homes with low outdoor air exchange rates and higher indoor air contaminant concentrations.

The Lockwood III Apartments Project, Oxnard, CA is close to roads with moderate to high traffic (e.g., Lakewood Street, East Gonzalez Road, Ventura Freeway -101, etc.) and thus the Project site is a sound impacted site.

According to the Initial Study/Mitigated Negative Declaration- Lockwood III Apartments Project, Oxnard, CA (ESA, 2024), Appendix I, Table 10, the ambient noise levels with the Project range from 66.1 to 71.2 dBA CNEL.

However, these ambient noise levels were only measured during a single 24-hour period (August 1-2, 2022). In order to design the building for this Project such that interior noise levels are acceptable, an acoustic study with actual on-site measurements of the existing ambient noise levels and modeled future ambient noise levels needs to be conducted. The acoustic study of the existing ambient noise levels should be conducted over a one-week period. and report the dBA CNEL or Ldn. This study will allow for the selection of a building envelope and windows with a sufficient STC such that the indoor noise levels are acceptable. A mechanical supply of outdoor air ventilation to allow for a habitable interior

environment with closed windows and doors will also be required. Such a ventilation system would allow windows and doors to be kept closed at the occupant's discretion to control exterior noise within building interiors.

PM_{2.5} Outdoor Concentrations Impact. An additional impact of the nearby motor vehicle traffic associated with this project, are the outdoor concentrations of PM_{2.5}. Initial Study/Mitigated Negative Declaration- Lockwood III Apartments Project, Oxnard, CA (ESA, 2024), the Project is located in the South Coast Air Basin, which is a State and Federal non-attainment area for PM_{2.5}.

An air quality analyses should be conducted to determine the concentrations of PM_{2.5} in the outdoor and indoor air that people inhale each day. This air quality analyses needs to consider the cumulative impacts of the project related emissions, existing and projected future emissions from local PM_{2.5} sources (e.g. stationary sources, motor vehicles, and airport traffic) upon the outdoor air concentrations at the Project site. If the outdoor concentrations are determined to exceed the California and National annual average PM_{2.5} exceedence concentration of 12 µg/m³, or the National 24-hour average exceedence concentration of 35 µg/m³, then the buildings need to have a mechanical supply of outdoor air that has air filtration with sufficient removal efficiency, such that the indoor concentrations of outdoor PM_{2.5} particles is less than the California and National PM_{2.5} annual and 24-hour standards.

It is my experience that based on the projected high traffic noise levels, the annual average concentration of PM_{2.5} will exceed the California and National PM_{2.5} annual and 24-hour standards and warrant installation of high efficiency air filters (i.e. MERV 13 or higher) in all mechanically supplied outdoor air ventilation systems.

Indoor Air Quality Impact Mitigation Measures

The following are recommended mitigation measures to minimize the impacts upon indoor quality:

Indoor Formaldehyde Concentrations Mitigation. Use only composite wood materials (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins (CARB, 2009). CARB Phase 2 certified composite wood products, or ultra-low emitting formaldehyde (ULEF) resins, do not insure indoor formaldehyde concentrations that are below the CEQA cancer risk of 10 per million. Only composite wood products manufactured with CARB approved no-added formaldehyde (NAF) resins, such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

Alternatively, conduct the previously described Pre-Construction Building Material/Furnishing Chemical Emissions Assessment, to determine that the combination of formaldehyde emissions from building materials and furnishings do not create indoor formaldehyde concentrations that exceed the CEQA cancer and non-cancer health risks.

It is important to note that we are not asking that the builder “speculate” on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers”, (CDPH, 2017), and use the procedure described above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Mitigation. Provide each habitable room with a continuous mechanical supply of outdoor air that meets or exceeds the California 2016 Building Energy Efficiency Standards (California Energy Commission, 2015) requirements of the greater of 15 cfm/occupant or 0.15 cfm/ft² of floor area. Following installation of the system conduct testing and balancing to insure that required amount of outdoor air is entering each habitable room and provide a written report documenting the outdoor airflow rates. Do not use exhaust only mechanical outdoor air systems, use only balanced

outdoor air supply and exhaust systems or outdoor air supply only systems. Provide a manual for the occupants or maintenance personnel, that describes the purpose of the mechanical outdoor air system and the operation and maintenance requirements of the system.

PM_{2.5} Outdoor Air Concentration Mitigation. Install air filtration with sufficient PM_{2.5} removal efficiency (e.g. MERV 13 or higher) to filter the outdoor air entering the mechanical outdoor air supply systems, such that the indoor concentrations of outdoor PM_{2.5} particles are less than the California and National PM_{2.5} annual and 24-hour standards. Install the air filters in the system such that they are accessible for replacement by the occupants or maintenance personnel. Include in the mechanical outdoor air ventilation system manual instructions on how to replace the air filters and the estimated frequency of replacement.

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APPENDIX A

INDOOR FORMALDEHYDE CONCENTRATIONS AND THE CARB FORMALDEHYDE ATCM

With respect to formaldehyde emissions from composite wood products, the CARB ATCM regulations of formaldehyde emissions from composite wood products, do not assure healthful indoor air quality. The following is the stated purpose of the CARB ATCM regulation - *The purpose of this airborne toxic control measure is to “reduce formaldehyde emissions from composite wood products, and finished goods that contain composite wood products, that are sold, offered for sale, supplied, used, or manufactured for sale in California”*. In other words, the CARB ATCM regulations do not “assure healthful indoor air quality”, but rather “reduce formaldehyde emissions from composite wood products”.

Just how much protection do the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products? Definitely some, but certainly the regulations do not “*assure healthful indoor air quality*” when CARB Phase 2 products are utilized. As shown in the Chan 2019 study of new California homes, the median indoor formaldehyde concentration was of 22.4 $\mu\text{g}/\text{m}^3$ (18.2 ppb), which corresponds to a cancer risk of 112 per million for occupants with continuous exposure, which is more than 11 times the CEQA cancer risk of 10 per million.

Another way of looking at how much protection the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products is to calculate the maximum number of square feet of composite wood product that can be in a residence without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy.

For this calculation I utilized the floor area (2,272 ft^2), the ceiling height (8.5 ft), and the number of bedrooms (4) as defined in Appendix B (New Single-Family Residence Scenario) of the Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers, Version 1.1,

2017, California Department of Public Health, Richmond, CA.
<https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/EHLB/IAQ/Pages/VOC.aspx>.

For the outdoor air ventilation rate I used the 2019 Title 24 code required mechanical ventilation rate (ASHRAE 62.2) of 106 cfm (180 m³/h) calculated for this model residence. For the composite wood formaldehyde emission rates I used the CARB ATCM Phase 2 rates.

The calculated maximum number of square feet of composite wood product that can be in a residence, without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 15 ft² (0.7% of the floor area), or
Particle Board – 30 ft² (1.3% of the floor area), or
Hardwood Plywood – 54 ft² (2.4% of the floor area), or
Thin MDF – 46 ft² (2.0 % of the floor area).

For offices and hotels the calculated maximum amount of composite wood product (% of floor area) that can be used without exceeding the CEQA cancer risk of 10 per million for occupants, assuming 8 hours/day occupancy, and the California Mechanical Code minimum outdoor air ventilation rates are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 3.6 % (offices) and 4.6% (hotel rooms), or
Particle Board – 7.2 % (offices) and 9.4% (hotel rooms), or
Hardwood Plywood – 13 % (offices) and 17% (hotel rooms), or
Thin MDF – 11 % (offices) and 14 % (hotel rooms)

Clearly the CARB ATCM does not regulate the formaldehyde emissions from composite wood products such that the potentially large areas of these products, such as for flooring, baseboards, interior doors, window and door trims, and kitchen and bathroom cabinetry,

could be used without causing indoor formaldehyde concentrations that result in CEQA cancer risks that substantially exceed 10 per million for occupants with continuous occupancy.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

If CARB Phase 2 compliant or ULEF composite wood products are utilized in construction, then the resulting indoor formaldehyde concentrations should be determined in the design phase using the specific amounts of each type of composite wood product, the specific formaldehyde emission rates, and the volume and outdoor air ventilation rates of the indoor spaces, and all feasible mitigation measures employed to reduce this impact (e.g. use less formaldehyde containing composite wood products and/or incorporate mechanical systems capable of higher outdoor air ventilation rates). See the procedure described earlier (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Alternatively, and perhaps a simpler approach, is to use only composite wood products (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins.

EXHIBIT E

Date: July 30, 2024

To: Marjan Kris Abubo
Lozeau | Drury LLP
1939 Harrison Street, Suite 150
Oakland, California 94612

From: Francis J. Offermann PE CIH

Subject: Indoor Air Quality Rebuttal Comment: Lockwood III Project, Ventura, CA
(IEE File Reference: P-4789)

Pages: 26

The following are my rebuttal comments regarding the responses contained in the ESA, July, 2024 letter, Lockwood III Apartments - Response to Comments on Public Review Draft Initial Study/Mitigated Negative Declaration, to my April 2, 2024 Indoor Air Quality letter for Lockwood III Apartments Project, Oxnard, CA. (attached in Appendix A).

ESA Comment A-14.

The building conditions in the research paper are highly dissimilar to the Project. The Project is a five-story multi-family residential development that does not include any single-family detached structures. Furthermore, the buildings in the research paper consisted of homes built to comply with the 2008 version of the California Title 24 standards, whereas the Project would be built to the most current California Title 24 standards (2022). The 2019 version of the Title 24 standards included new ventilation requirements that improve indoor air quality protecting residents from air pollution originating from outdoor and indoor sources.

IEE Rebuttal A-14.

With respect to the ESA statement “The building conditions in the research paper are highly dissimilar to the Project.” the following is my rebuttal comment.

The Lockwood III Apartments Project, Oxnard, CA is residential construction (i.e., apartments), and as such the construction materials will not be dissimilar from those used in residential single-family construction. Absent our recommendations “to use only composite wood products (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins”, the Project construction will include composite wood products with formaldehyde resins, such as plywood, medium density fiberboard, and particle board, for construction of flooring, cabinets, doors, trims etc. As stated in my April 2, 2024 Indoor Air Quality letter for Lockwood III Apartments Project, Oxnard, CA. (attached in Appendix A), use of composite wood products that contain formaldehyde resins, including those that meet the CARB Phase II Composite Wood Product Regulations, will result in indoor formaldehyde concentrations with cancer risks that exceed the CEQA cancer risk of 10 per million.

With respect to the ESA statement “Furthermore, the buildings in the research paper consisted of homes built to comply with the 2008 version of the California Title 24 standards, whereas the Project would be built to the most current California Title 24 standards (2022). The 2019 version of the Title 24 standards included new ventilation requirements that improve indoor air quality protecting residents from air pollution originating from outdoor and indoor sources.”, the following is my rebuttal comment.

This comment is based upon the false conclusion that since the Project will be built according to the 2022 Title 24 code with outdoor air ventilation rates higher than the rates in the research paper, Ventilation and Indoor Air Quality in New California Homes with Gas Appliances and Mechanical Ventilation (Singer, 2020), the Project indoor formaldehyde concentrations and cancer risks will be less than those I calculated in my April 2, 2024 Indoor Air Quality letter.

Yes, the Project mechanical outdoor air ventilations rates that will be based on the 2019 (or even the 2022) California Mechanical Code will result in higher outdoor air exchange rates than those residences in the Singer study, which I used to calculate the indoor

formaldehyde concentrations for the Project. However the higher ventilation rates for the Project will not result in significantly lower indoor formaldehyde concentrations for the Project than those I calculated in my April 2, 2024 Indoor Air Quality letter for Lockwood III Apartments Project, Oxnard, CA. (attached in Appendix A). The reason for this is that while the Project outdoor air ventilation rates will be higher, the formaldehyde emission rates from composite wood products will increase with increasing outdoor air ventilation rates. Thus, the higher ventilation rates for the Project result in a formaldehyde cancer risk just 7% lower than that calculated in my April 2, 2024 Indoor Air Quality letter, and as described below.

For the Project residential apartments, the 2019 (and 2022) code required outdoor air ventilation rate is 5 cfm/occupant plus 0.06 cfm cfm/ft², which for a typical 1 or 2 bedroom apartment is 0.48 air changes per hour (ach). This ventilation rate is higher than the median outdoor air ventilation rates in the HENGH residential study of 0.33 ach.

While the outdoor air ventilation rates for the Project residential apartments is indeed higher than the outdoor air ventilation rates in the HENGH single family residential study, this does not result in correspondingly lower indoor formaldehyde concentrations, since formaldehyde emission rates from composite wood products increase with increasing outdoor air ventilation rates as the result of formaldehyde emissions from composite wood products being diffusion limited.

Figure 1 depicts the increase in formaldehyde emission rates as a function of the outdoor air exchange range rate, and clearly shows that the emission rates increase as the outdoor air exchange rate increases.

The three data points labeled CNHS - Brentwood are from a CNHS home (Offermann, 2009) where in a follow up study (Offermann, 2012) the formaldehyde emission rates were measured under three different mechanical outdoor air ventilations, 0.21, 0.37, and 0.64 air changes per hour (ach). The corresponding measured formaldehyde emission rates were observed to increase in accordance with mass transfer theory, 17 µg/m³-h, 25 µg/m³-h, and 31 µg/m³-h. These homes were constructed with composite wood products

manufactured prior to the CARB ATCM (CARB, 2009) which reduced formaldehyde emissions from composite wood products, including hardwood plywood, particleboard, medium density fiberboard, and also furniture and other finished products made with these wood products.

The 55 data points labeled HENGH are from the Singer 2020 residential study which was conducted in homes constructed with CARB ACTM Phase 2 composite wood products and with corrections to the measured indoor formaldehyde concentrations and the calculated outdoor air ventilation rates as described in the peer reviewed published paper in Indoor Air (Singer et. al., 2020). Specifically the corrections cited in the Singer (2020) publication of the HENGH study were related to the measurement of the indoor formaldehyde concentrations and the calculated outdoor air exchange rates.

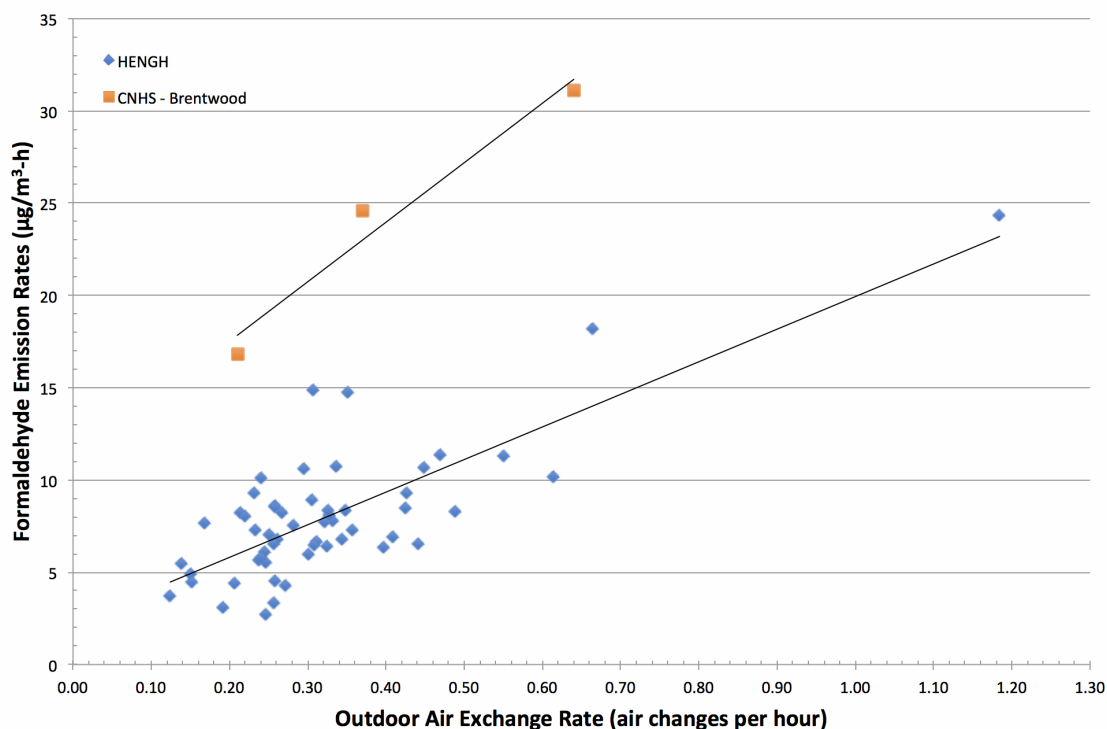


Figure 1. Formaldehyde emission rates as a function of outdoor air exchange rate.

The indoor formaldehyde concentrations in the HENGH study were measured with passive samplers, which were estimated to under-measure the true formaldehyde concentrations by approximately 7.5%. The outdoor air exchange rates in the HENGH

study were not measured and were calculated from the measured mechanical ventilation air flow rates and the calculated envelope air infiltration rate, which were estimated to under-measure the true outdoor air exchange rate by approximately 18%. The combined result is that the formaldehyde emission rates calculated in the HENGH study are estimated to be approximately 27% lower than the true formaldehyde emission rates. This correction has been applied to the HENGH emission rate in Figure 1. As can be seen in Figure 1, the formaldehyde emission rates in the HENGH study homes, which were constructed with CARB ATCM Phase 2 composite wood products, are lower than the emission rate in the CNHS-Brentwood home, which was not constructed with CARB ATCM Phase 2 composite wood products.

The following are my calculations for the indoor formaldehyde concentrations that will be experienced by the Project apartment occupants. We have assumed that the composite wood loading (ft² of composite wood per ft³ of indoor air) in the apartments is similar to that in the homes of the HENGH study.

From the HENGH formaldehyde emission rate data in Figure 1, we estimate that formaldehyde emission rates in the Project apartment spaces with an outdoor air exchange rate of 0.48 ach, is 10.75 µg/m³-h, and the resulting indoor formaldehyde concentration (emission rate divided by outdoor air exchange rate) is 22.4 µg/m³ (18.2 ppb).

While this calculated indoor formaldehyde concentration of 22.4 µg/m³ for the Project apartment spaces is lower than the 24.1 µg/m³ that I utilized in my April 2, 2024 comments, this concentration still results in an exposure for the apartment occupants that exceeds the CEQA cancer risk of 10 per million. While the code required outdoor air ventilation rates for Project apartments are higher than the residential ventilation rates in the HENGH study, the resulting cancer risk is reduced by less than 7%, from 120 per million to 112 per million, which exceeds the CEQA cancer risk of 10 per million.

With respect to the ESA statement “California’s regulation to limit formaldehyde emissions from composite wood products appears to have substantially lowered its emission rate and concentration in new homes.”, the following is my rebuttal comment.

Yes, the CARB Composite Wood Product (CWP) Regulation’s emission standards are set at low levels intended to protect public health, however this does not mean that these regulations result in indoor formaldehyde concentrations which meet the CEQA cancer risk of 10 per million.

In my April 2, 2024 Indoor Air Quality letter for Lockwood III Apartments Project, Oxnard, CA (attached in Appendix A), I explained in Appendix A of that letter that the CARB ATCM regulations do not “assure healthful indoor air quality”, but rather “reduce formaldehyde emissions from composite wood products”. Appendix A, Indoor Formaldehyde Concentrations and the CARB Formaldehyde ATCM, provides analyses that show utilization of CARB Phase 2 Formaldehyde ATCM materials will not ensure acceptable cancer risks with respect to formaldehyde emissions from composite wood products.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

With respect to the ESA statement “In addition, the commenter’s analysis is based on a series of inaccurate assumptions, including that the Project’s construction materials would not be compliant with the applicable regulations to reduce formaldehyde exposure; formaldehyde daily emissions from construction materials would be constant for over 70 years; residents would inhale 20 cubic meters of air per day; and residents would be at the

Project site for 24 hours/day, 7 days/week, 52 weeks/year for 70 years.”, the following is my rebuttal comment.

Yes, the formaldehyde emissions from composite wood products do decrease over time, but aside from a brief period when emissions decline rapidly from brand new composite wood products, the emissions of formaldehyde from composite wood products decline very slowly. The persistence of formaldehyde emission rates from laminated composite wood products is discussed in the 2016 paper Formaldehyde Emission Rates From Lumber Liquidators Laminate Flooring Manufactured in China (Offermann, 2016). In this paper, the reduction in the formaldehyde emission rates from composite wood products is modeled using a double exponential curve fit developed by Brown (2002). The fast decay time constant of 0.0014 h^{-1} represents a half-life of just 21 days and is believed to be associated with the release of residual free-formaldehyde from the manufacturing process. The slow decay time constant of 0.0000011 h^{-1} represents a half-life of 71.9 years and is believed to be the result of formaldehyde released by hydrolysis of the urea-formaldehyde resin in the composite woods caused by normal exposure to water vapor in the indoor air.

Thus, while the formaldehyde emission rates from composite wood products will reduce some over time, the emission rates at 45 years are only 17% less than the initial emission rates concentrations and still result in indoor cancer risks that still exceed 10 per million.

With respect to the ESA statement that my exposure assessment assumption that “residents would inhale 20 cubic meters of air per day; and residents would be at the Project site for 24 hours/day, 7 days/week, 52 weeks/year for 70 years.” is incorrect, the following is my rebuttal comment.

Regarding our assumption of a 70 year life time continuous exposure, Proposition 65 requires utilizing 70 years, which covers all occupants, including those that for medical reasons live indoors continuously their entire lives. Regarding our assumption of a $20 \text{ m}^3/\text{day}$ the daily inhalation volume of air, Proposition 65 requires utilizing daily inhalation rate of $20 \text{ m}^3/\text{day}$, which covers all occupants not just the “average” occupant

With respect to the ESA statement “Additionally, neither of the studies reported a cancer risk.”, the following is my rebuttal comment.

This statement is incorrect, one of the two studies, the California New Homes Study (CNHS), Ventilation and Indoor Air Quality in New Homes (Offermann, 2009), clearly states in Table 41 that 100% of the homes (n=105) exceeded the NSRL cancer risk for formaldehyde.

ESA Comment A-17.

Furthermore, per Section 16-420J Special Development Requirements (C) (3), of the Oxnard Code of Ordinances, MERV-14 filters would be required to be installed due to proximity to the US- 101 freeway. The City acknowledges this comment and as it does not raise a significant environmental issue regarding the adequacy of the information presented in the Public Review Draft IS/MND, no further response is required.

IEE Rebuttal Comment A-17.

With respect to the ESA statement that “MERV-14 filters would be required to be installed due to proximity to the US- 101 freeway.” the following is my rebuttal comment.

Yes, while MERV 14 filtration will be required for this project, a study of the outdoor air PM_{2.5} concentrations for this Project needs to be conducted to determine if MERV 14 air filters can provide the required air filtration such that the indoor concentrations of outdoor PM_{2.5} particles is less than the California and National PM_{2.5} annual and 24-hour standards, or if higher MERV rating filters are needed (e.g. , MERV 15 or 16). The Project is located in an area that the SCAQMD’s Multiple Air Toxics Exposure Study (“MATES V”) identifies having an existing cancer risk at the site of 464 per million due to the site’s elevated ambient air contaminant concentrations, which are due to the area’s high levels of vehicle traffic. Thus, a study of the ambient PM_{2.5} concentrations needs to be conducted, to determine what MERV rating the air filters need to have to provide acceptable indoor air concentrations of PM_{2.5}.

ESA Comment A-28.

With respect to the ESA Comment A-28, the comments are the same as those in Comment A-17, and my rebuttal comments are the same.

References

F. J. Offermann, “Formaldehyde Emission Rates From Lumber Liquidators Laminate Flooring Manufactured in China”, Indoor Air 2016, Belgium, Ghent, July, 2016.

APPENDIX A

IEE

INDOOR ENVIRONMENTAL ENGINEERING

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Subject: Indoor Air Quality: Lockwood III Apartments Project, Oxnard, CA.
(IEE File Reference: P-4789)

Pages: 18

Indoor Air Quality Impacts

Indoor air quality (IAQ) directly impacts the comfort and health of building occupants, and the achievement of acceptable IAQ in newly constructed and renovated buildings is a well-recognized design objective. For example, IAQ is addressed by major high-performance building rating systems and building codes (California Building Standards

Commission, 2014; USGBC, 2014). Indoor air quality in homes is particularly important because occupants, on average, spend approximately ninety percent of their time indoors with the majority of this time spent at home (EPA, 2011). Some segments of the population that are most susceptible to the effects of poor IAQ, such as the very young and the elderly, occupy their homes almost continuously. Additionally, an increasing number of adults are working from home at least some of the time during the workweek. Indoor air quality also is a serious concern for workers in hotels, offices and other business establishments.

The concentrations of many air pollutants often are elevated in homes and other buildings relative to outdoor air because many of the materials and products used indoors contain and release a variety of pollutants to air (Hodgson et al., 2002; Offermann and Hodgson, 2011). With respect to indoor air contaminants for which inhalation is the primary route of exposure, the critical design and construction parameters are the provision of adequate ventilation and the reduction of indoor sources of the contaminants.

Indoor Formaldehyde Concentrations Impact. In the California New Home Study (CNHS) of 108 new homes in California (Offermann, 2009), 25 air contaminants were measured, and formaldehyde was identified as the indoor air contaminant with the highest cancer risk as determined by the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), No Significant Risk Levels (NSRL) for carcinogens. The NSRL is the daily intake level calculated to result in one excess case of cancer in an exposed population of 100,000 (i.e., ten in one million cancer risk) and for formaldehyde is 40 $\mu\text{g}/\text{day}$. The NSRL concentration of formaldehyde that represents a daily dose of 40 μg is 2 $\mu\text{g}/\text{m}^3$, assuming a continuous 24-hour exposure, a total daily inhaled air volume of 20 m^3 , and 100% absorption by the respiratory system. All of the CNHS homes exceeded this NSRL concentration of 2 $\mu\text{g}/\text{m}^3$. The median indoor formaldehyde concentration was 36 $\mu\text{g}/\text{m}^3$, and ranged from 4.8 to 136 $\mu\text{g}/\text{m}^3$, which corresponds to a median exceedance of the 2 $\mu\text{g}/\text{m}^3$ NSRL concentration of 18 and a range of 2.3 to 68.

Therefore, the cancer risk of a resident living in a California home with the median indoor formaldehyde concentration of 36 $\mu\text{g}/\text{m}^3$, is 180 per million as a result of formaldehyde

alone. The CEQA significance threshold for airborne cancer risk is 10 per million, as established by the San Diego County Air Pollution Control District (SDAPCD, 2021).

Besides being a human carcinogen, formaldehyde is also a potent eye and respiratory irritant. In the CNHS, many homes exceeded the non-cancer reference exposure levels (RELs) prescribed by California Office of Environmental Health Hazard Assessment (OEHHA, 2017b). The percentage of homes exceeding the RELs ranged from 98% for the Chronic REL of 9 $\mu\text{g}/\text{m}^3$ to 28% for the Acute REL of 55 $\mu\text{g}/\text{m}^3$.

The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.

In January 2009, the California Air Resources Board (CARB) adopted an airborne toxics control measure (ATCM) to reduce formaldehyde emissions from composite wood products, including hardwood plywood, particleboard, medium density fiberboard, and also furniture and other finished products made with these wood products (California Air Resources Board 2009). While this formaldehyde ATCM has resulted in reduced emissions from composite wood products sold in California, they do not preclude that homes built with composite wood products meeting the CARB ATCM will have indoor formaldehyde concentrations below cancer and non-cancer exposure guidelines.

A follow up study to the California New Home Study (CNHS) was conducted in 2016-2018 (Singer et. al., 2019), and found that the median indoor formaldehyde in new homes built after 2009 with CARB Phase 2 Formaldehyde ATCM materials had lower indoor formaldehyde concentrations, with a median indoor concentrations of 22.4 $\mu\text{g}/\text{m}^3$ (18.2 ppb) as compared to a median of 36 $\mu\text{g}/\text{m}^3$ found in the 2007 CNHS. Unlike in the CNHS study where formaldehyde concentrations were measured with pumped DNPH samplers, the formaldehyde concentrations in the HENGH study were measured with passive samplers, which were estimated to under-measure the true indoor formaldehyde concentrations by approximately 7.5%. Applying this correction to the HENGH indoor

formaldehyde concentrations results in a median indoor concentration of 24.1 $\mu\text{g}/\text{m}^3$, which is 33% lower than the 36 $\mu\text{g}/\text{m}^3$ found in the 2007 CNHS.

Thus, while new homes built after the 2009 CARB formaldehyde ATCM have a 33% lower median indoor formaldehyde concentration and cancer risk, the median lifetime cancer risk is still 120 per million for homes built with CARB compliant composite wood products. This median lifetime cancer risk is more than 12 times the OEHHHA 10 in a million cancer risk threshold (OEHHHA, 2017a).

With respect to the Lockwood III Apartments Project, Oxnard, CA, the buildings consist of residential spaces.

The residential occupants will potentially have continuous exposure (e.g. 24 hours per day, 52 weeks per year). These exposures are anticipated to result in significant cancer risks resulting from exposures to formaldehyde released by the building materials and furnishing commonly found in residential construction.

Because these residences will be constructed with CARB Phase 2 Formaldehyde ATCM materials, and be ventilated with the minimum code required amount of outdoor air, the indoor residential formaldehyde concentrations are likely similar to those concentrations observed in residences built with CARB Phase 2 Formaldehyde ATCM materials, which is a median of 24.1 $\mu\text{g}/\text{m}^3$ (Singer et. al., 2020)

Assuming that the residential occupants inhale 20 m^3 of air per day, the average 70-year lifetime formaldehyde daily dose is 482 $\mu\text{g}/\text{day}$ for continuous exposure in the residences. This exposure represents a cancer risk of 120 per million, which is more than 12 times the CEQA cancer risk of 10 per million. For occupants that do not have continuous exposure, the cancer risk will be proportionally less but still substantially over the CEQA cancer risk of 10 per million (e.g. for 12/hour/day occupancy, more than 6 times the CEQA cancer risk of 10 per million).

In addition, we note that the average outdoor air concentration of formaldehyde in

California is 3 ppb, or 3.7 µg/m³, (California Air Resources Board, 2004), and thus represents an average pre-existing background airborne cancer risk of 1.85 per million. Thus, the indoor air formaldehyde exposures describe above exacerbate this pre-existing risk resulting from outdoor air formaldehyde exposures.

Appendix A, Indoor Formaldehyde Concentrations and the CARB Formaldehyde ATCM, provides analyses that show utilization of CARB Phase 2 Formaldehyde ATCM materials will not ensure acceptable cancer risks with respect to formaldehyde emissions from composite wood products.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

The following describes a method that should be used, prior to construction in the environmental review under CEQA, for determining whether the indoor concentrations resulting from the formaldehyde emissions of specific building materials/furnishings selected exceed cancer and non-cancer guidelines. Such a design analyses can be used to identify those materials/furnishings prior to the completion of the City's CEQA review and project approval, that have formaldehyde emission rates that contribute to indoor concentrations that exceed cancer and non-cancer guidelines, so that alternative lower emitting materials/furnishings may be selected and/or higher minimum outdoor air ventilation rates can be increased to achieve acceptable indoor concentrations and incorporated as mitigation measures for this project.

Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment

This formaldehyde emissions assessment should be used in the environmental review under CEQA to assess the indoor formaldehyde concentrations from the proposed loading of building materials/furnishings, the area-specific formaldehyde emission rate data for building materials/furnishings, and the design minimum outdoor air ventilation rates. This assessment allows the applicant (and the City) to determine, before the conclusion of the environmental review process and the building materials/furnishings are specified, purchased, and installed, if the total chemical emissions will exceed cancer and non-cancer guidelines, and if so, allow for changes in the selection of specific material/furnishings and/or the design minimum outdoor air ventilations rates such that cancer and non-cancer guidelines are not exceeded.

1.) Define Indoor Air Quality Zones. Divide the building into separate indoor air quality zones, (IAQ Zones). IAQ Zones are defined as areas of well-mixed air. Thus, each ventilation system with recirculating air is considered a single zone, and each room or group of rooms where air is not recirculated (e.g. 100% outdoor air) is considered a separate zone. For IAQ Zones with the same construction material/furnishings and design minimum outdoor air ventilation rates. (e.g. hotel rooms, apartments, condominiums, etc.) the formaldehyde emission rates need only be assessed for a single IAQ Zone of that type.

2.) Calculate Material/Furnishing Loading. For each IAQ Zone, determine the building material and furnishing loadings (e.g., m² of material/m² floor area, units of furnishings/m² floor area) from an inventory of all potential indoor formaldehyde sources, including flooring, ceiling tiles, furnishings, finishes, insulation, sealants, adhesives, and any products constructed with composite wood products containing urea-formaldehyde resins (e.g., plywood, medium density fiberboard, particleboard).

3.) Calculate the Formaldehyde Emission Rate. For each building material, calculate the formaldehyde emission rate (µg/h) from the product of the area-specific formaldehyde emission rate (µg/m²-h) and the area (m²) of material in the IAQ Zone, and from each furnishing (e.g. chairs, desks, etc.) from the unit-specific formaldehyde emission rate (µg/unit-h) and the number of units in the IAQ Zone.

NOTE: As a result of the high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014), most manufacturers of building materials furnishings sold in the United States conduct chemical emission rate tests using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers,” (CDPH, 2017), or other equivalent chemical emission rate testing methods. Most manufacturers of building furnishings sold in the United States conduct chemical emission rate tests using ANSI/BIFMA M7.1 Standard Test Method for Determining VOC Emissions (BIFMA, 2018), or other equivalent chemical emission rate testing methods.

CDPH, BIFMA, and other chemical emission rate testing programs, typically certify that a material or furnishing does not create indoor chemical concentrations in excess of the maximum concentrations permitted by their certification. For instance, the CDPH emission rate testing requires that the measured emission rates when input into an office, school, or residential model do not exceed one-half of the OEHHA Chronic Exposure Guidelines (OEHHA, 2017b) for the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017). These certifications themselves do not provide the actual area-specific formaldehyde emission rate (i.e., $\mu\text{g}/\text{m}^2\text{-h}$) of the product, but rather provide data that the formaldehyde emission rates do not exceed the maximum rate allowed for the certification. Thus, for example, the data for a certification of a specific type of flooring may be used to calculate that the area-specific emission rate of formaldehyde is less than $31 \mu\text{g}/\text{m}^2\text{-h}$, but not the actual measured specific emission rate, which may be 3, 18, or $30 \mu\text{g}/\text{m}^2\text{-h}$. These area-specific emission rates determined from the product certifications of CDPH, BIFA, and other certification programs can be used as an initial estimate of the formaldehyde emission rate.

If the actual area-specific emission rates of a building material or furnishing is needed (i.e. the initial emission rates estimates from the product certifications are higher than desired), then that data can be acquired by requesting from the manufacturer the complete chemical emission rate test report. For instance if the complete CDPH emission test report is requested for a CDHP certified product, that report will provide the actual area-specific emission rates for not only the 35 specific VOCs, including formaldehyde, listed

in Table 4-1 of the CDPH test method (CDPH, 2017), but also all of the cancer and reproductive/developmental chemicals listed in the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), all of the toxic air contaminants (TACs) in the California Air Resources Board Toxic Air Contamination List (CARB, 2011), and the 10 chemicals with the greatest emission rates.

Alternatively, a sample of the building material or furnishing can be submitted to a chemical emission rate testing laboratory, such as Berkeley Analytical Laboratory (<https://berkeleyanalytical.com>), to measure the formaldehyde emission rate.

4.) Calculate the Total Formaldehyde Emission Rate. For each IAQ Zone, calculate the total formaldehyde emission rate (i.e. $\mu\text{g/h}$) from the individual formaldehyde emission rates from each of the building material/furnishings as determined in Step 3.

5.) Calculate the Indoor Formaldehyde Concentration. For each IAQ Zone, calculate the indoor formaldehyde concentration ($\mu\text{g/m}^3$) from Equation 1 by dividing the total formaldehyde emission rates (i.e. $\mu\text{g/h}$) as determined in Step 4, by the design minimum outdoor air ventilation rate (m^3/h) for the IAQ Zone.

(Equation 1)

where:

C_{in} = indoor formaldehyde concentration ($\mu\text{g/m}^3$)

E_{total} = total formaldehyde emission rate ($\mu\text{g/h}$) into the IAQ Zone.

Q_{oa} = design minimum outdoor air ventilation rate to the IAQ Zone (m^3/h)

The above Equation 1 is based upon mass balance theory, and is referenced in Section 3.10.2 “Calculation of Estimated Building Concentrations” of the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers”, (CDPH, 2017).

6.) Calculate the Indoor Exposure Cancer and Non-Cancer Health Risks. For each IAQ Zone, calculate the cancer and non-cancer health risks from the indoor formaldehyde concentrations determined in Step 5 and as described in the OEHHA Air Toxics Hot Spots

Program Risk Assessment Guidelines; Guidance Manual for Preparation of Health Risk Assessments (OEHHA, 2015).

7.) Mitigate Indoor Formaldehyde Exposures of exceeding the CEQA Cancer and/or Non-Cancer Health Risks. In each IAQ Zone, provide mitigation for any formaldehyde exposure risk as determined in Step 6, that exceeds the CEQA cancer risk of 10 per million or the CEQA non-cancer Hazard Quotient of 1.0.

Provide the source and/or ventilation mitigation required in all IAQ Zones to reduce the health risks of the chemical exposures below the CEQA cancer and non-cancer health risks.

Source mitigation for formaldehyde may include:

- 1.) reducing the amount materials and/or furnishings that emit formaldehyde
- 2.) substituting a different material with a lower area-specific emission rate of formaldehyde

Ventilation mitigation for formaldehyde emitted from building materials and/or furnishings may include:

- 1.) increasing the design minimum outdoor air ventilation rate to the IAQ Zone.

NOTE: Mitigating the formaldehyde emissions through use of less material/furnishings, or use of lower emitting materials/furnishings, is the preferred mitigation option, as mitigation with increased outdoor air ventilation increases initial and operating costs associated with the heating/cooling systems.

Further, we are not asking that the builder “speculate” on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers,” (CDPH, 2017), and use the procedure described earlier above (i.e. Pre-

Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Impact. Another important finding of the CNHS, was that the outdoor air ventilation rates in the homes were very low. Outdoor air ventilation is a very important factor influencing the indoor concentrations of air contaminants, as it is the primary removal mechanism of all indoor air generated contaminants. Lower outdoor air exchange rates cause indoor generated air contaminants to accumulate to higher indoor air concentrations. Many homeowners rarely open their windows or doors for ventilation as a result of their concerns for security/safety, noise, dust, and odor concerns (Price, 2007). In the CNHS field study, 32% of the homes did not use their windows during the 24-hour Test Day, and 15% of the homes did not use their windows during the entire preceding week. Most of the homes with no window usage were homes in the winter field session. Thus, a substantial percentage of homeowners never open their windows, especially in the winter season. The median 24-hour measurement was 0.26 air changes per hour (ach), with a range of 0.09 ach to 5.3 ach. A total of 67% of the homes had outdoor air exchange rates below the minimum California Building Code (2001) requirement of 0.35 ach. Thus, the relatively tight envelope construction, combined with the fact that many people never open their windows for ventilation, results in homes with low outdoor air exchange rates and higher indoor air contaminant concentrations.

The Lockwood III Apartments Project, Oxnard, CA is close to roads with moderate to high traffic (e.g., Lakewood Street, East Gonzalez Road, Ventura Freeway -101, etc.) and thus the Project site is a sound impacted site.

According to the Initial Study/Mitigated Negative Declaration- Lockwood III Apartments Project, Oxnard, CA (ESA, 2024), Appendix I, Table 10, the ambient noise levels with the Project range from 66.1 to 71.2 dBA CNEL.

However, these ambient noise levels were only measured during a single 24-hour period (August 1-2, 2022). In order to design the building for this Project such that interior noise

levels are acceptable, an acoustic study with actual on-site measurements of the existing ambient noise levels and modeled future ambient noise levels needs to be conducted. The acoustic study of the existing ambient noise levels should be conducted over a one-week period, and report the dBA CNEL or Ldn. This study will allow for the selection of a building envelope and windows with a sufficient STC such that the indoor noise levels are acceptable. A mechanical supply of outdoor air ventilation to allow for a habitable interior environment with closed windows and doors will also be required. Such a ventilation system would allow windows and doors to be kept closed at the occupant's discretion to control exterior noise within building interiors.

PM_{2.5} Outdoor Concentrations Impact. An additional impact of the nearby motor vehicle traffic associated with this project, are the outdoor concentrations of PM_{2.5}. Initial Study/Mitigated Negative Declaration- Lockwood III Apartments Project, Oxnard, CA (ESA, 2024), the Project is located in the South Coast Air Basin, which is a State and Federal non-attainment area for PM_{2.5}.

An air quality analyses should be conducted to determine the concentrations of PM_{2.5} in the outdoor and indoor air that people inhale each day. This air quality analyses needs to consider the cumulative impacts of the project related emissions, existing and projected future emissions from local PM_{2.5} sources (e.g. stationary sources, motor vehicles, and airport traffic) upon the outdoor air concentrations at the Project site. If the outdoor concentrations are determined to exceed the California and National annual average PM_{2.5} exceedence concentration of 12 µg/m³, or the National 24-hour average exceedence concentration of 35 µg/m³, then the buildings need to have a mechanical supply of outdoor air that has air filtration with sufficient removal efficiency, such that the indoor concentrations of outdoor PM_{2.5} particles is less than the California and National PM_{2.5} annual and 24-hour standards.



It is my experience that based on the projected high traffic noise levels, the annual average concentration of PM_{2.5} will exceed the California and National PM_{2.5} annual and 24-hour standards and warrant installation of high efficiency air filters (i.e. MERV 13 or higher) in all mechanically supplied outdoor air ventilation systems.

Indoor Air Quality Impact Mitigation Measures

The following are recommended mitigation measures to minimize the impacts upon indoor quality:

Indoor Formaldehyde Concentrations Mitigation. Use only composite wood materials (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins (CARB, 2009). CARB Phase 2 certified composite wood products, or ultra-low emitting formaldehyde (ULEF) resins, do not insure indoor formaldehyde concentrations that are below the CEQA cancer risk of 10 per million. Only composite wood products manufactured with CARB approved no-added formaldehyde (NAF) resins, such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

Alternatively, conduct the previously described Pre-Construction Building Material/Furnishing Chemical Emissions Assessment, to determine that the combination of formaldehyde emissions from building materials and furnishings do not create indoor formaldehyde concentrations that exceed the CEQA cancer and non-cancer health risks.

It is important to note that we are not asking that the builder “speculate” on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers”, (CDPH, 2017), and use the procedure described above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Mitigation. Provide each habitable room with a continuous mechanical supply of outdoor air that meets or exceeds the California 2016 Building Energy Efficiency Standards (California Energy Commission, 2015) requirements of the greater of 15 cfm/occupant or 0.15 cfm/ft² of floor area. Following installation of the system conduct testing and balancing to insure that required amount of outdoor air is entering each habitable room and provide a written report documenting the outdoor airflow rates. Do not use exhaust only mechanical outdoor air systems, use only balanced outdoor air supply and exhaust systems or outdoor air supply only systems. Provide a manual for the occupants or maintenance personnel, that describes the purpose of the mechanical outdoor air system and the operation and maintenance requirements of the system.

PM_{2.5} Outdoor Air Concentration Mitigation. Install air filtration with sufficient PM_{2.5} removal efficiency (e.g. MERV 13 or higher) to filter the outdoor air entering the mechanical outdoor air supply systems, such that the indoor concentrations of outdoor PM_{2.5} particles are less than the California and National PM_{2.5} annual and 24-hour standards. Install the air filters in the system such that they are accessible for replacement by the occupants or maintenance personnel. Include in the mechanical outdoor air ventilation system manual instructions on how to replace the air filters and the estimated frequency of replacement.

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APPENDIX A

INDOOR FORMALDEHYDE CONCENTRATIONS AND THE CARB FORMALDEHYDE ATCM

With respect to formaldehyde emissions from composite wood products, the CARB ATCM regulations of formaldehyde emissions from composite wood products, do not assure healthful indoor air quality. The following is the stated purpose of the CARB ATCM regulation - *The purpose of this airborne toxic control measure is to “reduce formaldehyde emissions from composite wood products, and finished goods that contain composite wood products, that are sold, offered for sale, supplied, used, or manufactured for sale in California”*. In other words, the CARB ATCM regulations do not “assure healthful indoor air quality”, but rather “reduce formaldehyde emissions from composite wood products”.

Just how much protection do the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products? Definitely some, but certainly the regulations do not “*assure healthful indoor air quality*” when CARB Phase 2 products are utilized. As shown in the Chan 2019 study of new California homes, the median indoor formaldehyde concentration was of 22.4 $\mu\text{g}/\text{m}^3$ (18.2 ppb), which corresponds to a cancer risk of 112 per million for occupants with continuous exposure, which is more than 11 times the CEQA cancer risk of 10 per million.

Another way of looking at how much protection the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products is to calculate the maximum number of square feet of composite wood product that can be in a residence without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy.

For this calculation I utilized the floor area (2,272 ft^2), the ceiling height (8.5 ft), and the number of bedrooms (4) as defined in Appendix B (New Single-Family Residence Scenario) of the Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers, Version 1.1,

2017, California Department of Public Health, Richmond, CA.
<https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/EHLB/IAQ/Pages/VOC.aspx>.

For the outdoor air ventilation rate I used the 2019 Title 24 code required mechanical ventilation rate (ASHRAE 62.2) of 106 cfm (180 m³/h) calculated for this model residence. For the composite wood formaldehyde emission rates I used the CARB ATCM Phase 2 rates.

The calculated maximum number of square feet of composite wood product that can be in a residence, without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 15 ft² (0.7% of the floor area), or
Particle Board – 30 ft² (1.3% of the floor area), or
Hardwood Plywood – 54 ft² (2.4% of the floor area), or
Thin MDF – 46 ft² (2.0 % of the floor area).

For offices and hotels the calculated maximum amount of composite wood product (% of floor area) that can be used without exceeding the CEQA cancer risk of 10 per million for occupants, assuming 8 hours/day occupancy, and the California Mechanical Code minimum outdoor air ventilation rates are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 3.6 % (offices) and 4.6% (hotel rooms), or
Particle Board – 7.2 % (offices) and 9.4% (hotel rooms), or
Hardwood Plywood – 13 % (offices) and 17% (hotel rooms), or
Thin MDF – 11 % (offices) and 14 % (hotel rooms)

Clearly the CARB ATCM does not regulate the formaldehyde emissions from composite wood products such that the potentially large areas of these products, such as for flooring, baseboards, interior doors, window and door trims, and kitchen and bathroom cabinetry,

could be used without causing indoor formaldehyde concentrations that result in CEQA cancer risks that substantially exceed 10 per million for occupants with continuous occupancy.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

If CARB Phase 2 compliant or ULEF composite wood products are utilized in construction, then the resulting indoor formaldehyde concentrations should be determined in the design phase using the specific amounts of each type of composite wood product, the specific formaldehyde emission rates, and the volume and outdoor air ventilation rates of the indoor spaces, and all feasible mitigation measures employed to reduce this impact (e.g. use less formaldehyde containing composite wood products and/or incorporate mechanical systems capable of higher outdoor air ventilation rates). See the procedure described earlier (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Alternatively, and perhaps a simpler approach, is to use only composite wood products (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins.

EXHIBIT F



WI #24-002.07

April 8th, 2023

Ms. Marjan Kris Abubo
Lozeau | Drury LLP
1939 Harrison Street, Suite 150
Oakland, CA 94612

**SUBJECT: Lockwood III Apartments
Oxnard, California
Review and Comment on Noise Study**

Dear Mr. Abubo,

Per your request, Wilson Ihrig has reviewed the information and noise impact analysis in the Initial Study/Mitigated Negative Declaration (IS/MND) for the Lockwood III apartments, with an emphasis on the Appendix I, the Noise Study, developed by Meridian Consultants and dated September 2023. The Proposed Project is construction of a 5-story approximately 234-unit multi-family residential building on undeveloped land in the City of Oxnard. The project is surrounded by sensitive uses, including the California Lutheran University Satellite Campus at 2201 Outlet Center Drive, as well as medical office buildings at 1900, 1901, and 2024 Outlet Center Drive

Wilson Ihrig, Acoustical Consultants, has practiced exclusively in the field of acoustics since 1966. During our 57 years of operation, we have prepared hundreds of noise studies for Environmental Impact Reports and Statements. We have one of the largest technical laboratories in the acoustical consulting industry. We also utilize industry-standard acoustical programs such as Roadway Construction Noise Model (RCNM), SoundPLAN, and CADNA. In short, we are well qualified to prepare environmental noise studies and review studies prepared by others.

Adverse Effects of Noise¹

Although the health effects of noise are not taken as seriously in the United States as they are in other countries, they are real and, in many parts of the country, pervasive.

Noise-Induced Hearing Loss. If a person is repeatedly exposed to loud noises, he or she may experience noise-induced hearing impairment or loss. In the United States, both the Occupational Health and Safety Administration (OSHA) and the National Institute for Occupational Safety and

¹ More information on these and other adverse effects of noise may be found in *Guidelines for Community Noise*, eds B Berglund, T Lindvall, and D Schwela, World Health Organization, Geneva, Switzerland, 1999. (<https://www.who.int/docstore/peh/noise/Comnoise-1.pdf>)

Health (NIOSH) promote standards and regulations to protect the hearing of people exposed to high levels of industrial noise.

Speech Interference. Another common problem associated with noise is speech interference. In addition to the obvious issues that may arise from misunderstandings, speech interference also leads to problems with concentration fatigue, irritation, decreased working capacity, and automatic stress reactions. For complete speech intelligibility, the sound level of the speech should be 15 to 18 dBA higher than the background noise. Typical indoor speech levels are 45 to 50 dBA at 1 meter, so any noise above 30 dBA begins to interfere with speech intelligibility. The common reaction to higher background noise levels is to raise one's voice. If this is required persistently for long periods of time, stress reactions and irritation will likely result.

Sleep Disturbance. Noise can disturb sleep by making it more difficult to fall asleep, by waking someone after they are asleep, or by altering their sleep stage, e.g., reducing the amount of rapid eye movement (REM) sleep. Noise exposure for people who are sleeping has also been linked to increased blood pressure, increased heart rate, increase in body movements, and other physiological effects. Not surprisingly, people whose sleep is disturbed by noise often experience secondary effects such as increased fatigue, depressed mood, and decreased work performance.

Cardiovascular and Physiological Effects. Human's bodily reactions to noise are rooted in the "fight or flight" response that evolved when many noises signaled imminent danger. These include increased blood pressure, elevated heart rate, and vasoconstriction. Prolonged exposure to acute noises can result in permanent effects such as hypertension and heart disease.

Impaired Cognitive Performance. Studies have established that noise exposure impairs people's abilities to perform complex tasks (tasks that require attention to detail or analytical processes) and it makes reading, paying attention, solving problems, and memorizing more difficult. This is why there are standards for classroom background noise levels and why offices and libraries are designed to provide quiet work environments.

Construction Noise Threshold is Misinterpreted

The Noise Memo in Appendix I errs by using the Federal Transit Administration (FTA) detailed assessment methodology with the contradictory and less stringent general assessment threshold. Appendix I states on page 11 that "a construction-related noise level threshold is adopted from the FTA Construction Noise Handbook for General Assessment Construction Noise Criteria" and that "The construction noise criteria threshold for residential uses is 90 dBA (Leq-1hour) during the daytime." This is correctly cited from the manual.

Additionally, on Page 15, the Noise Appendix states that in order to "calculate construction noise levels, hourly activity or utilization factors ... are estimated based on the temporal characteristics of other previous and current construction projects." These values are then given as an input in Table 6, which affects the construction noise source level used in the model (and thus the final modeled construction noise level).

However, it should be noted that the FTA advises assuming a usage factor of 1 when using a general assessment in the Transit Noise and Vibration Impact Assessment Manual.² The same document notes that usage factors are only utilized in the detailed assessment. Included usage factors in a general assessment underestimates noise by as much as 7 decibels for pieces of equipment that are used in the analysis, such as cranes. This difference is baked into the different criteria. The general assessment will almost always have higher levels than the detailed assessment since there is no usage factor adjustment, and thus has a higher criterion of 90 dBA. The detailed assessment is the inverse; typically lower modeled construction noise levels with a lower criterion of 80 dBA. The document's approach of using FTA general assessment criteria while incorporating usage factors significantly underestimates the potential impact of construction noise, especially since the modeled noise for the Site Preparation and Grading phases are 7 dBA over the 80 dBA threshold. This error should be fixed in an updated EIR, with more attention paid to consistency different construction noise modeling methodologies and thresholds.

On-Site Operational Noise Analysis is Incomplete

The Noise Analysis does not study impacts generated by noise produced by this project on nearby receivers. As such, it's possible the rooftop mechanical equipment, among other things, would raise nearby ambient levels over impact thresholds. This is especially a concern at night since HVAC systems can run at any hour.

There are no calculations nor any evidence provided that demonstrates mechanical equipment used in the Project will not be potentially significant at nearby sensitive receivers. Typical noise levels associated with mechanical equipment can be placed in a noise model with distance attenuation and project geometry to determine if there is an impact that would require mitigation. To confirm a less than significant impact, the Project Applicant should demonstrate in an Environmental Impact Report that the level generated by these sources is below reasonable significance thresholds.

The Potential for Building Damage Caused by Construction Vibration is Not Studied

Table 8 presents modeled construction vibration annoyance levels along with associated thresholds for applicable sensitive receivers. The FTA guidance manual states on Page 182 that "Buildings founded on the soil near the construction site [can] respond to these [construction] vibrations with ... slight damage at the highest [vibration] levels." As such, it is imperative that all nearby sensitive receivers are analyzed for construction vibration damage to nearby structures, as such levels are within the realm of possibility. This should be included in an Environmental Impact Report.

Off-Site Operational Noise Analysis is Incomplete

Table 9 in the Noise Analysis presents Existing Plus Project Noise Levels with and without the project traffic and compares this difference to significance thresholds. However, the analysis only considers Rice Avenue, Gonzales Road, and Rose Avenue. This means that potential traffic noise increases on Lockwood Ave and Outlet Center Drive are not considered.

This is particularly egregious for Lockwood Street, which is the main access road in and out of the site. Current traffic levels are presumably low, and even slight increases may double traffic, which

² https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf page 177

could increase noise levels by 3 dBA³. As such, there is a potential for significant impacts, and the issue should be studied in an Environmental Impact Report.

Conclusion

The IS/MND includes several errors, including an improper interpretation of construction noise guidelines, and little to no analysis on rooftop mechanical noise, construction vibration damage to buildings, and off-site noise on Lockwood Ave and Outlet Center Drive. These error and omissions should be corrected in a revised IS/MND or in an Environmental Impact Report.

Please feel free to contact me with any questions on this information.

Very truly yours,
WILSON IHRIG

A handwritten signature in blue ink, appearing to read "John Meighan", is written over a horizontal line.

John Meighan
Associate

lockwood 3 apartments mnd - comments on noise analysis - j meighan.docx

³Since 3dBA represents a doubling of sound energy <https://www.nps.gov/subjects/sound/mapfaq.htm>

EXHIBIT G



WI #24-002.17

July 30th, 2024

Marjan R. Abubo, Esquire
Lozeau | Drury LLP
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**SUBJECT: Lockwood III Apartments
Response to Comments on Initial Study/Mitigated Negative Declaration
(IS/MND)**

Below is our response to comments on the letter we sent on April 8th 2024 regarding the Lockwood III Apartments Residential Project, based on the document “Lockwood III Apartments: Response to Comments on Public Review Draft Initial Study/Mitigated Negative Declaration” by ESA dated July 2024.

Response to A-19 and A-38

On page 3-170, the response to comments states that “A general noise assessment is suitable and appropriate given the current stage of planning and evaluation for this Project.” This is appropriate and was not questioned by our comments. This is even stated in our original letter where we say on page 2 that the criteria is properly cited from the manual.

Our issue is that the calculation is incorrect, based on the methodology from the cited Federal Transit Administration’s Transit Noise and Vibration Impact Assessment Manual¹ (FTA). Table 1 shows a summary of different FTA methodologies and assumptions used in each calculation.

Table 1: Summary of FTA Construction Noise Methodologies and Procedures.

Difference Between Methods	Detailed FTA Methodology	General FTA Methodology
Threshold	80 dBA	90 dBA
Usage Factors	Includes RCNM Usage Factors	All Usage Factors = 1
Receiver Location	Closest Distance from Project Site to Receiver	Center of Project Site to Receiver

The MND uses the 90 dBA threshold (second paragraph of page 11 of the MND Noise Appendix), with usage factors (last paragraph of page 15 of the MND Noise Appendix). If Usage Factors are present in the calculation, the more appropriate threshold is 80 dBA. This is explained in more detail in pages

¹ https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf

177-179 of the FTA manual. As discussed in our previous letter, the current methodology used by the MND erroneously underestimates noise by as much as 7 dBA.

The response goes on to say that “construction noise levels provided in the Noise Study and Public Review Draft IS/MND do not include any reduction related to standard noise control strategies” and as such “in the event the more stringent threshold of 80 dBA was utilized, construction noise levels would fall below this level with implementation of regulatory compliance and best management practices.” However, this claim is unsupported. The purpose of the CEQA process is to show that thresholds are met, not to provide indeterminate strategies for avoiding threshold exceedances.

The response claims that there are “muffler systems that can reduce construction noise levels by 10 dBA or more” without providing evidence. In fact, source levels used in the MND are already accounting for mufflers. On page 16 of the Noise Appendix, the MND states “Typical noise levels for each type of construction equipment were obtained from the FHWA Roadway Construction Noise Model.” The source of this data is from contemporary equipment that is already equipped with mufflers, as the bulk of sound data in this model was obtained during the 1990s and 2000s during the Central Artery Tunnel project in Boston. By the 1990s, virtually all construction equipment was fitted with mufflers, so the reference sound levels already account for the noise reduction they provide. Therefore, the assumption that adding mufflers can provide a 10 dB reduction to estimated noise levels is unsubstantiated and unrealistic, creating an underestimation of construction noise levels that may lead to unstudied and unmitigated significant noise impacts.

Finally, the response states that “modifications such as dampening of metal surfaces or the redesign of a particular piece of equipment can achieve a noise reduction of up to 5 dBA.” This is without any discussion of what a ‘redesign’ of a particular piece of equipment entails, as well as why and how it could be implemented on this project.

Response to Comment A-20 and A-39

In response to concerns from both our firm and other parties, the MND was amended to add a section involving HVAC noise. The new analysis states that “the noise levels generated by these equipment types would not be substantially greater than those generated by the current HVAC equipment serving the existing buildings in the Project vicinity.” This is probably true, but it fails to represent or introduce a worst-case scenario. Even if levels were exactly the same as nearby buildings, that does not preclude a potential impact. When a second identical noise source is added to a continuously running first source, sound levels increase by 3 dB². 3 dBA is used as the traffic noise significance threshold in the MND. The MND’s approach of saying that the noise is already present and similar noise is therefore insignificant, is an insufficient approach, since adding an additional single source could present a situation where noise levels exceed significance thresholds.

Additionally, the response says, “because the noise levels generated by the HVAC equipment serving the Proposed Project would be designed to not exceed the ambient noise levels allowable by the City of Oxnard Municipal Code, a substantial permanent increase in noise levels would not occur at the nearby sensitive receptor.” The analysis includes no discussion of how realistic this could be. The result is circular – the source levels would always be low enough using this method to ensure there is no impact, regardless of how unrealistic the source levels may be. Typical noise levels associated

² <https://msp.ucsd.edu/techniques/v0.08/book-html/node6.html>

with mechanical equipment can be placed in a noise model with distance attenuation and project geometry/topography to determine if there is an impact that would require mitigation. To confirm a less than significant impact, the MND should demonstrate that the level generated by these sources is below appropriate significance thresholds.

Response to Comment A-40

This comment states that the MND “did analyze structural vibration impacts” since “human annoyance vibrational impacts were less than significant” and “human annoyance thresholds are lower than the structural damage thresholds.” It was determined that “structural vibrational impacts would also be less than significant, and an analysis is not warranted.” This is true and was not stated in the MND. This response is accepted.

However, it is worth noting that the MND may show an unreported significant impact. The chosen criteria for California Lutheran University is 90 VdB, which is appropriate for Workshops (Noise Appendix, Table 3). However, a university may be best categorized as an office, which has an 84 VdB threshold. The university environment involves learning and studying in a quiet, daytime setting. It is not as sensitive as places where people sleep, but is more sensitive than a workshop, where people are generally more active and where there are more noise and vibration sources from within the environment itself. Table 8 shows the predicted vibration level is 87 VdB, which is over the 84 VdB office threshold. This would count as an impact and should be studied in an Environmental Impact Report.

Response to Comment A-41

Rose Avenue, Gonzalez Street, and Rice Avenue are all major roads that lead into the area of the proposed development. These are heavily trafficked roads, where the analysis correctly states the influence of traffic from one new development would not meaningfully impact traffic noise levels on these streets. The Response then asserts that although “traffic was not measured along Lockwood Drive itself, traffic that uses Lockwood Drive was captured at the intersections analyzed in the Public Review Draft IS/MND” and thus the MND “thoroughly covered all the roadways that lead to the Project site.”

However, none of them have direct access into the proposed development, like Lockwood Avenue and Outlet Center Drive do. These two smaller roads have a fraction of the overall existing traffic in comparison to the larger roads of Rose, Rice or Gonzalez. But they have the same amount of new traffic as the larger roads. The relative increase on these two smaller roads would therefore be higher than on the larger roads with higher existing traffic, since both have the same set amount of increased traffic. The response does not meaningfully address this issue, and we believe a traffic noise study should have been conducted on Lockwood Avenue and Outlet Center Drive.

Conclusion

We believe that there is a good chance that the project may create significant noise and vibration impacts, which are unaddressed by the MND and the associated response. Let us know if you have any questions.

Very truly yours, WILSON IHRIG

Jack Meighan, Associate





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Via Email

April 12, 2024

Joe Pearson II, Planning Manager
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**Re: Comment on the Mitigated Negative Declaration
Lockwood III Apartments Project (Record No. Record No. 24-01)**

Dear Mr. Pearson and Honorable Members of the Planning Commission:

I am writing on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”) and its members living and working in and around the City of Oxnard (“City”). This letter is with regard to the Initial Study and Mitigated Negative Declaration (“IS/MND”) prepared for the Lockwood III Apartments Project (Record No. 24-01), which proposes development of a 225,348 square foot multifamily development building (“Project”).

After careful review of the IS/MND and its accompanying documents prepared by Environmental Science Associates (“ESA”), SAFER believes that the IS/MND is improper under the California Environmental Quality Act, and that an environmental impact report (“EIR”) is required. As explained in more detail below, there is a fair argument that the Project may have adverse environmental impacts related to biological resources, air quality, and noise.

Furthermore, the MND’s proposed mitigated measures inadequately address the Project’s environmental impacts, and as such conflict with the air quality policies pursuant to the Ventura County Air Pollution Control District. SAFER’s review of the MND was assisted by expert biologist Dr. Shawn Smallwood, indoor air quality expert Francis Offermann, CIH, and the expert acoustical consulting firm Wilson Ihrig. Our expert comments and CVs are attached as Exhibits A, B, and C, respectively.

SAFER requests that the City not proceed with certifying the MND and to instead prepare an EIR to ensure that potentially significant adverse impacts of this Project are fully disclosed, analyzed, and mitigated.

PROJECT DESCRIPTION

The Project is located at 2151 Lockwood Street, in Oxnard, California. The Applicant, SVM Development LLC, Inc., proposes the construction of a new multifamily residential development comprised of 234 dwelling units located within buildings up to five-stories, all situated atop a two-level subterranean parking garage with 351 parking spaces.

The Project gross floor area measures 225,348 square feet and the Project site sits on approximately 5.17 acres, with sensitive receptors surrounding the site. The total residential space would be 201,115 SF; covered balconies, patios, parking and walkways would comprise 75,250 SF; corridors would comprise 40,497 SF; balconies 22,610 SF; utility space 16,710 SF; and community space 13,609 SF. The remaining SF would be comprised of corridor and vertical circulation (2,668 SF) and non-conditioned building (592 SF).

LEGAL STANDARD

As the California Supreme Court has held “[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR.” (*Communities for a Better Env’t v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319-320 [citing *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 88; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491, 504–505].) “Significant environmental effect” is defined very broadly as “a substantial or potentially substantial adverse change in the environment.” (Pub. Res. Code § 21068; *see also* 14 CCR § 15382.)

The EIR is the very heart of CEQA. *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214 (*Bakersfield Citizens*); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927. The EIR is an “environmental ‘alarm bell’ whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return.” *Bakersfield Citizens*, 124 Cal.App.4th at 1220. The EIR also functions as a “document of accountability,” intended to “demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.” *Laurel Heights Improvements Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 392. The EIR process “protects not only the environment but also informed self-government.” *Pocket Protectors*, 124 Cal.App.4th at 927.

Where an initial study shows that the project may have a significant effect on the environment, a mitigated negative declaration may be appropriate. However, a mitigated negative declaration is proper *only* if the project revisions would avoid or mitigate the potentially significant effects identified in the initial study “to a point where clearly no significant effect on the environment would occur, and...there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.” PRC §§ 21064.5 and 21080(c)(2); *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 331. In that context, “may” means a reasonable possibility of a significant

effect on the environment. PRC §§ 21082.2(a), 21100, 21151(a); *Pocket Protectors*, 124 Cal.App.4th at 927; *League for Protection of Oakland's etc. Historic Res. v. City of Oakland* (1997) 52 Cal.App.4th 896, 904–05.

Under the “fair argument” standard, an EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency’s decision. 14 CCR § 15064(f)(1); *Pocket Protectors*, 124 Cal.App.4th at 931; *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-51; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602. The “fair argument” standard creates a “low threshold” favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. *Pocket Protectors*, 124 Cal.App.4th at 928. The “fair argument” standard is virtually the opposite of the typical deferential standard accorded to agencies. As a leading CEQA treatise explains:

This ‘fair argument’ standard is very different from the standard normally followed by public agencies in making administrative determinations. Ordinarily, public agencies weigh the evidence in the record before them and reach a decision based on a preponderance of the evidence. [Citations]. The fair argument standard, by contrast, prevents the lead agency from weighing competing evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact. The lead agency’s decision is thus largely legal rather than factual; it does not resolve conflicts in the evidence but determines only whether substantial evidence exists in the record to support the prescribed fair argument.

Kostka & Zishcke, *Practice Under CEQA*, §6.29, pp. 273–74.

The Courts have explained that “it is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency’s determination. Review is de novo, with a *preference for resolving doubts in favor of environmental review*.” *Pocket Protectors*, 124 Cal.App.4th at 928 (emphasis in original).

DISCUSSION

I. There is Substantial Evidence of a Fair Argument that the Project Will Have Significant Biological Resources Impacts.

An EIR is required because substantial evidence in the record indicates a fair argument that the Project will have significant biological impacts. Specifically, expert wildlife biologist Dr. Shawn Smallwood, Ph.D. reviewed the Project and MND document and concluded that the Project site has value as a habitat for special status species and that the Project will have significant impacts on biological resources. Dr. Smallwood’s comments are supported by a site visit by wildlife biologist Noriko Smallwood (“Ms. Smallwood”). (Ex. A, p. 1.) Ms. Smallwood is an expert wildlife ecologist with a focus on urban ecology, avian ecology, and habitat conservation. Ms. Smallwood visited the site for approximately 3.5 hours on March 28, 2024,

starting at 7:26 am. (*Id.*) She walked the site's perimeter, using binoculars to scan and a camera to capture wildlife. (*Id.*) Dr. Smallwood's comments and CVs are attached Exhibit A.

For the following reasons set forth below, the City should not certify the MND and must instead prepare and circulate an EIR for the Project.

A. The IS/MND Fails to Adequately Describe the Project's Environmental Setting.

The City inadequately characterized the existing environmental setting and the site's ability to provide habitat for special-status species. Every CEQA document must start from a "baseline" assumption. The CEQA "baseline" is the set of environmental conditions against which to compare a project's anticipated impacts. *Communities for a Better Env't. v. So. Coast Air Qual. Mgmt. Dist.* (2010) 48 Cal. 4th 310, 321. Section 15125(a) of the CEQA Guidelines (14 C.C.R., § 15125(a)) states in pertinent part that a lead agency's environmental review under CEQA:

"...must include a description of the physical environmental conditions in the vicinity of the project, *as they exist at the time [environmental analysis] is commenced*, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant." (Emphasis added.)

(See, *Save Our Peninsula Committee v. County of Monterey* (2001) 87 Cal.App.4th 99, 124-125.) As the court of appeal has explained, "the impacts of the project must be measured against the 'real conditions on the ground,'" and not against hypothetical permitted levels. (*Save Our Peninsula, supra*, 87 Cal.App.4th 99, 121-123.)

The field survey prepared by ESA, which was used to inform the environmental setting, is deficient. The reconnaissance survey concluded that a mere three species were detected at the Project site. However, as Dr. Smallwood notes, ESA failed to include the methodological details that shaped the survey findings, information that is essential "to characterize the environmental setting as a basis for opining on, or predicting, potential project impacts to biological resources." (Ex. A, p. 15.) Of the three species detected by ESA, Ms. Smallwood detected one during her site visit, but the rest of ESA's findings and subsequent conclusion starkly differs from Ms. Smallwood's site visit and findings. (*Id.*) As Dr. Smallwood explains, it remains unclear as to why and how ESA's survey omitted wildlife that were so abundant when Ms. Smallwood visited the Project site (*Id.*) The clear disparities between what ESA's and Ms. Smallwood's surveys as well as the unclear method in which ESA's survey was performed and documented require additional review.

Furthermore, Ms. Smallwood observed 25 species of vertebrate wildlife at and/or near the Project site, three of which were special-status species. (Ex. A, p. 3, Table 1.) These species include the Western gull (*Larus occidentalis*), which is classified as "Birds of Conservation

Concern.”¹ (*Id.*) Birds of Conservation Concern include “migratory nongame birds that without additional conservation action are likely to become candidates for listing under the Endangered Species Act (ESA) of 1973.”² Ms. Smallwood also observed the American kestrel (*Falco sparverius*) actively hunting on-site as well as Red-tailed hawk flying nearby. Both species are considered Birds of Prey, which are a valuable resource to the State of California, and are therefore protected under state law.³ (*Id.*) “Special Status Species” is a universal term used in the scientific community for species that are considered sufficiently rare that they require special consideration and/or protection and should be, or have been, listed as rare, threatened or endangered by the Federal and/or State governments.”⁴

In addition, Dr. Smallwood opines that ESA’s survey may not have been performed thoroughly. While ESA instituted a 200-foot buffer surrounding the Project site, it failed to report on the California ground squirrels, which “is especially significant because burrowing owls rely on ground squirrels and their burrows, and the occurrence of ground squirrels greatly increases the likelihood of use of the site by burrowing owls.” (*Id.*) These observations undermine ESA’s survey credibility because the survey’s failure to identify suitable habitat for burrowing owls is incorrect. Therefore, the ESA survey underestimates the Project site’s suitability for habitat, especially for burrowing owls.

The desktop survey performed by ESA also is misleading, making the resulting MND document inaccurate. In omitting all special-status plant and wildlife species from its analysis, the MND explains that the disturbed conditions of the Project site mean that there is no suitable habitat on it. That is an incorrect conclusion to reach. Dr. Smallwood explains that even though most places in the state is disturbed to some degree, “no explanation is provided of why disturbance at the project site prevents all of these species whereas disturbance elsewhere does not prevent the occurrences of the same species.” (Ex. A, 17.) In fact, “[o]f the seven species the IS/MND determines to have low occurrence potential, two have been documented within 1.5 miles of the project site and three have been documented within 1.5 and 4 miles of the site. The documented proximities of these species do not comport with the IS/MND’s determinations.” (*Id.*)

As further explained by Dr. Smallwood, the MND makes numerous incorrect assertions based on the same logic that the Project site’s disturbed nature prevents any habitat from being deemed suitable. Given the abundance of wildlife detected on the Project site, the MND is deficient in explaining why habitat for special-status species is not available on the site whereas both common and special-status species have been observed utilizing the Project site as habitat. Unfortunately, ESA’s lack of detail in preparing the survey does not answer the logical gaps in the MND.

¹ See, US Fish & Wildlife Service (“USFW”), Birds of Conservation Concern 2021, pp. 18-19 <https://www.fws.gov/sites/default/files/documents/birds-of-conservation-concern-2021.pdf>.

² *Id.*, p. 4.

³ See, Fish and Game Code, Sections 3503, 3503.5, 3505 and 3513, and California Code of Regulation, Title 14, Sections 251.1, 652 and 783-786.6

⁴ Sacramento County, Planning and Environmental Review, “Special Status Species,” https://planning.saccounty.net/InterestedCitizens/Pages/ER_SpecialStatusSpecies.

Dr. Smallwood recommends preparing additional, and more detailed, surveys in order to better capture the existing environmental setting and site conditions for both wildlife and plant species. He also adds that there needs to be a clearer explanation as to why the MND reaches its conclusions regarding wildlife habitat for special-status species whereas the site conditions observed in the March 28, 2024 site visit by Ms. Smallwood underline the critical importance of the Project site for both common and special-status wildlife species alike. Dr. Smallwood thus explains that the City must prepare additional surveys to obtain a true inventory of the wildlife at the Project site.

Clearly, the IS/MND fails to accurately describe the Project's environmental setting. A new CEQA document is therefore required.

B. The Project Will Have Significant Adverse Impacts on Wildlife.

An EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency's decision. (CEQA Guidelines § 15064(f)(1); *Stanislaus Audubon v. Stanislaus* (1995) 33 Cal.App.4th 144, 150-151 (1995)). Dr. Smallwood's findings related to habitat loss, wildlife movement, collisions from windows and traffic, as well as impacts from domesticated animals underline the importance of preparing an EIR.

a. Habitat Loss.

Dr. Smallwood concludes that the Project will have adverse impacts on special status species through direct loss of habitat. (Ex. A, 24.) For example, Dr. Smallwood's analysis of the Project site's productive capacity finds that the Project would deny the ability to host 26 bird nests and close to a hundred birds every season. (Ex. A. p. 17.) This is especially concerning since at least four special-status species have been observed utilizing or flying over the Project site. In conjunction, then, the Project will result in the loss of foraging area for special status species. (*Id.*, 25.).

b. Wildlife Movement.

Dr. Smallwood additionally points out that the Project will adversely impacts wildlife movement. He concludes that volant wildlife use the site as a stopover area. The project would cut wildlife off from one of the last remaining stopovers and staging opportunities in the project area, forcing volant wildlife to travel even farther between remaining stopover sites." (Ex. A. p. 17.) Dr. Smallwood points out that the nearby Rubio Wash is a feature likely to be followed by wildlife, which increases the importance of the Project site to wildlife. (*Id.*)

c. Collisions and Traffic.

The IS/MND fails to analyze the Project's impacts due to bird-window collisions. Dr. Smallwood concludes that the extensive use of glass in the 5-story buildings will lead to

increased bird-window collisions, and that the Project does not adequately consider the impacts that the height of the building would have on birds, during both the day and at night. (Ex.A, 26-27.) He notes that there are “96 special status species of birds with potential to use the site’s atmosphere.” (*Id.*) While MND does not adequately detail to what extent glass windows will be used for the Project, Dr. Smallwood predicts that many of these birds are likely to experience window collisions. (*Id.*) As such, Dr. Smallwood calculates that the Project will cause 292 bird deaths due to window collisions each year, with a significant amount of these birds being protected under the Migratory Bird Treaty Act. (*Id.*, 29.)

Furthermore, the IS/MND fails to analyze the Project’s impacts related to wildlife traffic fatalities. Dr. Smallwood calculates that the Project will generate 22,242,187.5 annual vehicle miles travelled. (*Id.* p. 31). He predicts that this will result in 2,008 wildlife fatalities per year. (*Id.*).

d. Impacts from Domestic Animals.

Domesticated animals like cats and dogs will be introduced to the Project site and will pose a potentially significant impact on wildlife species. In particular, the Project proposed to integrate infrastructures such as a dog run on the Project site, thereby encouraging dogs on and around the Project site, but does not analyze how the introduction of dogs may adversely impact wildlife that interact on the Project site. Furthermore, it is well documented that domesticated animals such as dogs carry parasites and other diseases that may likely “spill-over to wildlife of the immediate area or downstream to marine mammals at the coast. A fair argument can be made for the need to prepare an EIR to appropriately analyze the potential impacts to wildlife caused by the dog park.” (*Id.*, 32.)

Dr. Smallwood proposes numerous mitigation measures that could vastly reduce the above impacts, such as avoiding construction during nesting season, applying bird-safe window treatments, landscaping measures and many others. These mitigation measures should be analyzed in an EIR and implemented if feasible. Since there is substantial evidence of a fair argument that the Project will have adverse biological impacts, an EIR is required to analyze and mitigate those impacts.

II. The MND Fails to Adequately Address the Project’s Cumulative Impacts on Biological Resources.

An EIR must be prepared to discuss significant cumulative impacts. Dr. Smallwood found the MND’s discussion of cumulative impacts to wildlife to be flawed. (Ex. A, p. 27.) CEQA Guidelines section 15130(a). This requirement flows from CEQA section 21083, which requires a finding that a project may have a significant effect on the environment if “the possible effects of a project are individually limited but cumulatively considerable. . . . ‘Cumulatively considerable’ means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” “Cumulative impacts” are defined as “two or more individual effects which, when considered together, are considerable or which compound or

increase other environmental impacts.” CEQA Guidelines section 15355(a). “[I]ndividual effects may be changes resulting from a single project or a number of separate projects.” CEQA Guidelines section 15355(a).

“The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.” *Communities for a Better Environment v. Cal. Resources Agency* (“CBE v. CRA”), (2002) 103 Cal.App.4th 98, 117. A legally adequate cumulative impacts analysis views a particular project over time and in conjunction with other related past, present, and reasonably foreseeable probable future projects whose impacts might compound or interrelate with those of the project at hand. “Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.” CEQA Guidelines § 15355(b). As the court stated in *CBE v. CRA*, 103 Cal. App. 4th at 114:

Cumulative impact analysis is necessary because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.
(Citations omitted).

In *Kings County Farm Bureau v. City of Hanford*, 221 Cal.App.3d at 718, the court concluded that an EIR inadequately considered an air pollution (ozone) cumulative impact. The court said: “The [] EIR concludes the project’s contributions to ozone levels in the area would be immeasurable and, therefore, insignificant because the [cogeneration] plant would emit relatively minor amounts of [ozone] precursors compared to the total volume of [ozone] precursors emitted in Kings County. The EIR’s analysis uses the magnitude of the current ozone problem in the air basin in order to trivialize the project’s impact.” The court concluded: “The relevant question to be addressed in the EIR is not the relative amount of precursors emitted by the project when compared with preexisting emissions, but whether any additional amount of precursor emissions should be considered significant in light of the serious nature of the ozone problems in this air basin.”⁵ The *Kings County* case was reaffirmed in *CBE v. CRA*, 103 Cal.App.4th at 116, where the court rejected cases with a narrower construction of “cumulative impacts.”

⁵ *Los Angeles Unified v. City of Los Angeles*, 58 Cal.App.4th at 1024-1026 found an EIR inadequate for concluding that a project’s additional increase in noise level of another 2.8 to 3.3 dBA was insignificant given that the existing noise level of 72 dBA already exceeded the regulatory recommended maximum of 70 dBA. The court concluded that this “ratio theory” trivialized the project’s noise impact by focusing on individual inputs rather than their collective significance. The relevant issue was not the relative amount of traffic noise resulting from the project when compared to existing traffic noise, but whether any additional amount of traffic noise should be considered significant given the nature of the existing traffic noise problem.

Similarly, in *Friends of Eel River v. Sonoma County Water Agency*, (2003) 108 Cal. App. 4th 859, the court recently held that the EIR for a project that would divert water from the Eel River had to consider the cumulative impacts of the project together with other past, present and reasonably foreseeable future projects that also divert water from the same river system. The court held that the EIR even had to disclose and analyze projects that were merely proposed, but not yet approved. The court stated, CEQA requires “the Agency to consider ‘past, present, and probable future projects producing related or cumulative impacts’ (Guidelines, § 15130, subd. (b)(1)(A).) The Agency must interpret this requirement in such a way as to ‘afford the fullest possible protection of the environment.’” *Id.*, at 867, 869. The court held that the failure of the EIR to analyze the impacts of the project together with other proposed projects rendered the document invalid. “The absence of this analysis makes the EIR an inadequate informational document.” (*Id.*, at 872.)

The court in *Citizens to Preserve Ojai v. Bd. of Supervisors*, 176 Cal.App.3d 421 (1985), held that an EIR prepared to consider the expansion and modification of an oil refinery was inadequate because it failed to consider the cumulative air quality impacts of other oil refining and extraction activities combined with the project. The court held that the EIR’s use of an Air District Air Emissions Inventory did not constitute an adequate cumulative impacts analysis. The court ordered the agency to prepare a new EIR analyzing the combined impacts of the proposed refinery expansion together with the other oil extraction projects.

Here, the MND falsely assumes that cumulative impacts would be less than significant under the false understanding that a given impact is a residual effect of incomplete mitigation of project-specific impacts. (Ex. A, p. 32.) Furthermore, the MND implies that implementation of Mitigation Measure BIO-1 will resolve such residual impacts. However, not only is that incorrect, as explained in more detail below, but such conclusion runs counter to CEQA’s cumulative impacts assessment. As Dr. Smallwood’s own research has highlighted, “[e]ven should project-level mitigation be implemented as proposed in the IS/MND, development projects are causing cumulative impacts in California.” (*Id.*) Dr. Smallwood has explained the wildlife impacts associated with the Project, but the MND fails to provide an adequate analysis and how such cumulative impacts can be mitigated. Thus, the MND’s conclusion that the cumulative impacts would be less than significant is unfounded and should be revised.

III. There is Substantial Evidence of a Fair Argument that the Project Will Have Significant Health Risks from Indoor Air Quality Emissions.

The Project cannot proceed with an MND because there is substantial evidence of a fair argument that the Project will result in adverse air quality impacts. Certified Industrial Hygienist, Francis Offermann, PE, CIH, conducted a review of the Project and relevant documents regarding the Project’s indoor air emissions. (Indoor Environmental Engineering Comments (April 2, 2024)). Mr. Offermann concludes that it is likely that the Project will expose residents of the Project to significant impacts related to indoor air quality, and in particular, emissions of the cancer-causing chemical formaldehyde. Mr. Offermann is one of the world’s leading experts on indoor air quality and has published extensively on the topic. As discussed below and in Mr.

Offermann's comments, the Project's emissions of formaldehyde to the air will result in very significant cancer risks to future residents of the Project's residential units. Mr. Offermann's expert comments and CV are attached as Exhibit B.

Formaldehyde is a known human carcinogen and is listed by the State as a toxic air contaminant ("TAC"). The South Coast Air Quality Management District ("SCAQMD") has established a significance threshold of health risks for carcinogenic TACs of 10 in one million. (Ex. B, p. 3.) Mr. Offermann explains that many composite wood products used in building materials and furnishings commonly found in offices, warehouses, residences, hotels, and commercial spaces contain formaldehyde-based glues which off-gas formaldehyde over a long period of time. He states, "The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims." (*Id.*, pp. 2-3.) Notably, the MND includes some discussion of impacts or health risks, but no required mitigations for significant emissions of formaldehyde to air from the Project.

Mr. Offermann states that there is a fair argument that future residents will be exposed to a cancer risk from formaldehyde of approximately 120 per million, even assuming all materials are compliant with the California Air Resources Board's ("CARB") formaldehyde airborne toxics control measure. (Ex. B, pp. 3-4.) This is more than 12 times SCAQMD's CEQA significance threshold of 10 per million.

Mr. Offermann also notes that the high cancer risk that may be posed by the Project's indoor air emissions likely will be exacerbated by the additional cancer risk that exists as a result of the Project's location near roadways with moderate to high traffic (i.e. Lakewood Street, East Gonzalez Road, and the Ventura Freeway (HWY 101), etc.) and the high levels of PM2.5 already present in the ambient air. (Ex. B, p. 10.) No analysis has been conducted of the significant cumulative health impacts that will result to future residents of the Project, meaning that the City cannot conclude with substantial evidence that the Project will not result in significant air quality impacts.

Mr. Offermann concludes that these significant environmental impacts should be analyzed in an EIR, and mitigation measures should be imposed to reduce the risk of formaldehyde exposure. (Ex. B, p. 5.) Mr. Offermann identifies mitigation measures that are available to reduce these significant health risks, including the installation of air filters and a requirement that the applicant use only composite wood materials (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins or ultra-low emitting formaldehyde (ULEF) resins in the buildings' interiors. (*Id.*, pp. 12-13.)

The City has a duty to investigate issues relating to a project's potential environmental impacts, especially those issues raised by an expert's comments. (See, *Cty. Sanitation Dist. No. 2 v. Cty. of Kern*, (2005) 127 Cal.App.4th 1544, 1597-98 ["under CEQA, the lead agency bears a burden to investigate potential environmental impacts"].) In addition to assessing the Project's

potential health impacts to residents, Mr. Offermann identifies the investigatory path that the City should be following in developing an EIR to more precisely evaluate the Projects' future formaldehyde emissions and establishing mitigation measures that reduce the cancer risk below the SCAQMD level. (Ex. B, pp. 6-10.) Such an analysis would be similar in form to the air quality modeling and traffic modeling typically conducted as part of a CEQA review.

While the MND includes some analysis of indoor air quality impacts and associated toxic air contaminants, it ultimately concludes that the Project will have less than significant air quality impacts. (MND, p. 31.) This conclusion is contrasted by the MND's Air Quality analysis, which finds that "[i]nstallation of MERV filters with a minimum rating of 14 would reduce cancer risk impacts to levels below the significance threshold. Thus, the cancer and chronic risk for residential receptors due would not be considered significant for all residential receptors at the Project site with installation of MERV filters with a minimum rating of 14." (Air Quality, Health Risk Assessment, Greenhouse Gas, Energy Analysis, p. 2.) While this may not seem to be in conflict with the MND's analysis, the Air Quality analysis implicitly requires the installation of filters, a mitigation measure, in order to reach its finding of no significance. As such, the Air Quality analysis supports Mr. Offermann's findings, and, as explained in detail below, more adequate enforcement mechanisms must be in place in order to ensure that the proposed mitigation measure is implemented.

The failure to adequately address the Project's formaldehyde emissions is contrary to the California Supreme Court's decision in *California Building Industry Ass'n v. Bay Area Air Quality Mgmt. Dist.* (2015) 62 Cal.4th 369, 386 ("CBIA"). At issue in *CBIA* was whether the Air District could enact CEQA guidelines that advised lead agencies that they must analyze the impacts of adjacent environmental conditions on a project. The Supreme Court held that CEQA does not generally require lead agencies to consider the environment's effects on a project. (*CBIA*, 62 Cal.4th at 800-801.) However, to the extent a project may exacerbate existing adverse environmental conditions at or near a project site, those would still have to be considered pursuant to CEQA. (*Id.* at 801 ["CEQA calls upon an agency to evaluate existing conditions in order to assess whether a project could exacerbate hazards that are already present"].) In so holding, the Court expressly held that CEQA's statutory language required lead agencies to disclose and analyze "impacts on a project's users or residents that arise from the project's effects on the environment." (*Id.* at 800 [emph. added].)

The carcinogenic formaldehyde emissions identified by Mr. Offermann are not an existing environmental condition. Those emissions to the air will be from the Project. Residents and commercial employees will be users of the Project. Currently, there is presumably little if any formaldehyde emissions at the site. Once the project is built, emissions will begin at levels that pose significant health risks. Rather than excusing the City from addressing the impacts of carcinogens emitted into the indoor air from the project, the Supreme Court in *CBIA* expressly finds that this type of effect by the project on the environment and a "project's users and residents" must be addressed in the CEQA process.

The Supreme Court's reasoning is well-grounded in CEQA's statutory language. CEQA expressly includes a project's effects on human beings as an effect on the environment that must

be addressed in an environmental review. “Section 21083(b)(3)’s express language, for example, requires a finding of a ‘significant effect on the environment’ (§ 21083(b)) whenever the ‘environmental effects of a project will cause substantial adverse effects on human beings, directly or indirectly.’” (*CBLA*, 62 Cal.4th at 800 [emph. in original].) Likewise, “the Legislature has made clear—in declarations accompanying CEQA’s enactment—that public health and safety are of great importance in the statutory scheme.” (*Id.*, citing e.g., §§ 21000, subds. (b), (c), (d), (g), 21001, subds. (b), (d).) It goes without saying that the future residents of the Project are human beings and the health and safety of those residents and workers is as important to CEQA’s safeguards as nearby residents currently living near the project site.

Because Mr. Offermann’s expert review is substantial evidence of a fair argument of a significant environmental impact to future users of the Project, an EIR must be prepared to disclose and mitigate those impacts.

IV. The MND’s Proposed Mitigation Measures are Unenforceable and Ineffective.

CEQA requires that policies and mitigation measures be enforceable and effective. (CEQA Guidelines, § 15126.4(a)(1) & (2).) Policies that have no standards cannot be enforced. Mitigation measures must be effective. In *Sundstrom v County of Mendocino* (1988) 202 Cal.App.3d 296, 308-309, mitigation calling for a permit for sludge disposal was improperly deferred because there was no evidence of feasibility: “the record discloses that the applicant presented no plans for sludge disposal and that no solution was readily available.” (*Id.* at 308.)

a. Biological Resources.

The Project’s only proposed mitigation measures for biological resources will certainly not reduce Project-related impacts to a level below significance. Mitigation Measure BIO-1 only discusses the preparation of a preconstruction survey. First, the mitigation measure incorrectly relies on an outdated breeding season because the California Department of Fish and Wildlife (“CDFW”) now recognizes the breeding season to be between February 1 to September 15. The MND skips a couple weeks as a result. Secondly, Dr. Smallwood explains that a preconstruction survey is not an adequate substitute for a detection survey, which this Project needs. The measure is therefore ineffective at reducing impacts below significance.

Additionally, as described in the MND, performance of the preconstruction survey means that the measure’s protections will not extend to future breeding seasons and would likely lead to the permanent destruction of the site’s productive capacity for burrowing owls. (Ex. A, 34.) Also, Dr. Smallwood’s comments above prove that the site is being used by many species in addition to just burrowing owls. This mitigation measure does nothing to protect the other species that have already been identified on the Project site, including special-status species. As such, this mitigation measure is inadequate because it also does nothing to mitigate the impacts to the identified special-status species.

The mitigation measure also allows unfettered control for a biologist to make critical determinations. In particular, the language of this mitigation measure “allows a single individual

(qualified biologist) to make a subjective decision, outside the public's view, to determine and adjust the buffer area for any given species. This measure lacks objective criteria and is unenforceable." (Ex. A, p. 34.) As a result of the absence of objective enforcement mechanisms, this mitigation measure is insufficient and cannot be relied on to adequately bring the potentially significant impacts to a level below significance.

An EIR is required to analyze the feasibility, enforceability, and effectiveness of such proposed mitigation measure. Dr. Smallwood also suggests multiple mitigation measures related to protecting wildlife from traffic, controlling pests, funding wildlife rehabilitation facilities, and applying native landscaping on the Project site, among others. (Ex. A, p. 36.)

b. Air Quality Impacts.

The MND fails to mandate mitigation measures related to indoor air quality. A public agency may not rely on mitigation measures of uncertain efficacy or feasibility. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727 (finding groundwater purchase agreement inadequate mitigation measure because no record evidence existed that replacement water was available).) Mitigation measures must be fully enforceable through permit conditions, agreements or other legally binding instruments. (14 CCR § 15126.4(a)(2).)

The Air Quality analysis and related technical documents of the MND address the indoor air quality impacts associated with exposure to formaldehyde. Specifically, the MND explains that high efficiency minimum efficiency reporting value (MERV) filters of MERV 14 or greater will be installed throughout the Project, thereby bringing the cancer risk at the maximum exposed receptor to 5.18 in one million. (MND, p. 37.) However, there are a few issues related to this evaluation.

While filters are proposed to be installed for the Project, there is no guarantee that such feature will actually take place. As explained above, Mr. Offermann's findings constitute substantial evidence of a fair argument of the Project's adverse environmental impacts. As such, the installation of filters as mitigation measures should not be read as a suggestion, but rather a mandate to reduce impacts below significance. While the MND document explains that installation will occur in compliance with local ordinances, there is no binding guarantee that such mitigation measure will be enforced. (MND, p. 37.) This is apparent from the fact that the Air Quality analysis does not identify any air quality-related mitigation measures to be included for the Project.

The proposed mitigation measure of installing high-quality MERV filters must be included as a mitigation measure in an amended MND and must be enforceable to ensure that cancer risk impacts are assuredly brought down to a level below significance.

V. The Project Conflicts and is Inconsistent With Ventura County Air Pollution Control District Policy.

Where a local or regional policy of general applicability, such as an ordinance, is adopted to avoid or mitigate environmental effects, a conflict with that policy in itself indicates a potentially significant impact on the environment. (*Pocket Protectors v. Sacramento* (2005) 124 Cal.App.4th 903.) Indeed, any inconsistencies between a proposed project and applicable plans must be discussed in an EIR. (14 CCR § 15125(d); *City of Long Beach v. Los Angeles Unif. School Dist.* (2009) 176 Cal. App. 4th 889, 918; *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal. App. 4th 859, 874 (EIR inadequate when Lead Agency failed to identify relationship of project to relevant local plans).)

A Project's inconsistencies with local plans and policies constitute significant impacts under CEQA. (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 783-4, 32 Cal.Rptr.3d 177; see also, *County of El Dorado v. Dept. of Transp.* (2005) 133 Cal.App.4th 1376 (fact that a project may be consistent with a plan, such as an air plan, does not necessarily mean that it does not have significant impacts).) *Californians for Alternatives to Toxics v. Department of Food and Agriculture* (2005) 136 Cal.App.4th 1, 17 (“[c]ompliance with the law is not enough to support a finding of no significant impact under the CEQA.”). The recent *Georgetown Preservation Society v. County of El Dorado* (2018) 30 Cal.App.5th 358 echoes *Pocket Protectors*. These both apply the fair argument standard to a potential inconsistency with a plan adopted for environmental protection. *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099 says an EIR needs to analyze any topic for which a fair argument of significant impact is raised.

As applied here, an EIR is warranted because of the Project's conflict with the Ventura County Air Pollution Control District (“VCAPCD”) policy. According to the MND, VCAPCD cancer risk threshold is 10 in one million. To reduce cancer below significance, the MND implies the installation of MERV filters. (MND, p. 37.) As explained above, however, installation of the filters is not a binding measure, thereby failing to guarantee that cancer risk will fall below significance thresholds pursuant to VCAPCD. Because there is no guarantee of filter installation, cancer risk would not be reduced to a level in compliance with VCAPCD's threshold, thereby being in direct conflict with VCAPCD.

Since the project is inconsistent with a VCAPCD policy intended to protect human health and the environment, this is evidence of a fair argument that that the project may have significant

adverse environmental impacts. As such, approval of the Project under the IS/MND is improper, and the City must instead prepare and analyze Project impacts under an EIR.

VI. There is Substantial Evidence of a Fair Argument that the Project Will Have Significant Noise Impacts that were Inadequately Addressed.

CEQA prohibits the use of an MND where there is substantial evidence of a fair argument of environmental impacts. SAFER's independent experts at Wilson Ihrig reviewed the Project and related documents, including the Noise Study, and concluded that the MND's noise report is unsubstantiated and there exists potentially significant noise impacts. Wilson Ihrig is an expert and renowned firm within the field of noise and vibration consulting. For this reason, an MND is improper and the City should instead prepare an EIR. Wilson Ihrig's comments and CV are attached as Exhibit C.

The MND's Noise Study potentially underestimates the Project's noise impacts because it erroneously utilizes a less stringent threshold assessment. In particular, the Noise Study relies on a threshold adopted from the FTA Construction Noise Handbook, but "the FTA advises assuming a usage factor of 1 when using a general assessment", which this Project's Noise Study does. Reviewing the Noise Study's assessment, Wilson Ihrig underlines that such approach "significantly underestimates the potential impact of construction noise, especially since the modeled noise for the Site Preparation and Grading phases are 7 dBA over the 80 dBA threshold." (*Id.*) In fact, Wilson Ihrig predicts that the Noise Study's general assessment underestimates the noise impacts by seven decibels across the board. (*Id.*) The MND's Noise Study, therefore, fails to capture the true extent of the Project's noise impacts, and must instead review and assess these issues in an EIR.

a. The MND Fails to Accurately Analyze the Project's Noise Impacts.

The MND additionally fails to sufficiently review or completely omits critical analyses related to the Project's noise impacts. For example, the Noise Study fails to evaluate the Project's construction-related vibration impacts on off-site sensitive receptors. Wilson Ihrig underlines that the FTA guidance relied on for the Noise Study explains that "[b]uildings founded on the soil near the construction site [can] respond to these [construction] vibrations with ... slight damage at the highest [vibration] levels." (FTA Guidance, p. 182.) While the MND acknowledges the presence of multiple sensitive receptors near the Project site, including medical buildings, senior living facilities, and a university campus, there is a reasonable possibility that the Project's construction vibration may adversely affect such buildings. (MND, pp. 88-89.) Yet, the MND fails to do so. The omission of construction vibration effects on sensitive receptors under-analyzes the Project's impacts, and Wilson Ihrig asserts that it should be studied in an EIR. (Ex. C, p. 3.)

Furthermore, the MND's analysis of operational noise impacts is incomplete. For example, operational noise impacts from rooftop mechanical equipment would increase ambient

levels beyond significance thresholds. (Ex. C, p. 3.) However, Wilson Ihrig explains that “[t]here are no calculations nor any evidence provided that demonstrates mechanical equipment used in the Project will not be potentially significant at nearby sensitive receivers.” (*Id.*)

The MND fails to adequately analyze the Project’s impacts from off-site operations. While the Noise Study assesses the Project’s noise impacts along some streets and roads, it does not evaluate the potential traffic noise increase along Lockwood Avenue and Outlet Center Drive (Ex. C, p. 3.) Wilson Ihrig explains that “[t]his is particularly egregious for Lockwood Street, which is the main access road in and out of the [Project] site. Current traffic levels are presumably low,” and the potential of doubling traffic also means the increase of noise levels. (*Id.*) Wilson Ihrig asserts that such noise levels must be assessed in an EIR and ensure that the Project’s noise levels during operation would not exceed significance thresholds and that no mitigation measures must be implemented. (*Id.*)

CONCLUSION

SAFER has submitted substantial evidence of a fair argument that the Project will have adverse environmental effects, and the MND prepared for the Project does not adequately analyze or mitigated the potentially significant environmental impacts stemming from the Project. For the foregoing reasons, SAFER requests that the City decline to certify the MND and to instead prepare an Environmental Impact Report (“EIR”) to analyze and mitigate the Project’s significant adverse environmental impacts. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mafjan R. Abubo', is positioned above the printed name.

Mafjan R. Abubo
LOZEAU DRURY LLP

Exhibit A

Shawn Smallwood, PhD
3108 Finch Street
Davis, CA 95616

Attn: Joe Pearson II
City of Oxnard Community Development Department
Planning Division
214 South C Street
Oxnard, California 93030

31 March 2024

RE: Lockwood III Apartments IS/MND

Dear Mr. Pearson,

I write to comment on potential impacts to biological resources that could result from the proposed Lockwood III Apartments Project, which I understand would add a five-story, 67.5-foot-tall, 373,069-square-foot residential building with 234 residential units and a 1,247 square-foot dog run among other amenities on 5.17 acres on Lockwood Street. I comment on the characterization of the existing environmental setting and on analyses of impacts to biological resources in the IS/MND (City of Oxnard 2024).

My qualifications for preparing expert comments are the following. I hold a Ph.D. degree in Ecology from University of California at Davis, where I also worked as a post-graduate researcher in the Department of Agronomy and Range Sciences. My research has been on animal density and distribution, habitat selection, wildlife interactions with the anthroposphere, and conservation of rare and endangered species. I authored many papers on these and other topics. I served as Chair of the Conservation Affairs Committee for The Wildlife Society – Western Section. I am a member of The Wildlife Society and Raptor Research Foundation, and I've lectured part-time at California State University, Sacramento. I was Associate Editor of wildlife biology's premier scientific journal, The Journal of Wildlife Management, as well as of Biological Conservation, and I was on the Editorial Board of Environmental Management. I have performed wildlife surveys in California for thirty-seven years. My CV is attached.

SITE VISIT

On my behalf, Noriko Smallwood, a wildlife biologist with a Master's Degree from California State University Los Angeles, visited the site of the proposed project for 3.63 hours from 07:26 to 11:04 hours on 28 March 2024. She walked the site's perimeter, stopping to scan for wildlife with use of binoculars. Noriko recorded all species of vertebrate wildlife she detected, including those whose members flew over the site or were seen nearby, off the site. Animals of uncertain species identity were either omitted or, if possible, recorded to the Genus or higher taxonomic level.

Conditions were cloudy to sunny with 3 mph north wind and temperatures of 51-61° F. The site was covered in annual grass with a few native shrubs and bordered by ornamental trees (Photos 1-3).



Photos 1-3. Views of the project site, 28 March 2024. Photos by Noriko Smallwood.

Noriko detected 25 species of vertebrate wildlife at or adjacent to the project site, including three species with special status (Table 1). Noriko saw American kestrel hunting on site (Photos 4 and 5), bushtit (Photos 6 and 16), western gull and barn swallow (Photos 7 and 8), white-crowned sparrow (Photos 9 and 10), yellow-rumped warbler (Photos 11 and 12), Cassin's kingbird and American crow (Photos, 13, 14, and 17), European starling (Photos 15 and 20), common raven (Photo 18), house sparrow

(Photo 19), house finch and rock pigeon (Photos 21 and 22), Botta's pocket gopher (Photo 23), Great Basin fence lizard and western side-blotched lizard (Photos 24 and 25), among the other species listed in Table 1.

Noriko Smallwood certifies that the foregoing and following survey results are true and accurately reported.

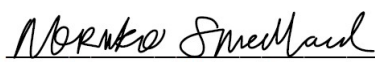

Noriko Smallwood

Table 1. Species of wildlife Noriko observed during 3.63 hours of survey on 28 March 2024.

Common name	Species name	Status ¹	Notes
Great Basin fence lizard	<i>Sceloporus occidentalis longipes</i>		Many, displays to each other
Western side-blotched lizard	<i>Uta stansburiana elegans</i>		
Mallard	<i>Anas platyrhynchos</i>		Flew over
Rock pigeon	<i>Columba livia</i>	Non-native	
Eurasian collared-dove	<i>Streptopelia decaocto</i>	Non-native	Flew over
Mourning dove	<i>Zenaida macroura</i>		Flew over
Anna's hummingbird	<i>Calypte anna</i>		Flew over, calling
Western gull	<i>Larus occidentalis</i>	BCC	Many flew over, perched nearby
Red-tailed hawk	<i>Buteo jamaicensis</i>	BOP	Two soaring nearby
American kestrel	<i>Falco sparverius</i>	BOP	Caught two lizards on site
Cassin's kingbird	<i>Tyrannus vociferans</i>		Displayed to each other
American crow	<i>Corvus brachyrhynchos</i>		
Common raven	<i>Corvus corax</i>		
Barn swallow	<i>Hirundo rustica</i>		Flew over, foraged nearby
Bushtit	<i>Psaltirparus minimus</i>		Gathered nest material
Northern mockingbird	<i>Mimus polyglottos</i>		Just off site
European starling	<i>Sturnus vulgaris</i>	Non-native	Gathered nest material, nesting in tower on site
House sparrow	<i>Passer domesticus</i>	Non-native	Just off site
House finch	<i>Haemorphous mexicanus</i>		
Lesser goldfinch	<i>Spinus psaltria</i>		
White-crowned sparrow	<i>Zonotrichia leucophrys</i>		Many, foraged
California towhee	<i>Melospiza crissalis</i>		Just off site
Yellow-rumped warbler	<i>Setophaga coronata</i>		Foraged
California ground squirrel	<i>Otospermophilus beecheyi</i>		Calling from adjacent site
Botta's pocket gopher	<i>Thomomys bottae</i>		Many burrows

¹ BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, and BOP = Birds of Prey (California Fish and Game Code 3503.5).



Photos 4 and 5. American kestrel flying with two separate lizards that it caught on site, 28 March 2024. Photos by Noriko Smallwood.



Photo 6. Bushtit on the project site, 28 March 2024. Photo by Noriko Smallwood.



Photos 7 and 8. Western gull (left), and barn swallow (right) flying over the project site, 28 March 2024. Photos by Noriko Smallwood.



Photos 9 and 10. White-crowned sparrows on the project site, 28 March 2024. Photos by Noriko Smallwood.



Photos 11 and 12. Yellow-rumped warblers on the project site, 28 March 2024. Photos by Noriko Smallwood.



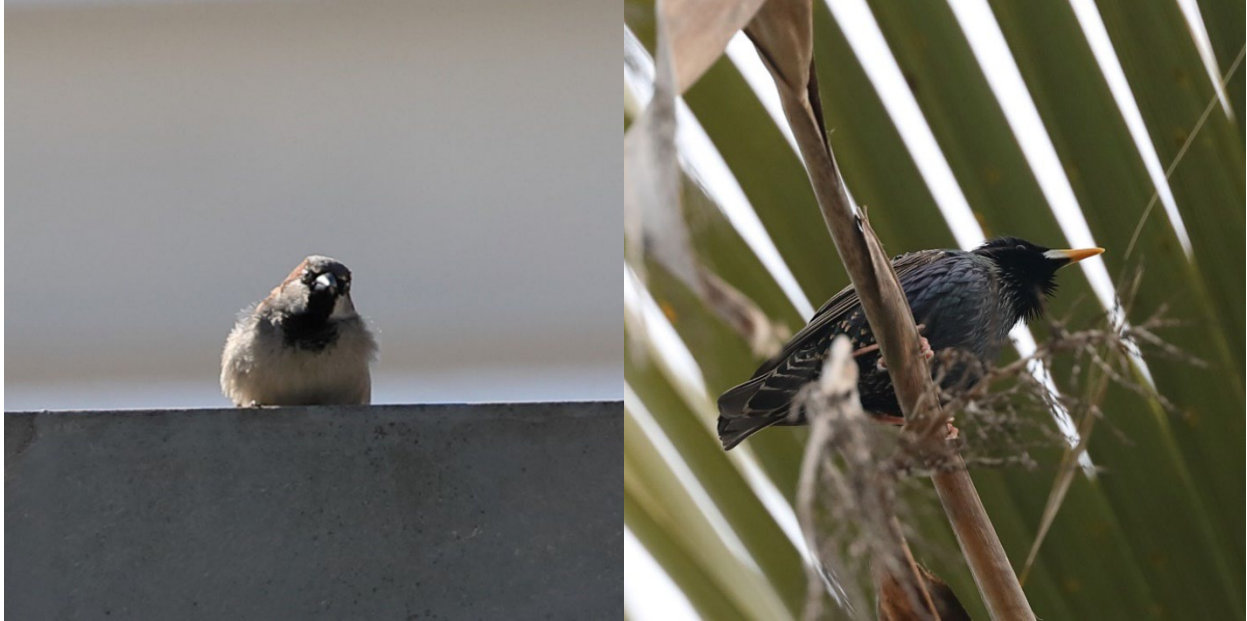
Photos 13 and 14. Cassin's kingbirds displaying to each other (left) and an American crow sitting on its nest just off site (left), 28 March 2024. Photos by Noriko Smallwood.



Photos 15 and 16. European starling with nest material (left), and bushtit with nest material (right) on the project site, 28 March 2024. Photos by Noriko Smallwood.



Photos 17 and 18. American crow (left), and common raven (right) on the project site, 28 March 2024. Photos by Noriko Smallwood.



Photos 19 and 20. House sparrow adjacent to the project site (left), and European starling on the project site (right), 28 March 2024. Photos by Noriko Smallwood.



Photos 21 and 22. House finch (left), and rock pigeon (right) on the project site, 28 March 2024. Photos by Noriko Smallwood.



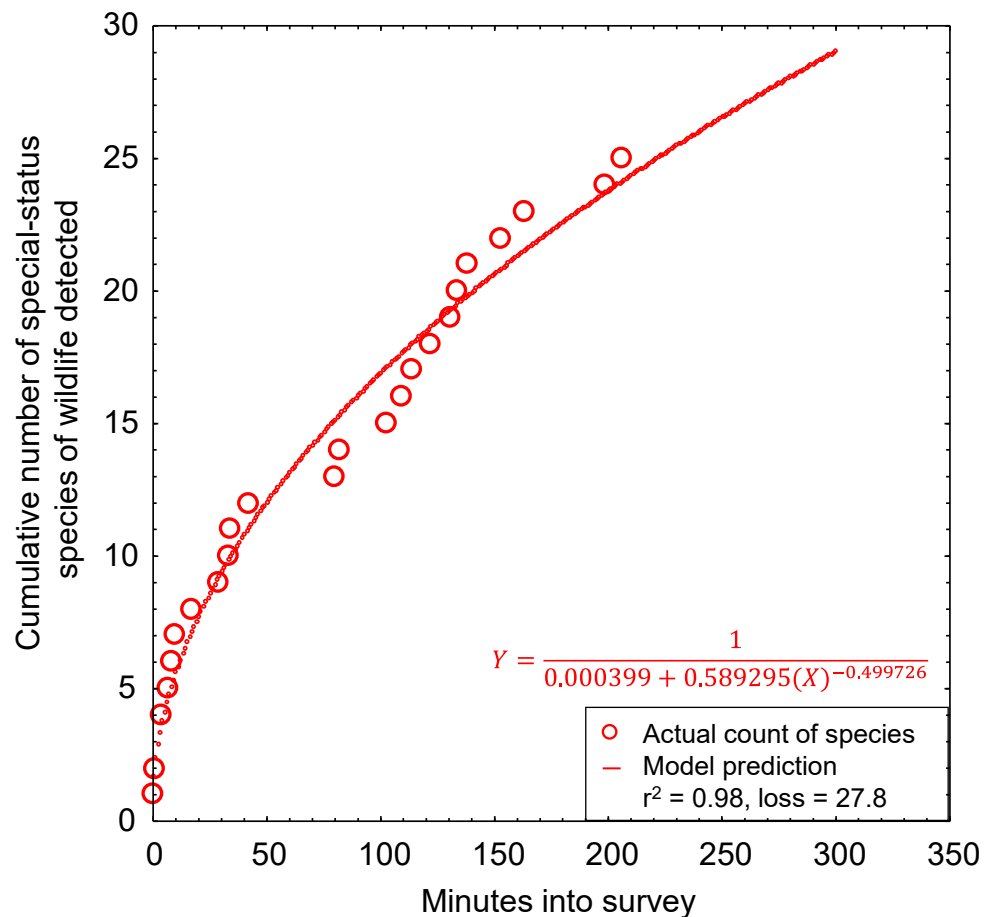
Photo 23. Botta's pocket gopher across the street from the project site, 28 March 2024. Photo by Noriko Smallwood.



Photos 24 and 25. Great Basin fence lizard (left) and western side-blotched lizard (bottom) on the project site, 28 March 2024. Photos by Noriko Smallwood.

I fit a nonlinear regression model to Noriko's cumulative number of vertebrate species detected with time into her 28 March 2024 survey to predict the number of species that she would have detected with a longer survey or perhaps with additional biologists available to assist her. The model is a logistic growth model which reaches an asymptote that corresponds with the maximum number of vertebrate wildlife species that could have been detected during the survey. In this case, the model predicts many more species of vertebrate wildlife were available to be detected on the morning of March 28th (Figure 1). Unfortunately, I do not know the identities of the undetected species, but the pattern in her data indicates more species could have been detected after more survey time at the site. Importantly, however, the species that Noriko did and did not detect on 28 March 2024 composed only a fraction of the species that would occur at the project site over the period of a year or longer. This is because many species are seasonal in their occurrences.

Figure 1. Actual and predicted relationships between the number of vertebrate wildlife species detected and the elapsed survey time based on Noriko's visual-scan survey on 28 March 2024. Note that the relationship would differ if the survey was based on another method or during another season.



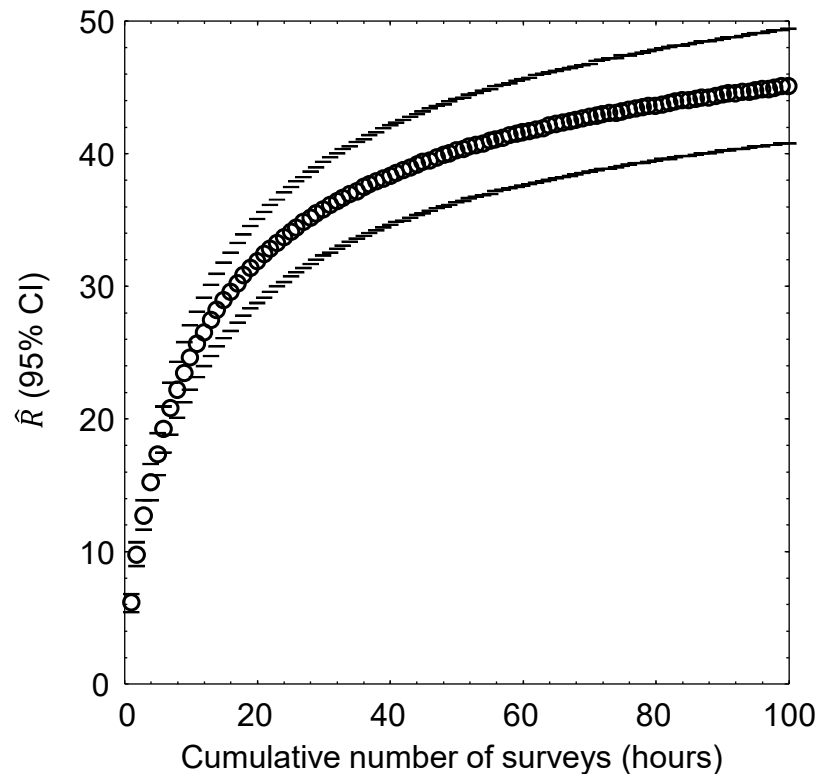
At least a year's worth of surveys would be needed to more accurately report the number of vertebrate species that occur at the project site, but I only have Noriko's one survey. However, by use of an analytical bridge, a modeling effort applied to a large, robust data set from a research site can predict the number of vertebrate wildlife species that likely make use of the site over the longer term. As part of my research, I completed a much larger survey effort across 167 km² of annual grasslands of the Altamont Pass Wind

Resource Area, where from 2015 through 2019 I performed 721 1-hour visual-scan surveys, or 721 hours of surveys, at 46 stations. I used binoculars and otherwise the methods were the same as the methods I and other consulting biologists use for surveys at proposed project sites. At each of the 46 survey stations, I tallied new species detected with each sequential survey at that station, and then related the cumulative species detected to the hours (number of surveys, as each survey lasted 1 hour) used to accumulate my counts of species detected. I used combined quadratic and simplex methods of estimation in Statistica to estimate least-squares, best-fit nonlinear models of the number of cumulative species detected regressed on hours of survey (number of surveys) at the station: $\hat{R} = \frac{1}{1/a + b \times (\text{Hours})^c}$, where $\hat{R}$ represented cumulative species richness detected. The coefficients of determination, r^2 , of the models ranged 0.88 to 1.00, with a mean of 0.97 (95% CI: 0.96, 0.98); or in other words, the models were excellent fits to the data.

I projected the predictions of each model to thousands of hours to find predicted asymptotes of wildlife species richness. The mean model-predicted asymptote of species richness was 57 after 11,857 hours of visual-scan surveys among the 46 stations of my research site. I also averaged model predictions of species richness at each incremental increase of number of surveys, i.e., number of hours (Figure 2). On average I would have detected 14.3 species over my first 3.63 hours of surveys at my research site in the Altamont Pass (3.63 hours to match the 3.63 hours Noriko surveyed at the project site), which composed 25% of the predicted total number of species I would detect with a much larger survey effort at the research site. Given the example illustrated in Figure 2, the 25 species Noriko detected after her 3.63 hours of survey at the project site likely represented 25% of the species to be detected after many more visual-scan surveys over another year or longer. With many more repeat surveys through the year, Noriko would likely detect $25/0.25 = 100$ species of vertebrate wildlife at the site. Assuming Noriko's ratio of special-status to non-special-status species was to hold through the detections of all 100 predicted species, then continued surveys would eventually detect 12 special-status species of vertebrate wildlife.

Because my prediction of 100 species of vertebrate wildlife, including 12 special-status species of vertebrate wildlife, is derived from daytime visual-scan surveys, and would detect few nocturnal mammals such as bats, the true number of species composing the wildlife community of the site must be larger. Noriko's reconnaissance survey should serve only as a starting point toward characterization of the site's wildlife community, but it certainly cannot alone inform of the inventory of species that use the site. More surveys are needed than her survey to inventory use of the project site by wildlife. Nevertheless, the large number of species I predict at the project site is indicative of a much more species-rich wildlife community than characterized in the IS/MND (see below), and warrants a serious survey effort.

Figure 2. Mean (95% CI) predicted wildlife species richness, $\hat{R}$, as a nonlinear function of hour-long survey increments across 46 visual-scan survey stations across the Altamont Pass Wind Resource Area, Alameda and Contra Costa Counties, 2015–2019. Note that the location of the study is largely irrelevant to the utility of the graph to the interpretation of survey outcomes at the project site. It is the pattern in the data that is relevant, because the pattern is typical of the pattern seen elsewhere.



EXISTING ENVIRONMENTAL SETTING

The first step in analysis of potential project impacts to biological resources is to accurately characterize the existing environmental setting, including the biological species that use the site, their relative abundances, how they use the site, key ecological relationships, and known and ongoing threats to those species with special status. A reasonably accurate characterization of the environmental setting can provide the basis for determining whether the site holds habitat value to wildlife, as well as a baseline against which to analyze potential project impacts. For these reasons, characterization of the environmental setting, including the project site's regional setting, is one of CEQA's essential analytical steps. Methods to achieve this first step typically include (1) surveys of the site for biological resources, and (2) reviews of literature, databases and local experts for documented occurrences of special-status species. In the case of the proposed project, these needed steps have been inadequate.

Environmental Setting informed by Field Surveys

To CEQA's primary objective to disclose potential environmental impacts of a proposed project, the analysis should be informed of which biological species are known to occur at the proposed project site, which special-status species are likely to occur, as well as the limitations of the survey effort directed to the site. Analysts need this information to characterize the environmental setting as a basis for opining on, or predicting, potential project impacts to biological resources.

On 8 August 2023, ESA deployed a biologist to perform a reconnaissance survey “to characterize existing conditions and determine the potential for sensitive biological resources [later said to be special-status species of plants and wildlife] to occur within the Project site or in a 200-foot buffer area.” According to the IS/MND, “land cover types were characterized and delineated,” as well. Unfortunately, the IS/MND does not report important methodological details that the reader needs to assess the meaning of the survey results. The IS/MND neglects to report when the survey started and how long the survey lasted. As far as I know, the survey could have started at the worst time of day for detecting wildlife, e.g., at 14:00 hours, and it could have lasted a mere 15 minutes. Also unreported is how ESA’s biologist assessed the project site’s potential for supporting various special-status species.

The only quantifiable outcome of ESA’s survey was the number of wildlife species detected. ESA’s biologist saw three species of vertebrate wildlife: American crow, California gull and black phoebe. Two of these species were not detected by Noriko Smallwood, who surveyed the site on 28 March 2024 on my behalf. However, ESA’s biologist did not detect 24 of the 25 species that Noriko detected. In only 3.63 hours of survey, Noriko detected more than eight times the number of species that ESA’s biologist detected. Whereas there are nearly always differences in which species are detected between surveys at a given site, Noriko and I do not experience anywhere near this magnitude of difference when we repeat our own surveys at a given site. The reconnaissance survey completed by ESA is inadequate, and it has been used to inaccurately characterize the existing environmental setting of the project site. Many more than three species of vertebrate wildlife exist at the project site.

ESA documented little of the breeding activity that Noriko saw and photographed (see Table 1 and Photos 13 to 16 and 24). Given the body sizes and ubiquity of some of the species, it is difficult to understand how they could have been missed by ESA. Noriko saw many western gulls at the site. Western gulls are large birds. How did ESA not see the western gulls? Red-tailed hawks are large birds. Cassin’s kingbirds and mourning doves are highly noticeable. Botta’s pocket gophers leave evidence of their presence all over the place, and Noriko even photo-captured at least one gopher looking about from one of its burrows (Photo 23). According to Noriko, lizards were abundant at the site, and sufficiently abundant that she witnessed one or more American kestrels capture at least two of them (see Photos 4 and 5). How did ESA miss all of these species?

Whereas ESA reportedly surveyed a 200-foot buffer around the project site, it missed the California ground squirrels just to the south side of Lockwood Street. The occurrence of the squirrels is especially significant because burrowing owls rely on ground squirrels and their burrows, and the occurrence of ground squirrels greatly increases the likelihood of use of the site by burrowing owls. According to ESA, “Suitable habitat for this species [Burrowing owl] was not detected. The vegetation was dense and tall and the small mammal burrows detected were not the appropriate size or morphology for this species.” That ESA failed to detect burrowing owl is of no surprise to me, considering that ESA detected 12% of the species Noriko did, but ESA’s determination of the site’s unsuitability to burrowing owls is grossly inaccurate. Photos 1–3 depict a grassland environment that typifies the environments where I have studied

burrowing owls in the highest-recorded densities in the published literature (Smallwood et al. 2013, Smallwood and Morrison 2018)). Furthermore, there were ground squirrels across the street.

A protocol-level detection survey (CDFW 2012) is warranted for burrowing owls at the project site, but has yet to be completed. Furthermore, ESA's reconnaissance survey achieved very few if any of the minimum standards of reconnaissance survey for special-status species of plants (CDFW 2018). Conclusions of potential project impacts to biological resources are too poorly founded on wildlife and plant surveys to be relied upon for decision-making.

Environmental Setting informed by Desktop Review

The purpose of literature and database review and of consulting with local experts is to inform the field survey, and to augment interpretation of its outcome. Analysts need this information to identify which species are known to have occurred at or near the project site, and to identify which other special-status species could conceivably occur at the site due to geographic range overlap and migration flight paths.

ESA did not reportedly review eBird (<https://eBird.org>) or iNaturalist (<https://www.inaturalist.org>) for documented occurrence records at or near the project site. Instead, ESA queried the California Natural Diversity Data Base (CNDDB) for documented occurrences of special-status species within the USGS Quadrangle of the project site and the immediately surrounding Quadrangles. By taking this approach, the IS/MND immediately screens out many special-status species from further consideration in the characterization of the wildlife community as part of the existing environmental setting. CNDDB is not designed to support absence determinations or to screen out species from characterization of a site's wildlife community. As noted by CNDDB, *"The CNDDB is a positive sighting database. It does not predict where something may be found. We map occurrences only where we have documentation that the species was found at the site. There are many areas of the state where no surveys have been conducted and therefore there is nothing on the map. That does not mean that there are no special status species present."* ESA and the IS/MND misuse CNDDB.

CNDDB relies entirely on volunteer reporting from biologists who were allowed access to whatever properties they report from. Many properties have never been surveyed by biologists. Many properties have been surveyed, but the survey outcomes never reported to CNDDB. Many properties have been surveyed multiple times, but not all survey outcomes reported to CNDDB. Furthermore, CNDDB is interested only in the findings of special-status species, which means that species more recently assigned special status will have been reported many fewer times to CNDDB than were species assigned special status since the inception of CNDDB. The lack of many CNDDB records for species recently assigned special status had nothing to do with whether the species' geographic ranges overlap the project site, but rather more to do with the brief time for records to have accumulated since the species were assigned special status. And because negative

findings are not reported to CNDDDB, CNDDDB cannot provide the basis for estimating occurrence likelihoods of species undocumented on the project site.

In my assessment based on database reviews and site visits, 121 special-status species of wildlife are known to occur near enough to the site to warrant analysis of occurrence potential (Table 2). Of these 121 species, 4 (3%) were recorded on or just off of the project site, and another 23 (19%) species have been documented within 1.5 miles of the site ('Very close'), another 52 (43%) within 1.5 and 4 miles ('Nearby'), and another 33 (27%) within 4 to 30 miles ('In region'). Nearly two-thirds (65%) of the species in Table 2 have been reportedly seen within 4 miles of the project site. The site therefore supports multiple special-status species of wildlife and carries the potential for supporting many more special-status species of wildlife based on proximity of recorded occurrences. The site is far richer in special-status species than is characterized in the IS/MND.

The IS/MND analyzes the occurrence likelihoods of only 8 (6.6%) of the special-status species in my Table 2. The IS/MND's smaller analytical effort results from its misuse of CNDDDB to screen out most of the species that could potentially occur at the project site (see comments above). Of the species the IS/MND analyzes, the IS/MND determines the occurrence likelihoods to be moderate for one species – California horned lark, and low for the other seven species. And for 113 special-status species in my Table 2, the IS/MND provides no occurrence likelihood determinations at all, including for four species documented on or next to the project site. The analysis is flawed from the IS/MND's initial misuse of CNDDDB to screen out special-status species from next-steps. Its determinations of occurrence likelihoods are also flawed (see below).

The IS/MND provides one over-arching reason for its decision to omit all special-status plant species and 45 special-status species of wildlife from its analysis, which was the disturbed nature of the study area and the absence of suitable habitat. However, no explanation is provided of why disturbance at the project site prevents all of these species whereas disturbance elsewhere does not prevent the occurrences of the same species. Every place in California is disturbed to some degree. The IS/MND provides no evidence of a threshold of disturbance that prevents the occurrences of special-status species of plants and animals, nor does it prevent evidence that such a threshold has been breached.

Of the seven species the IS/MND determines to have low occurrence potential, two have been documented within 1.5 miles of the project site and three have been documented within 1.5 and 4 miles of the site. The documented proximities of these species do not comport with the IS/MND's determinations.

Based on environmental conditions where I have observed California horned larks at other locations, I see no reason why horned larks should be determined to have a high rather than a moderate occurrence likelihood at the project site. Photos 1–3 show an environment that typifies where I have found this species. The site appears like the type of site where California horned larks breed.

Table 2. Occurrence likelihoods of special-status bird species at or near the proposed project site, according to eBird/iNaturalist records (<https://eBird.org>, <https://www.inaturalist.org>) and on-site survey findings, where ‘Very close’ indicates within 1.5 miles of the site, “nearby” indicates within 1.5 and 4 miles, and “in region” indicates within 4 and 30 miles, and ‘in range’ means the species’ geographic range overlaps the site. Entries in bold font identify species detected by Noriko.

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Monarch	<i>Danaus plexippus</i>	FC	Low	Very close
Crotch’s bumble bee	<i>Bombus crotchii</i>	CCE	Low	In region
Western spadefoot	<i>Spea hammondi</i>	SSC		In region
Western pond turtle	<i>Emys marmorata</i>	SSC		In region
Blainville’s horned lizard	<i>Phrynosoma blainvillii</i>	SSC	Low	Nearby
Coastal whiptail	<i>Aspidoscelis tigris stejnegeri</i>	SSC	Low	In region
San Diegan legless lizard	<i>Anniella stebbinsi</i>	SSC		Nearby
California glossy snake	<i>Arizona elegans occidentalis</i>	SSC		In range
Coast patch-nosed snake	<i>Salvadora hexalepis virgulata</i>	SSC		In region
Two-striped gartersnake	<i>Thamnophis hammondi</i>	SSC		In region
South coast gartersnake	<i>Thamnophis sirtalis pop. 1</i>	SSC		In region
Brant	<i>Branta bernicla</i>	SSC2		Nearby
Cackling goose (Aleutian)	<i>Branta hutchinsii leucopareia</i>	WL		Nearby
Redhead	<i>Aythya americana</i>	SSC2		Nearby
Harlequin duck	<i>Histrionicus histrionicus</i>	SSC2		In region
Western grebe	<i>Aechmophorus occidentalis</i>	BCC		Nearby
Clark’s grebe	<i>Aechmophorus clarkii</i>	BCC		Nearby
Western yellow-billed cuckoo	<i>Coccyzus americanus occidentalis</i>	FT, CE, BCC		Nearby
Black swift	<i>Cypseloides niger</i>	SSC3, BCC		Nearby
Vaux’s swift	<i>Chaetura vauxi</i>	SSC2, BCC		Nearby
Costa’s hummingbird	<i>Calypte costae</i>	BCC		Nearby
Rufous hummingbird	<i>Selasphorus rufus</i>	BCC		Very close
Allen’s hummingbird	<i>Selasphorus sasin</i>	BCC		Very close
Lesser sandhill crane	<i>Antigone canadensis canadensis</i>	SSC3		In region
American avocet ²	<i>Recurvirostra americana</i>	BCC		Nearby

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Mountain plover	<i>Charadrius montanus</i>	SSC2, BCC		In region
Snowy plover	<i>Charadrius nivosus</i>	BCC		Nearby
Western snowy plover	<i>Charadrius nivosus nivosus</i>	FT, SSC, BCC		In region
Whimbrel ²	<i>Numenius phaeopus</i>	BCC		Very close
Long-billed curlew	<i>Numenius americanus</i>	WL		Nearby
Marbled godwit	<i>Limosa fedoa</i>	BCC		Nearby
Red knot (Pacific)	<i>Calidris canutus</i>	BCC		In region
Short-billed dowitcher	<i>Limnodromus griseus</i>	BCC		In region
Willet	<i>Tringa semipalmata</i>	BCC		Nearby
Laughing gull	<i>Leucophaeus atricilla</i>	WL		In region
Heermann's gull	<i>Larus heermanni</i>	BCC		Nearby
Western gull	<i>Larus occidentalis</i>	BCC		On site
California gull	<i>Larus californicus</i>	BCC, WL	Observed	On site
California least tern	<i>Sternula antillarum browni</i>	FE, CE, FP		Nearby
Black tern	<i>Chlidonias niger</i>	SSC2, BCC		Nearby
Elegant tern	<i>Thalasseus elegans</i>	BCC, WL		Nearby
Black skimmer	<i>Rynchops niger</i>	BCC, SSC3		Nearby
Common loon	<i>Gavia immer</i>	SSC		Nearby
Wood stork	<i>Mycteria americana</i>	SSC1		Nearby
Brandt's cormorant	<i>Urile penicillatus</i>	BCC		Nearby
Double-crested cormorant	<i>Phalacrocorax auritus</i>	WL		Nearby
American white pelican	<i>Pelacanus erythrorhynchus</i>	SSC1, BCC		Very close
California brown pelican	<i>Pelecanus occidentalis californicus</i>	FP		In region
Least bittern	<i>Ixobrychus exilis</i>	SSC2		In region
White-faced ibis	<i>Plegadis chihi</i>	WL		Very close
Turkey vulture	<i>Cathartes aura</i>	BOP		Very close
Osprey	<i>Pandion haliaetus</i>	WL, BOP		Very close
White-tailed kite	<i>Elanus luecurus</i>	CFP, BOP		Very close
Golden eagle	<i>Aquila chrysaetos</i>	BGEPA, CFP, BOP, WL		Nearby

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Northern harrier	<i>Circus cyaneus</i>	BCC, SSC3, BOP		Very close
Sharp-shinned hawk	<i>Accipiter striatus</i>	WL, BOP		Nearby
Cooper's hawk	<i>Accipiter cooperii</i>	WL, BOP		Very close
Bald eagle	<i>Haliaeetus leucocephalus</i>	CE, BGEPA, BOP		Nearby
Red-shouldered hawk	<i>Buteo lineatus</i>	BOP		Very close
Swainson's hawk	<i>Buteo swainsoni</i>	CT, BOP		Nearby
Red-tailed hawk	<i>Buteo jamaicensis</i>	BOP		Very close
Ferruginous hawk	<i>Buteo regalis</i>	WL, BOP	Low	Nearby
Zone-tailed hawk	<i>Buteo albonotatus</i>	BOP		Nearby
Harris' hawk	<i>Parabuteo unicinctus</i>	WL, BOP		In region
Rough-legged hawk	<i>Buteo lagopus</i>	BOP		In region
Barn owl	<i>Tyto alba</i>	BOP		Nearby
Western screech-owl	<i>Megascops kennicotti</i>	BOP		Nearby
Great horned owl	<i>Bubo virginianus</i>	BOP		Very close
Burrowing owl	<i>Athene cunicularia</i>	BCC, SSC2, BOP	Low	Nearby
Long-eared owl	<i>Asio otus</i>	BCC, SSC3, BOP		In region
Short-eared owl	<i>Asia flammeus</i>	BCC, SSC3, BOP		In region
Lewis's woodpecker	<i>Melanerpes lewis</i>	BCC		Nearby
Nuttall's woodpecker	<i>Picoides nuttallii</i>	BCC		Nearby
American kestrel	<i>Falco sparverius</i>	BOP		On site
Merlin	<i>Falco columbarius</i>	WL, BOP		Very close
Peregrine falcon	<i>Falco peregrinus</i>	BOP	Low	Very close
Prairie falcon	<i>Falco mexicanus</i>	WL, BOP		Nearby
Olive-sided flycatcher	<i>Contopus cooperi</i>	BCC, SSC2		Nearby
Willow flycatcher	<i>Empidonax traillii</i>	CE		Nearby
Southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	FE, CE		In region
Vermilion flycatcher	<i>Pyrocephalus rubinus</i>	SSC2		Nearby
Least Bell's vireo	<i>Vireo bellii pusillus</i>	FE, CE		Nearby
Loggerhead shrike	<i>Lanius ludovicianus</i>	SSC2		Nearby

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Oak titmouse	<i>Baeolophus inornatus</i>	BCC		Very close
California horned lark	<i>Eremophila alpestris actia</i>	WL	Moderate	Very close
Bank swallow	<i>Riparia riparia</i>	CT		Nearby
Purple martin	<i>Progne subis</i>	SSC2		Nearby
Wrentit	<i>Chamaea fasciata</i>	BCC		Very close
California gnatcatcher	<i>Polioptila c. californica</i>	FT, SSC2		In region
California thrasher	<i>Toxostoma redivivum</i>	BCC		Very close
Cassin's finch	<i>Haemorhous cassinii</i>	BCC		In region
Lawrence's goldfinch	<i>Spinus lawrencei</i>	BCC		Nearby
Grasshopper sparrow	<i>Ammodramus savannarum</i>	SSC2		Very close
Black-chinned sparrow	<i>Spizella atrogularis</i>	BCC		In region
Gray-headed junco	<i>Junco hyemalis caniceps</i>	WL		In region
Bell's sparrow	<i>Amphispiza b. belli</i>	WL		In region
Belding's savannah sparrow ³	<i>Passerculus sandwichensis beldingi</i>	CE, BCC		Nearby
Large-billed savannah sparrow ³	<i>Passerculus sandwichensis rostratus</i>	SSC2		In region
Southern California rufous-crowned sparrow	<i>Aimophila ruficeps canescens</i>	WL		Nearby
Yellow-breasted chat	<i>Icteria virens</i>	SSC3		Nearby
Yellow-headed blackbird	<i>Xanthocephalus xanthocephalus</i>	SSC3		Nearby
Bullock's oriole	<i>Icterus bullockii</i>	BCC		Very close
Tricolored blackbird	<i>Agelaius tricolor</i>	CT, BCC, SSC1		Nearby
Lucy's warbler	<i>Leiothlypis luciae</i>	SSC3, BCC		Very close
Virginia's warbler	<i>Leiothlypis virginiae</i>	WL, BCC		Nearby
Yellow warbler	<i>Setophaga petechia</i>	SSC2		Very close
Summer tanager	<i>Piranga rubra</i>	SSC1		Nearby
Pallid bat	<i>Antrozous pallidus</i>	SSC, WBWG:H		In region
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	SSC, WBWG:H		In range
Silver-haired bat	<i>Lasionycteris noctivagans</i>	WBWG:M		In range
Western red bat	<i>Lasiurus blossevillii</i>	SSC, WBWG:H		In range

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Hoary bat	<i>Lasiurus cinereus</i>	WBWG:M		In region
Western yellow bat	<i>Lasiurus xanthinus</i>	SSC, WBWG:H		In range
Western small-footed myotis	<i>Myotis cililabrum</i>	WBWG:M		In range
Miller's myotis	<i>Myotis evotis</i>	WBWG:M		In region
Little brown myotis	<i>Myotis lucifugus</i>	WBWG:M		In region
Fringed myotis	<i>Myotis thysanodes</i>	WBWG:H		In range
Long-legged myotis	<i>Myotis volans</i>	WBWG:H		In range
Yuma myotis	<i>Myotis yumanensis</i>	WBWG:LM		In region
Western mastiff bat	<i>Eumops perotis</i>	SSC, WBWG:H		In range
American badger	<i>Taxidea taxus</i>	SSC		In region

¹ Listed as FT or FE = federal threatened or endangered, FC = federal candidate for listing, BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, CT or CE = California threatened or endangered, CCT or CCE = Candidate California threatened or endangered, CFP = California Fully Protected (California Fish and Game Code 3511), SSC = California Species of Special Concern (not threatened with extinction, but rare, very restricted in range, declining throughout range, peripheral portion of species' range, associated with habitat that is declining in extent), SSC1, SSC2 and SSC3 = California Bird Species of Special Concern priorities 1, 2 and 3, respectively (Shuford and Gardali 2008), WL = Taxa to Watch List (Shuford and Gardali 2008), and BOP = Birds of Prey (CFG Code 3503.5), and WBWG = Western Bat Working Group with priority rankings, of low (L), moderate (M), and high (H).

² Uncertain if BCC based on 2021 Bird of Conservation Concern list.

³ Uncertain of subspecies, but either resident Belding's or wintering large-billed savannah sparrows.

For each of the species of wildlife the IS/MND determines to have low occurrence potential, flawed reasons are reported. For example, the IS/MND reports that “the site is frequently disturbed and lacks connectivity to high quality habitat” of Crotch’s bumble bee. Again, the IS/MND fails to define a disturbance threshold that prevents the species at issue. The IS/MND fails to define that level of connectivity to high quality habitat that is needed, nor does it explain what it means by high quality habitat. (Habitat quality is typically represented by measures of productivity.)

Referring to Monarch, the IS/MND reports that “Suitable roosting habitat for this species does not occur within the site and host plant species were not detected.” However, this reporting implies that roosting habitat is the only resource that needs to be considered for Monarch. It is not. According to the conservation strategy of the Western Monarch Butterfly Conservation Plan, migratory habitats are no less important to the conservation of monarchs than are overwintering groves, and the Plan identifies urban areas as contributive to migratory habitat.

Referring to both coastal whiptail and coast horned lizard, the IS/MND reports that “Suitable habitat for this species does not occur within the site due to the existing level of disturbance from operating activities.” Repeating the flaw noted above, the IS/MND fails to define a disturbance threshold that prevents either species from occurring at the project site. How is it that western side-blotched lizards and Great Basin fence lizards both occur at the project site in abundance, but the disturbance of the site prevents the occurrences of special-status species? The IS/MND presents no evidence that either of these species should be determined to have low occurrence potential.

As for Ferruginous hawk, the IS/MND points out that “Suitable nesting habitat does not occur within the project site, however, there is low potential for foraging.” Whether nesting habitat is suitable on the project site is not an issue for this species. Ferruginous hawks nest far to the north, but must find sufficient forage in southern California over the winter in order to successfully nest up north. Ferruginous hawks are winter migrants to the area, and in my experience, they hunt over fields just like the project site (Photo 26). The project does not provide “low potential for foraging,” as there are many of the pocket gophers and other animals that ferruginous hawks hunt.

Referring to peregrine falcon, the IS/MND claims, “the closest foraging habitat is located over 2 miles northwest.” However, this assertion is inaccurate. The closest foraging opportunities are to be found on the project site. I have many times witnessed peregrine falcons foraging over fields just like the project site. For example, I witnessed multiple members of a family of peregrine falcons forage over a field I surveyed 14 times in Bakersfield, California – a field that was repeatedly disked and sometimes covered in trash. These peregrine falcons captured ground squirrels and birds (one was a mourning dove, which is a species Noriko saw on the project site) and carried them to their nest on a water tower 800 m away. Peregrine falcons could very well forage successfully at the project site, and they could nest in the tower mentioned by the ESA biologist.

Photo 26. A ferruginous hawk attempts to grab a pocket gopher on a southern California field that looks not too unlike the project site.



POTENTIAL BIOLOGICAL IMPACTS

An impacts analysis should consider whether and how a proposed project would affect members of a species, larger demographic units of the species, the whole of a species, and ecological communities. The accuracy of this analysis depends on an accurate characterization of the existing environmental setting. In the case of the proposed project, the existing environmental setting has not been accurately characterized, and several important types of potential project impacts have been inadequately analyzed. These types of impacts include habitat loss, interference with wildlife movement, bird-window collision mortality, wildlife-automobile collision mortality, house cat depredation, and parasitic loading from the dog run.

HABITAT LOSS

Between ESA's and Noriko's surveys, 27 species of vertebrate wildlife were documented on the project site, including 4 special-status species. Noriko's findings examined through an analytical bridge to my research work at an expansive study site predicts use of the project site by at least 100 species of vertebrate wildlife including 12 special-status species. Converting the site to the impervious surfaces of an apartment complex and to open space to be used as a dog run would eliminate the project site's productive capacity to all of the wildlife species that currently use it.

The IS/MND makes no attempt to estimate this lost capacity for any of the wildlife species potentially affected. In the case of birds, two methods exist for estimating the loss of productive capacity that would be caused by the project. One method would involve surveys to count the number of bird nests and chicks produced. The alternative method would be to infer productive capacity from estimates of total nest density elsewhere.

Because the project is located within an area that has undergone severe habitat fragmentation, the habitat that remains in fragmented patches probably no longer supports its original productive capacity of wildlife (Smallwood 2015). Habitat fragmentation and habitat loss have been recognized as the most likely leading causes of a documented 29% decline in overall bird abundance across North America over the last 48 years (Rosenberg et al. 2019). Habitat loss not only results in the immediate numerical decline of wildlife, but it also results in permanent loss of productive capacity. Habitat fragmentation multiplies the negative effects of habitat loss on the productive capacities of biological species (Smallwood 2015). Several studies have estimated total avian nest density at locations that had likewise been highly fragmented. Two study sites in grassland/wetland/woodland complexes within agricultural matrices had total bird nesting densities of 32.8 and 35.8 nests per acre (Young 1948, Yahner 1982) for an average 34.3 nests per acre. To acquire a total nest density closer to conditions in California, Noriko surveyed through the breeding season of 2023 over 4.29 acres of grassland in the San Jacinto Wildlife Area, where she tabulated 3.72 bird nests/acre. Applying her estimated total nest density to the project site's 5.17 acres of grassland predicts 19 bird nest sites. Assuming 1.39 broods per nest site based on Noriko's review of 322 North American bird species, which averaged 1.39 broods per year, then I predict the project would cost California 26 nest attempts/year.

The loss of 19 nest sites and 26 nest attempts/year would qualify as significant project impacts that has not been quantitatively addressed in the IS/MND. But the impact would not end with the immediate loss of nest sites as nest substrate is removed and foraging grounds graded in preparation for impervious surfaces. The reproductive capacity of the site would be lost. The average number of fledglings per nest in Young's (1948) study was 2.9. Assuming Young's (1948) study site typifies bird productivity, the project would prevent the production of 183 fledglings per year. Assuming an average bird generation time of 5 years, the lost capacity of both breeders and annual fledgling production can be estimated from an equation in Smallwood (2022): $\{(nests/year \times chicks/nest \times number\ of\ years) + (2\ adults/nest \times nests/year) \times (number\ of\ years \div years/generation)\} \div (number\ of\ years) = 83\ birds\ per\ year\ denied\ to\ California.$

INTERFERENCE WITH WILDLIFE MOVEMENT

One of CEQA's principal concerns regarding potential project impacts is whether a proposed project would interfere with wildlife movement in the region. Unfortunately, the IS/MND's analysis of whether the project would interfere with wildlife movement in the region is flawed and misleading. According to the IS/MND, "Wildlife corridors are not present within the Project site, which is surrounded by fencing and urban development. Thus, the Project would not result in impacts to existing wildlife corridors or affect wildlife movement." The IS/MND's conclusion lacks supporting evidence. The IS/MND reports no survey methodology designed to determine whether wildlife rely on the site for movement in the region. ESA implemented no sampling regime nor any program of observation to record wildlife movement patterns. ESA attempted neither to quantify nor even to qualitatively assess wildlife movement as evidence of the project's contribution to movement in the region. The conclusion in the IS/MND regarding wildlife movement is only speculative and conclusory. Not only is the IS/MND's

conclusion unfounded, but Noriko found that the site was heavily used by wildlife, including by birds flying to, from, and over the site. Because much of the surrounding area is developed, the site is one of the last remaining wildlife stopover opportunities in the region.

Furthermore, the IS/MND's premise that a wildlife corridor must overlap the project site in order for the project to interfere with wildlife movement represents a false CEQA standard, and is therefore inappropriate to the analysis. The primary phrase of the CEQA standard goes to wildlife movement regardless of whether the movement is channeled by a corridor. A site such as the proposed project site is critically important for wildlife movement because it composes an increasingly diminishing area of open space within a growing expanse of anthropogenic uses, forcing more species of volant wildlife to use the site for stopover and staging during migration, dispersal, and home range patrol (Warnock 2010, Taylor et al. 2011, Runge et al. 2014). The project would cut wildlife off from stopover and staging opportunities, forcing volant wildlife to travel even farther between remaining stopover sites. The project would interfere with wildlife movement in the region.

BIRD-WINDOW COLLISIONS

Considering the project would add a five-story, 67.5-foot-tall, 373,069-square-foot residential building with 234 residential units, along with many glass windows on the building's facades, the IS/MND neglects a large portion of habitat that is essential to many species. To understand this part of their habitat, one must consider the definition of habitat, which is a species' use of the environment (Hall et al. 1997, Morrison et al. 1998, Smallwood 2002). The gaseous atmosphere, or aerosphere, is a principal medium of life to volant animals such as birds (Davy et al. 2017, Diehl et al. 2017). The aerosphere is where birds and bats and other volant animals with wings migrate, disperse, forage, perform courtship and where some of them mate. Birds are some of the many types of animals that evolved wings as a morphological adaptation to thrive by moving through the medium of the aerosphere. The aerosphere is habitat. Indeed, an entire discipline of ecology has emerged to study this essential aspect of habitat – the discipline of aeroecology (Kunz et al. 2008).

Many special-status species of birds have been recorded at or near the aerosphere of the project site. My database review and the site visits indicate there are 96 special-status species of birds with potential to use the site's aerosphere (Table 2). Of these, 3 have been recorded on or over the project site, 23 within 1.5 miles of the site ('Very close'), 50 within 1.5 and 4 miles ('Nearby'), and another 20 within 4 to 30 miles ('In region'). The birds reported within all these distance domains from the project site can quickly fly those distances, so they would all be within short flights of the proposed project's windows.

Window collisions are often characterized as either the second or third largest source or human-caused bird mortality. The numbers behind these characterizations are often attributed to Klem's (1990) and Dunn's (1993) estimates of about 100 million to 1 billion bird fatalities in the USA, or more recently by Loss et al.'s (2014) estimate of 365-988

million bird fatalities in the USA or Calvert et al.'s (2013) and Machtans et al.'s (2013) estimates of 22.4 million and 25 million bird fatalities in Canada, respectively. The proposed project would impose windows in the airspace normally used by birds.

Glass-façades of buildings intercept and kill many birds, but these façades are differentially hazardous to birds based on spatial extent, contiguity, orientation, and other factors. At Washington State University, Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a three-story glass walkway (no fatality adjustments attempted). Prior to marking the windows to warn birds of the collision hazard, the collision rate was 84.7 per year. At that rate, and not attempting to adjust the fatality estimate for the proportion of fatalities not found, 4,574 birds were likely killed over the 54 years since the start of their study, and that's at a relatively small building façade. Accounting for the proportion of fatalities not found, the number of birds killed by this walkway over the last 54 years would have been about 14,270. And this is just for one 3-story, glass-sided walkway between two college campus buildings.

Klem's (1990) estimate was based on speculation that 1 to 10 birds are killed per building per year, and this speculated range was extended to the number of buildings estimated by the US Census Bureau in 1986. Klem's speculation was supported by fatality monitoring at only two houses, one in Illinois and the other in New York. Also, the basis of his fatality rate extension has changed greatly since 1986. Whereas his estimate served the need to alert the public of the possible magnitude of the bird-window collision issue, it was highly uncertain at the time and undoubtedly outdated more than three decades hence. Indeed, by 2010 Klem (2010) characterized the upper end of his estimated range – 1 billion bird fatalities – as conservative. Furthermore, the estimate lumped species together as if all birds are the same and the loss of all birds to windows has the same level of impact.

By the time Loss et al. (2014) performed their effort to estimate annual USA bird-window fatalities, many more fatality monitoring studies had been reported or were underway. Loss et al. (2014) incorporated many more fatality rates based on scientific monitoring, and they were more careful about which fatality rates to include. However, they included estimates based on fatality monitoring by homeowners, which in one study were found to detect only 38% of the available window fatalities (Bracey et al. 2016). Loss et al. (2014) excluded all fatality records lacking a dead bird in hand, such as injured birds or feather or blood spots on windows. Loss et al.'s (2014) fatality metric was the number of fatalities per building (where in this context a building can include a house, low-rise, or high-rise structure), but they assumed that this metric was based on window collisions. Because most of the bird-window collision studies were limited to migration seasons, Loss et al. (2014) developed an admittedly assumption-laden correction factor for making annual estimates. Also, only 2 of the studies included adjustments for carcass persistence and searcher detection error, and it was unclear how and to what degree fatality rates were adjusted for these factors. Although Loss et al. (2014) attempted to account for some biases as well as for large sources of uncertainty mostly resulting from an opportunistic rather than systematic sampling data source,

their estimated annual fatality rate across the USA was highly uncertain and vulnerable to multiple biases, most of which would have resulted in fatality estimates biased low.

In my review of bird-window collision monitoring, I found that the search radius around homes and buildings was very narrow, usually 2 meters. Based on my experience with bird collisions in other contexts, I would expect that a large portion of bird-window collision victims would end up farther than 2 m from the windows, especially when the windows are higher up on tall buildings. In my experience, searcher detection rates tend to be low for small birds deposited on ground with vegetation cover or woodchips or other types of organic matter. Also, vertebrate scavengers entrain on anthropogenic sources of mortality and quickly remove many of the carcasses, thereby preventing the fatality searcher from detecting these fatalities. Adjusting fatality rates for these factors – search radius bias, searcher detection error, and carcass persistence rates – would greatly increase nationwide estimates of bird-window collision fatalities.

Buildings can intercept many nocturnal migrants as well as birds flying in daylight. As mentioned above, Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a four-story glass walkway at Washington State University (no adjustments attempted for undetected fatalities). Somerlot (2003) found 21 bird fatalities among 13 buildings on a university campus within only 61 days. Monitoring twice per week, Hager et al. (2008) found 215 bird fatalities of 48 species, or 55 birds/building/year, and at another site they found 142 bird fatalities of 37 species for 24 birds/building/year. Gelb and Delacretaz (2009) recorded 5,400 bird fatalities under buildings in New York City, based on a decade of monitoring only during migration periods, and some of the high-rises were associated with hundreds of fatalities each. Klem et al. (2009) monitored 73 building façades in New York City during 114 days of two migratory periods, tallying 549 collision victims, nearly 5 birds per day. Borden et al. (2010) surveyed a 1.8 km route 3 times per week during 12-month period and found 271 bird fatalities of 50 species. Parkins et al. (2015) found 35 bird fatalities of 16 species within only 45 days of monitoring under 4 building façades. From 24 days of survey over a 48-day span, Porter and Huang (2015) found 47 fatalities under 8 buildings on a university campus. Sabo et al. (2016) found 27 bird fatalities over 61 days of searches under 31 windows. In San Francisco, Kahle et al. (2016) found 355 collision victims within 1,762 days under a 5-story building. Ocampo-Peñuela et al. (2016) searched the perimeters of 6 buildings on a university campus, finding 86 fatalities after 63 days of surveys. One of these buildings produced 61 of the 86 fatalities, and another building with collision-deterrent glass caused only 2 of the fatalities, thereby indicating a wide range in impacts likely influenced by various factors. There is ample evidence available to support my prediction that the proposed project would result in many collision fatalities of birds.

Project Impact Prediction

By the time of these comments, I had reviewed and processed results of bird collision monitoring at 213 buildings and façades for which bird collisions per m² of glass per year could be calculated and averaged (Johnson and Hudson 1976, O'Connell 2001, Somerlot 2003, Hager et al. 2008, Borden et al. 2010, Hager et al. 2013, Porter and

Huang 2015, Parkins et al. 2015, Kahle et al. 2016, Ocampo-Peñuela et al. 2016, Sabo et al. 2016, Barton et al. 2017, Gomez-Moreno et al. 2018, Schneider et al. 2018, Loss et al. 2019, Brown et al. 2020, City of Portland Bureau of Environmental Services and Portland Audubon 2020, Riding et al. 2020). These study results averaged 0.073 bird deaths per m² of glass per year (95% CI: 0.042-0.102). This average and its 95% confidence interval provide a robust basis for predicting fatality rates at a proposed new project.

The IS/MND does not disclose the extent of glass windows and glass railings on the proposed new building. I therefore used the building schematics in the IS/MND to measure the extent of windows. I measured windows along 10% of the building's façades, and then projected the total area of the windows measured to the entire building. I estimated 4,000 m² of exterior glass, not including glass railings. Applying the mean fatality rate (above) to my estimate of 4,000 m² of window glass in the project, I predict annual bird deaths of 292 (95% CI: 174–411).

The vast majority of these deaths would be of birds protected under the Migratory Bird Treaty Act and under the recently revised California Migratory Bird Protection Act, thus causing significant unmitigated impacts. Given the predicted level of bird-window collision mortality, and the lack of any proposed mitigation, it is my opinion that the proposed project would result in potentially significant adverse biological impacts. There is at least a fair argument for the need to prepare an EIR to appropriately analyze the impact of bird-glass collisions that might be caused by the project.

TRAFFIC IMPACTS TO WILDLIFE

Project-generated traffic would endanger wildlife that must, for various reasons, cross roads used by the project's traffic to get to and from the project site (Photos 27–29), including along roads far from the project footprint. Vehicle collisions have accounted for the deaths of many thousands of amphibian, reptile, mammal, bird, and arthropod fauna, and the impacts have often been found to be significant at the population level (Forman et al. 2003). Across North America traffic impacts have taken devastating tolls on wildlife (Forman et al. 2003). In Canada, 3,562 birds were estimated killed per 100 km of road per year (Bishop and Brogan 2013), and the US estimate of avian mortality on roads is 2,200 to 8,405 deaths per 100 km per year, or 89 million to 340 million total per year (Loss et al. 2014). Local impacts can be more intense than nationally.

Photo 27. A Gambel's quail dashes across a road on 3 April 2021. Such road crossings are usually successful, but too often prove fatal to the animal. Photo by Noriko Smallwood.



Photo 28. Mourning dove killed by vehicle on a California road. Photo by Noriko Smallwood, 21 June 2020.



Photo 29 Raccoon killed on Road 31 just east of Highway 505 in Solano County. Photo taken on 10 November 2018.

The nearest study of traffic-caused wildlife mortality was performed along a 2.5-mile stretch of Vasco Road in Contra Costa County, California. Fatality searches in this study found 1,275 carcasses of 49 species of mammals, birds, amphibians and reptiles over 15 months of searches (Mendelsohn et al. 2009). This fatality number needs to be adjusted for the proportion of fatalities that were not found due to scavenger removal and searcher error. This adjustment is typically made by placing carcasses for searchers to find (or not find) during their routine periodic fatality searches. This step was not taken at Vasco Road (Mendelsohn et al. 2009), but it was taken as part of another study next to Vasco Road (Brown et al. 2016). Brown et al.'s (2016) adjustment factors for carcass persistence resembled those of Santos et al. (2011). Also applying searcher detection rates from Brown et al. (2016), the adjusted total number of fatalities was estimated at 12,187 animals killed by traffic on the road. This fatality number over 1.25 years and 2.5 miles of road translates to 3,900 wild animals per mile per year. In terms comparable to the national estimates, the estimates from the Mendelsohn et al. (2009) study would translate to 243,740 animals killed per 100 km of road per year, or 29 times that of Loss

et al.'s (2014) upper bound estimate and 68 times the Canadian estimate. An analysis is needed of whether increased traffic generated by the project site would similarly result in local impacts on wildlife.

For wildlife vulnerable to front-end collisions and crushing under tires, road mortality can be predicted from the study of Mendelsohn et al. (2009) as a basis. My analysis of the Mendelsohn et al. (2009) data resulted in an estimated 3,900 animals killed per mile along a county road in Contra Costa County. Two percent of the estimated number of fatalities were birds, and the balance was composed of 34% mammals (many mice and pocket mice, but also ground squirrels, desert cottontails, striped skunks, American badgers, raccoons, and others), 52.3% amphibians (large numbers of California tiger salamanders and California red-legged frogs, but also Sierran treefrogs, western toads, arboreal salamanders, slender salamanders and others), and 11.7% reptiles (many western fence lizards, but also skinks, alligator lizards, and snakes of various species). VMT is useful for predicting wildlife mortality because I was able to quantify miles traveled along the studied reach of Vasco Road during the time period of the Mendelsohn et al. (2009), hence enabling a rate of fatalities per VMT that can be projected to other sites, assuming similar collision fatality rates.

Predicting project-generated traffic impacts to wildlife

The IS/MND predicts 3,664,270 annual VMT. During the Mendelsohn et al. (2009) study, 19,500 cars traveled Vasco Road daily, so the vehicle miles that contributed to my estimate of non-volant fatalities was $19,500 \text{ cars and trucks} \times 2.5 \text{ miles} \times 365 \text{ days/year} \times 1.25 \text{ years} = 22,242,187.5 \text{ vehicle miles}$ per 12,187 wildlife fatalities, or 1,825 vehicle miles per fatality. This rate divided into the predicted annual VMT, above, would predict 2,008 vertebrate wildlife fatalities per year.

Based on my analysis, the project-generated traffic would cause significant impacts to wildlife. The IS/MND does not address this potential impact, let alone propose to mitigate it. Mitigation measures to improve wildlife safety along roads are available and are feasible, and they need exploration for their suitability with the proposed project. Given the predicted level of project-generated, traffic-caused mortality, and the lack of any proposed mitigation, it is my opinion that the proposed project would result in potentially significant adverse biological impacts. A fair argument can be made for the need to prepare an EIR to appropriately analyze the potential impacts of project-generated automobile traffic on wildlife.

WILDLIFE DEPREDAATION BY HOUSE CATS

Considering national trends, it is safe to assume that house cats would be introduced to the project area by residents of the proposed 234 residential units. This is significant because house cats serve as one of the largest sources of avian mortality in North America (Dauphiné and Cooper 2009, Blancher 2013, Loss et al. 2013, Loyd et al. 2017). Loss et al. (2013) estimated 139 million cats in the USA in 2013 (range 114 to 164 million), which killed an estimated 16.95 billion vertebrate wildlife annually (range 7.6 to 26.3 billion). In 2012 there were 0.44 house cats per human, and 122 vertebrate

animals were killed per cat, free-ranging members of which killed disproportionately larger numbers of vertebrate wildlife. The IS/MND predicts the project would add 912 new residents. The above rates of cat ownership applied to this number of new residents **would predict 401 new house cats, which would kill 48,922 vertebrate wildlife per year.**

House cats also contribute to downstream loading of *Toxoplasma gondii*. According to a UC Davis wildlife health research program, *“Toxoplasma gondii is a parasite that can infect virtually all warm-blooded animals, but the only known definitive hosts are cats – domesticated and feral house cats included. Cats catch the parasite through hunting rodents and birds and they offload it into the environment through their feces... and ...rain that falls on cement creates more runoff than rain that falls on natural earth, which contributes to increased runoff that can carry fecal pathogens to the sea”* (<http://www.evotis.org/toxoplasma-gondii-sea-otters/>).

Impacts to wildlife from the introduction of house cats into the environment would be significant, and yet these impacts are not considered in the IS/MND. A fair argument can be made for the need to prepare an EIR to appropriately analyze potential impacts to wildlife due to depredation and parasite-loading by free-ranging house cats introduced by residents of the project. An obvious mitigation measure would be to constrain house cat ownership such as requiring cats to remain indoors.

DOG RUN

The project proposes the inclusion of a dog run, but the IS/MND does not analyze potential impacts to wildlife that could result from it. Dogs disturb and displace wildlife (Hennings 2016), and dog parks accumulate parasites. In one study of dog parks in Portugal (Ferreira et al. 2017), at least 7 different types of parasites were found in fecal and soil samples, and “the soil of all the parks was contaminated with hookworm eggs.” The parasite loading of the dog park could spill-over to wildlife of the immediate area or downstream to marine mammals at the coast. A fair argument can be made for the need to prepare an EIR to appropriately analyze the potential impacts to wildlife caused by the dog park.

CUMULATIVE IMPACTS

The IS/MND’s cumulative effects analysis is flawed. According to the IS/MND, “Because the Project could result in significant impacts related to biological resources ..., the Project could contribute to cumulative impacts to these resources. This contribution could be cumulatively considerable and thus significant. With the implementation of [mitigation measure BIO-1] ..., the Project’s impact related to biological resources ... would be reduced to less than cumulatively considerable and thus less than significant.” Essentially, the IS/MND implies that cumulative effects are simply residual impacts of incomplete mitigation of project-level impacts, and that no residual impacts would remain after the implementation of mitigation measure BIO-1 – the only measure proposed. This notion is inconsistent with CEQA’s definition of cumulative impacts and how to analyze them. If this was CEQA’s standard, then cumulative effects analysis

would be merely an analysis of mitigation efficacy. This is not how cumulative effects are to be analyzed; the cumulative effects analysis is fundamentally flawed.

Even should project-level mitigation be implemented as proposed in the IS/MND, development projects are causing cumulative impacts in California. To measure the impacts of habitat loss to wildlife caused by mitigated development projects, Noriko Smallwood and I revisited 80 sites of proposed projects that we had originally surveyed in support of comments on CEQA review documents (Smallwood and Smallwood 2023). We revisited the sites to repeat the survey methods at the same time of year, the same start time in the day, and the same methods and survey duration in order to measure the effects of mitigated development on wildlife. We structured the experiment in a before-after, control-impact experimental design, as some of the sites had been developed since our initial survey and some had remained undeveloped. We found that mitigated development resulted in a 66% loss of species on site, and 48% loss of species in the project area. Counts of vertebrate animals declined 90%. “Development impacts measured by the mean number of species detected per survey were greatest for amphibians (-100%), followed by mammals (-86%), grassland birds (-75%), raptors (-53%), special-status species (-49%), all birds as a group (-48%), non-native birds (-44%), and synanthropic birds (-28%). Our results indicated that urban development substantially reduced vertebrate species richness and numerical abundance, even after richness and abundance had likely already been depleted by the cumulative effects of loss, fragmentation, and degradation of habitat in the urbanizing environment,” and despite all of the mitigation measures and existing policies and regulations.

A fair argument can be made for the need to prepare an EIR to appropriately analyze potential project contributions to cumulative impacts to wildlife and plants in the region.

INSUFFICIENT MITIGATION

The only mitigation measure proposed in the IS/MND is a preconstruction survey for nesting birds:

Mitigation Measure BIO-1: *If construction activities occur within the bird nesting season (generally defined as February 15 through September 15), a qualified biologist shall conduct a nesting bird survey within 7 days prior to the start of construction. If an active nest is observed within 500 feet of the proposed construction, the nest shall be avoided, and a suitable buffer zone shall be delineated in the field such that no impacts shall occur until the nest has been determined to be inactive by a qualified biologist. Construction buffers are generally 300 feet for passerines and up to 500 feet for raptor species; however, avoidance buffers may be reduced at the discretion of the biologist, depending on the location of the nest and species tolerance to human presence and construction-related noise.*

If activities must take place within an established buffer, steps shall be taken to reduce indirect effects to nesting activity by actively reducing construction noise within proximity to a presumed nest location and/or installing temporary construction noise

barriers. If the reduction of noise is not feasible, construction activities shall be postponed until the nest is deemed inactive and/or the breeding season has concluded.

First, the avian breeding season recognized by the CDFW is now 1 February through 15 September. The IS/MND is skipping the first two weeks of the recognized avian breeding season.

Second, I concur with the implementation of preconstruction surveys, but it should be understood that preconstruction surveys are no substitute for detection surveys. It should be understood that preconstruction surveys, although warranted, actually achieve very little. Preconstruction, take-avoidance surveys consist of two steps, both of which are very difficult. First, the biologist(s) performing the survey must identify birds that are breeding. Second, the biologist(s) must locate the breeding birds' nests. The first step is typically completed by observing bird behaviors such as food deliveries and nest territory defense. These types of observations typically require many surveys on many dates spread throughout the breeding season, and these observations are to find the nest sites of single targeted species (Smallwood et al. 2013, Smallwood and Smallwood 2021). To identify the birds of all species nesting on a site requires a much greater survey effort.

To attempt to find all of the nest sites of all avian species, I completed surveys to complete the steps needed to count nest attempts of all birds on a research site. I constrained my surveys to a relatively small area of 12.74 acres, because I knew that finding all of the nest sites would be extremely difficult. I surveyed this site 30 times from March through mid-August 2023. Any one of my surveys might have resulted in one or a few nest detections, but my estimated total number of nests was 216. Cavity nests proved the easiest to find, because cavity nesters can more effectively defend their nests against predators and therefore have less need to hide the whereabouts of their nests. Nests of large raptors and herons were also relatively easy to find. I could also identify other birds engaged in nest attempts, but those birds using small cup nests in trees and shrubs and nests on the ground carefully avoided visits to their nests in my presence. Small birds in trees and shrubs and ground nesters are highly vulnerable to predation, and thus the most cryptic of nesters. Whereas I estimated lesser goldfinch as the most prolific nester on the study site, I found not one of their nest structures. Even the nesters that nest right out in the open are highly capable of hiding their nests sites from human eyes.

Even assuming all the nests could be found, the mitigation measure would apply only to the breeding season of the survey. After project construction, California would be denied the production of birds from the project site in every subsequent year. The impacts of the project to birds would be permanent and of large magnitude (see my prediction above, under Habitat Loss).

Finally, the mitigation language allows a single individual to make a subjective decision, outside the public's view, to determine and adjust the buffer area for any given species. This measure lacks objective criteria, and is unenforceable.

RECOMMENDED MEASURES

Protocol-level Detection Surveys in Support of Mitigation: If the project goes forward, detection surveys need to be completed for burrowing owl, white-tailed kite, peregrine falcon, and other special-status species. Detection survey protocols and guidelines are available from resource agencies for multiple special-status species. Otherwise, professional standards can be learned from the scientific literature and species' experts.

Pest Control: The project should commit to minimal use of rodenticides and avicides. It should commit to no placement of poison bait stations outside the buildings.

Guidelines on Building Design to Minimize Bird-Window Collisions: If the project goes forward, it should at a minimum adhere to available Bird-Safe Guidelines, such as those prepared by American Bird Conservancy and New York and San Francisco. The American Bird Conservancy (ABC) produced an excellent set of guidelines recommending actions to: (1) Minimize use of glass; (2) Placing glass behind some type of screening (grilles, shutters, exterior shades); (3) Using glass with inherent properties to reduce collisions, such as patterns, window films, decals or tape; and (4) Turning off lights during migration seasons (Sheppard and Phillips 2015). The City of San Francisco (San Francisco Planning Department 2011) also has a set of building design guidelines, based on the excellent guidelines produced by the New York City Audubon Society (Orff et al. 2007). The ABC document and both the New York and San Francisco documents provide excellent alerting of potential bird-collision hazards as well as many visual examples. The San Francisco Planning Department's (2011) building design guidelines are more comprehensive than those of New York City, but they could have gone further. For example, the San Francisco guidelines probably should have also covered scientific monitoring of impacts as well as compensatory mitigation for impacts that could not be avoided, minimized or reduced.

New research results inform the efficacy of marking windows. Whereas Klem (1990) found no deterrent effect from decals on windows, Johnson and Hudson (1976) reported a fatality reduction of about 69% after placing decals on windows. In an experiment of opportunity, Ocampo-Peñuela et al. (2016) found only 2 of 86 fatalities at one of 6 buildings – the only building with windows treated with a bird deterrent film. At the building with fritted glass, bird collisions were 82% lower than at other buildings with untreated windows. Kahle et al. (2016) added external window shades to some windowed façades to reduce fatalities 82% and 95%. Brown et al. (2020) reported an 84% lower collision probability among fritted glass windows and windows treated with ORNILUX R UV. City of Portland Bureau of Environmental Services and Portland Audubon (2020) reduced bird collision fatalities 94% by affixing marked Solyx window film to existing glass panels of Portland's Columbia Building. Many external and internal glass markers have been tested experimentally, some showing no effect and some showing strong deterrent effects (Klem 1989, 1990, 2009, 2011; Klem and Saenger 2013; Rössler et al. 2015). For example, Feather Friendly® circular adhesive markers applied in a grid pattern across all windows reduced bird-window collision mortality by 95% in one study (Riggs et al. 2023) and by 95% in another (de Groot et al. 2021).

Another study tested the efficacy of two filmshades to be applied exteriorly to windows prior to installations: BirdShades increased bird-window avoidance by 47% and Haverkamp increased avoidance by 39% (Swaddle et al. 2023).

Monitoring and the use of compensatory mitigation should be incorporated at any new building project because the measures recommended in the available guidelines remain of uncertain efficacy, and even if these measures are effective, they will not reduce collision fatalities to zero. The only way to assess mitigation efficacy and to quantify post-construction fatalities is to monitor the project for fatalities, including at residential dwelling units.

Road Mortality: Compensatory mitigation is needed for the increased wildlife mortality that would be caused by bird-window collisions and the project-generated road traffic in the region. I suggest that this mitigation can be directed toward funding research to identify fatality patterns and effective impact reduction measures such as reduced speed limits and wildlife under-crossings or overcrossings of particularly dangerous road segments. Compensatory mitigation can also be provided in the form of donations to wildlife rehabilitation facilities (see below).

House Cats: If the Specific Plan goes forward, homeowners should not be allowed to let their cats range free. A fund should be established for long-term management of house cats in the project. Management could include public education about the environmental effects of outdoor and free-ranging cats. It could also include a program to spade and neuter cats, especially free-ranging cats. It could also involve some removals of feral cats.

Fund Wildlife Rehabilitation Facilities: Compensatory mitigation ought also to include funding contributions to wildlife rehabilitation facilities to cover the costs of injured animals that will be delivered to these facilities for care. Many animals would likely be injured by collisions with windows and automobiles, and by attacks by house cats.

Landscaping: If the project goes forward, California native plant landscaping (i.e. chaparral, grassland, and locally appropriate scrub plants) should be considered to be used in residential yards, street-ways, and parks, as opposed to landscaping with lawn and exotic shrubs. Native plants offer more structure, cover, food resources, and nesting substrate for wildlife than landscaping with lawn. Native plant landscaping has been shown to increase the abundance of arthropods which act as importance sources of food for wildlife and are crucial for pollination and plant reproduction (Narango et al. 2017, Adams et al. 2020, Smallwood and Wood 2022.). Further, many endangered and threatened insects require native host plants for reproduction and migration (e.g. El Segundo blue butterfly, monarch butterfly). Around the world, landscaping with native plants over exotic plants increases the abundance and diversity of birds, and is particularly valuable to native birds (Lerman and Warren 2011, Burghardt et al. 2008, Berthon et al. 2021, Smallwood and Wood 2022). Landscaping with native plants is a way to maintain or to bring back some of the natural habitat and lessen the footprint of urbanization by acting as interconnected patches of habitat for wildlife (Goddard et al.

2009, Tallamy 2020). Lastly, not only does native plant landscaping benefit wildlife, it requires less water and maintenance than traditional landscaping with lawn and hedges.

Thank you for your attention,



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Photo 40. Yellow-rumped warbler at the project site. Noriko Smallwood.

Kenneth Shawn Smallwood

Curriculum Vitae

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Born May 3, 1963 in
Sacramento, California.
Married, father of two.

Ecologist

Expertise

- Finding solutions to controversial problems related to wildlife interactions with human industry, infrastructure, and activities;
- Wildlife monitoring and field study using GPS, thermal imaging, behavior surveys;
- Using systems analysis and experimental design principles to identify meaningful ecological patterns that inform management decisions.

Education

Ph.D. Ecology, University of California, Davis. September 1990.
M.S. Ecology, University of California, Davis. June 1987.
B.S. Anthropology, University of California, Davis. June 1985.
Corcoran High School, Corcoran, California. June 1981.

Experience

- 762 professional reports, including:
 - 90 peer reviewed publications
 - 24 in non-reviewed proceedings
- 646 reports, declarations, posters and book reviews
- 8 in mass media outlets
- 92 public presentations of research results

Editing for scientific journals: Guest Editor, *Wildlife Society Bulletin*, 2012-2013, of invited papers representing international views on the impacts of wind energy on wildlife and how to mitigate the impacts. Associate Editor, *Journal of Wildlife Management*, March 2004 to 30 June 2007. Editorial Board Member, *Environmental Management*, 10/1999 to 8/2004. Associate Editor, *Biological Conservation*, 9/1994 to 9/1995.

Member, Alameda County Scientific Review Committee (SRC), August 2006 to April 2011. The five-member committee investigated causes of bird and bat collisions in the Altamont Pass Wind Resource Area, and recommended mitigation and monitoring measures. The SRC reviewed the science underlying the Alameda County Avian Protection Program, and advised

the County on how to reduce wildlife fatalities.

Consulting Ecologist, 2004-2007, California Energy Commission (CEC). Provided consulting services as needed to the CEC on renewable energy impacts, monitoring and research, and produced several reports. Also collaborated with Lawrence-Livermore National Lab on research to understand and reduce wind turbine impacts on wildlife.

Consulting Ecologist, 1999-2013, U.S. Navy. Performed endangered species surveys, hazardous waste site monitoring, and habitat restoration for the endangered San Joaquin kangaroo rat, California tiger salamander, California red-legged frog, California clapper rail, western burrowing owl, salt marsh harvest mouse, and other species at Naval Air Station Lemoore; Naval Weapons Station, Seal Beach, Detachment Concord; Naval Security Group Activity, Skaggs Island; National Radio Transmitter Facility, Dixon; and, Naval Outlying Landing Field Imperial Beach.

Part-time Lecturer, 1998-2005, California State University, Sacramento. Instructed Mammalogy, Behavioral Ecology, and Ornithology Lab, Contemporary Environmental Issues, Natural Resources Conservation.

Senior Ecologist, 1999-2005, BioResource Consultants. Designed and implemented research and monitoring studies related to avian fatalities at wind turbines, avian electrocutions on electric distribution poles across California, and avian fatalities at transmission lines.

Chairman, Conservation Affairs Committee, The Wildlife Society--Western Section, 1999-2001. Prepared position statements and led efforts directed toward conservation issues, including travel to Washington, D.C. to lobby Congress for more wildlife conservation funding.

Systems Ecologist, 1995-2000, Institute for Sustainable Development. Headed ISD's program on integrated resources management. Developed indicators of ecological integrity for large areas, using remotely sensed data, local community involvement and GIS.

Associate, 1997-1998, Department of Agronomy and Range Science, University of California, Davis. Worked with Shu Geng and Mingua Zhang on several studies related to wildlife interactions with agriculture and patterns of fertilizer and pesticide residues in groundwater across a large landscape.

Lead Scientist, 1996-1999, National Endangered Species Network. Informed academic scientists and environmental activists about emerging issues regarding the Endangered Species Act and other environmental laws. Testified at public hearings on endangered species issues.

Ecologist, 1997-1998, Western Foundation of Vertebrate Zoology. Conducted field research to determine the impact of past mercury mining on the status of California red-legged frogs in Santa Clara County, California.

Senior Systems Ecologist, 1994-1995, EIP Associates, Sacramento, California. Provided consulting services in environmental planning, and quantitative assessment of land units for their conservation and restoration opportunities based on ecological resource requirements of 29 special-status species. Developed ecological indicators for prioritizing areas within Yolo County

to receive mitigation funds for habitat easements and restoration.

Post-Graduate Researcher, 1990-1994, Department of Agronomy and Range Science, *U.C. Davis*. Under Dr. Shu Geng's mentorship, studied landscape and management effects on temporal and spatial patterns of abundance among pocket gophers and species of Falconiformes and Carnivora in the Sacramento Valley. Managed and analyzed a data base of energy use in California agriculture. Assisted with landscape (GIS) study of groundwater contamination across Tulare County, California.

Work experience in graduate school: Co-taught Conservation Biology with Dr. Christine Schonewald, 1991 & 1993, UC Davis Graduate Group in Ecology; Reader for Dr. Richard Coss's course on Psychobiology in 1990, UC Davis Department of Psychology; Research Assistant to Dr. Walter E. Howard, 1988-1990, UC Davis Department of Wildlife and Fisheries Biology, testing durable baits for pocket gopher management in forest clearcuts; Research Assistant to Dr. Terrell P. Salmon, 1987-1988, UC Wildlife Extension, Department of Wildlife and Fisheries Biology, developing empirical models of mammal and bird invasions in North America, and a rating system for priority research and control of exotic species based on economic, environmental and human health hazards in California. Student Assistant to Dr. E. Lee Fitzhugh, 1985-1987, UC Cooperative Extension, Department of Wildlife and Fisheries Biology, developing and implementing statewide mountain lion track count for long-term monitoring.

Fulbright Research Fellow, Indonesia, 1988. Tested use of new sampling methods for numerical monitoring of Sumatran tiger and six other species of endemic felids, and evaluated methods used by other researchers.

Projects

Repowering wind energy projects through careful siting of new wind turbines using map-based collision hazard models to minimize impacts to volant wildlife. Funded by wind companies (principally NextEra Renewable Energy, Inc.), California Energy Commission and East Bay Regional Park District, I have collaborated with a GIS analyst and managed a crew of five field biologists performing golden eagle behavior surveys and nocturnal surveys on bats and owls. The goal is to quantify flight patterns for development of predictive models to more carefully site new wind turbines in repowering projects. Focused behavior surveys began May 2012 and continue. Collision hazard models have been prepared for seven wind projects, three of which were built. Planning for additional repowering projects is underway.

Test avian safety of new mixer-ejector wind turbine (MEWT). Designed and implemented a before-after, control-impact experimental design to test the avian safety of a new, shrouded wind turbine developed by Ogin Inc. (formerly known as FloDesign Wind Turbine Corporation). Supported by a \$718,000 grant from the California Energy Commission's Public Interest Energy Research program and a 20% match share contribution from Ogin, I managed a crew of seven field biologists who performed periodic fatality searches and behavior surveys, carcass detection trials, nocturnal behavior surveys using a thermal camera, and spatial analyses with the collaboration of a GIS analyst. Field work began 1 April 2012 and ended 30 March 2015 without Ogin installing its MEWTs, but we still achieved multiple important scientific advances.

Reduce avian mortality due to wind turbines at Altamont Pass. Studied wildlife impacts caused by 5,400 wind turbines at the world's most notorious wind resource area. Studied how impacts are perceived by monitoring and how they are affected by terrain, wind patterns, food resources, range management practices, wind turbine operations, seasonal patterns, population cycles, infrastructure management such as electric distribution, animal behavior and social interactions.

Reduce avian mortality on electric distribution poles. Directed research toward reducing bird electrocutions on electric distribution poles, 2000-2007. Oversaw 5 founts of fatality searches at 10,000 poles from Orange County to Glenn County, California, and produced two large reports.

Cook *et al.* v. Rockwell International *et al.*, No. 90-K-181 (D. Colorado). Provided expert testimony on the role of burrowing animals in affecting the fate of buried and surface-deposited radioactive and hazardous chemical wastes at the Rocky Flats Plant, Colorado. Provided expert reports based on four site visits and an extensive document review of burrowing animals. Conducted transect surveys for evidence of burrowing animals and other wildlife on and around waste facilities. Discovered substantial intrusion of waste structures by burrowing animals. I testified in federal court in November 2005, and my clients were subsequently awarded a \$553,000,000 judgment by a jury. After appeals the award was increased to two billion dollars.

Hanford Nuclear Reservation Litigation. Provided expert testimony on the role of burrowing animals in affecting the fate of buried radioactive wastes at the Hanford Nuclear Reservation, Washington. Provided three expert reports based on three site visits and extensive document review. Predicted and verified a certain population density of pocket gophers on buried waste structures, as well as incidence of radionuclide contamination in body tissue. Conducted transect surveys for evidence of burrowing animals and other wildlife on and around waste facilities. Discovered substantial intrusion of waste structures by burrowing animals.

Expert testimony and declarations on proposed residential and commercial developments, gas-fired power plants, wind, solar and geothermal projects, water transfers and water transfer delivery systems, endangered species recovery plans, Habitat Conservation Plans and Natural Communities Conservation Programs. Testified before multiple government agencies, Tribunals, Boards of Supervisors and City Councils, and participated with press conferences and depositions. Prepared expert witness reports and court declarations, which are summarized under Reports (below).

Protocol-level surveys for special-status species. Used California Department of Fish and Wildlife and US Fish and Wildlife Service protocols to search for California red-legged frog, California tiger salamander, arroyo southwestern toad, blunt-nosed leopard lizard, western pond turtle, giant kangaroo rat, San Joaquin kangaroo rat, San Joaquin kit fox, western burrowing owl, Swainson's hawk, Valley elderberry longhorn beetle and other special-status species.

Conservation of San Joaquin kangaroo rat. Performed research to identify factors responsible for the decline of this endangered species at Lemoore Naval Air Station, 2000-2013, and implemented habitat enhancements designed to reverse the trend and expand the population.

Impact of West Nile Virus on yellow-billed magpies. Funded by Sacramento-Yolo Mosquito and Vector Control District, 2005-2008, compared survey results pre- and post-West Nile Virus epidemic for multiple bird species in the Sacramento Valley, particularly on yellow-billed magpie and American crow due to susceptibility to WNV.

Workshops on HCPs. Assisted Dr. Michael Morrison with organizing and conducting a 2-day workshop on Habitat Conservation Plans, sponsored by Southern California Edison, and another 1-day workshop sponsored by PG&E. These Workshops were attended by academics, attorneys, and consultants with HCP experience. We guest-edited a Proceedings published in Environmental Management.

Mapping of biological resources along Highways 101, 46 and 41. Used GPS and GIS to delineate vegetation complexes and locations of special-status species along 26 miles of highway in San Luis Obispo County, 14 miles of highway and roadway in Monterey County, and in a large area north of Fresno, including within reclaimed gravel mining pits.

GPS mapping and monitoring at restoration sites and at Caltrans mitigation sites. Monitored the success of elderberry shrubs at one location, the success of willows at another location, and the response of wildlife to the succession of vegetation at both sites. Also used GPS to monitor the response of fossorial animals to yellow star-thistle eradication and natural grassland restoration efforts at Bear Valley in Colusa County and at the decommissioned Mather Air Force Base in Sacramento County.

Mercury effects on Red-legged Frog. Assisted Dr. Michael Morrison and US Fish and Wildlife Service in assessing the possible impacts of historical mercury mining on the federally listed California red-legged frog in Santa Clara County. Also measured habitat variables in streams.

Opposition to proposed No Surprises rule. Wrote a white paper and summary letter explaining scientific grounds for opposing the incidental take permit (ITP) rules providing ITP applicants and holders with general assurances they will be free of compliance with the Endangered Species Act once they adhere to the terms of a “properly functioning HCP.” Submitted 188 signatures of scientists and environmental professionals concerned about No Surprises rule US Fish and Wildlife Service, National Marine Fisheries Service, all US Senators.

Natomas Basin Habitat Conservation Plan alternative. Designed narrow channel marsh to increase the likelihood of survival and recovery in the wild of giant garter snake, Swainson’s hawk and Valley Elderberry Longhorn Beetle. The design included replication and interspersions of treatments for experimental testing of critical habitat elements. I provided a report to Northern Territories, Inc.

Assessments of agricultural production system and environmental technology transfer to China. Twice visited China and interviewed scientists, industrialists, agriculturalists, and the Directors of the Chinese Environmental Protection Agency and the Department of Agriculture to assess the need and possible pathways for environmental clean-up technologies and trade opportunities between the US and China.

Yolo County Habitat Conservation Plan. Conducted landscape ecology study of Yolo County to spatially prioritize allocation of mitigation efforts to improve ecosystem functionality within the County from the perspective of 29 special-status species of wildlife and plants. Used a hierarchically structured indicators approach to apply principles of landscape and ecosystem ecology, conservation biology, and local values in rating land units. Derived GIS maps to help guide the conservation area design, and then developed implementation strategies.

Mountain lion track count. Developed and conducted a carnivore monitoring program throughout California since 1985. Species counted include mountain lion, bobcat, black bear, coyote, red and gray fox, raccoon, striped skunk, badger, and black-tailed deer. Vegetation and land use are also monitored. Track survey transect was established on dusty, dirt roads within randomly selected quadrats.

Sumatran tiger and other felids. Upon award of Fulbright Research Fellowship, I designed and initiated track counts for seven species of wild cats in Sumatra, including Sumatran tiger, fishing cat, and golden cat. Spent four months on Sumatra and Java in 1988, and learned Bahasa Indonesia, the official Indonesian language.

Wildlife in agriculture. Beginning as post-graduate research, I studied pocket gophers and other wildlife in 40 alfalfa fields throughout the Sacramento Valley, and I surveyed for wildlife along a 200 mile road transect since 1989 with a hiatus of 1996-2004. The data are analyzed using GIS and methods from landscape ecology, and the results published and presented orally to farming groups in California and elsewhere. I also conducted the first study of wildlife in cover crops used on vineyards and orchards.

Agricultural energy use and Tulare County groundwater study. Developed and analyzed a data base of energy use in California agriculture, and collaborated on a landscape (GIS) study of groundwater contamination across Tulare County, California.

Pocket gopher damage in forest clear-cuts. Developed gopher sampling methods and tested various poison baits and baiting regimes in the largest-ever field study of pocket gopher management in forest plantations, involving 68 research plots in 55 clear-cuts among 6 National Forests in northern California.

Risk assessment of exotic species in North America. Developed empirical models of mammal and bird species invasions in North America, as well as a rating system for assigning priority research and control to exotic species in California, based on economic, environmental, and human health hazards.

Peer Reviewed Publications

Smallwood, K. S. 2022. Utility-scale solar impacts to volant wildlife. *Journal of Wildlife Management*: e22216. <https://doi.org/10.1002/jwmg.22216>

Smallwood, K. S., and N. L. Smallwood. 2021. Breeding Density and Collision Mortality of Loggerhead Shrike (*Lanius ludovicianus*) in the Altamont Pass Wind Resource Area. *Diversity* 13, 540. <https://doi.org/10.3390/d13110540>.

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Comments on Environmental Documents (Year; pages)

I was retained or commissioned to comment on environmental planning and review documents, including:

- Shirk & Riggin Industrial Park Application, Visalia (2022; 22);
- Duarte Industrial Application, Visalia (2022; 17);
- Amond World Cold Storage Warehouse IS/MND, Madera (2022; 23);
- Replies on Schulte Logistics Centre EIR, Tracy (2022; 28);
- Alta Cuvee Mixed Use Project Recirculated IS/MND, Ranch Cucamonga (2022; 8);
- Fourth visit, Veterans Affairs Site Plan Review No. 20-0102 MND, Bakersfield (2022; 9);
- Replies on 1242 20th Street Wellness Center Project FEIR, Santa Monica (2022; 5);
- 656 South San Vicente Medical Office Project EIR, Los Angeles (2022; 21);
- UCSF New Hospital at Parnassus Heights DEIR. San Francisco (2022; 40);
- DPR-21-021 Warehouse IS, Modesto (2022; 19);
- Ormat Brawley Solar Project DEIR, Brawley (2022; 37);
- Site visits to Heber 1 Geothermal Repower Project IS/MND (2022; 31);
- Heritage Industrial Center Design Review, Chula Vista (2022; 13);
- Temporary Outdoor Vehicle Storage DEIR, Port of Hueneme (2022; 29);
- CNU Medical Center and Innovation Park DEIR, Natomas (2022; 35);
- Beverly Boulevard Warehouse IS/MND, Pico Rivera (2021; 28);
- Hagemon Properties IS/MND Amendment, Bakersfield (2022; 23);
- Airport Distribution Center IS/MND, Redding (2021; 22);
- Orchard on Nevada Warehouse Staff Report, Redlands (2021; 24);
- Landings Logistics Center Exemption, Bakersfield (2021; 19);
- Replies on Hearn Veterans Village IS/MND, Santa Rosa (2021; 22);
- North Central Valley BESS Project IS/MND, Stockton (2021; 37);
- 2nd Replies on Heber 1 Geothermal Repower Project IS/MND (2022; 21);
- Stagecoach Solar DEIR, Barstow (2021; 24);
- Updated Sun Lakes Village North EIR Amendment 5, Banning, Riverside County (2021; 35);
- Freedom Circle Focus Area and Greystar General Plan Amendment Project EIR, San Jose (2021; 43);
- Operon HKI Warehouse IS/MND, Perris (2021; 26);
- Fairway Business Park Phase III IS/MND, Lake Elsinore (2021; 23);
- South Stockton Commerce Center IS/MND, Stockton (2021; 31);
- Starpoint Warehouse IS/MND, San Bernardino (2021; 24);
- Replies on Heber 1 Geothermal Repower Project IS/MND (2021; 15);
- Heber 1 Geothermal Repower Project IS/MND (2021; 11);

- Alviso Hotel Project IS/MND, San Jose (2021; 43);
- Replies on Easton Research Park West IS/MND, Rancho Cordova (2021; 3);
- Easton Research Park West IS/MND, Rancho Cordova (2021; 31);
- US Cold Storage DEIR, Hesperia (2021; 30);
- 1242 20th Street Wellness Center Project FEIR, Santa Monica (2021; 23);
- Third visit, Veterans Affairs Site Plan Review No. 20-0102 MND, Bakersfield (2021; 10);
- Roseland Creek Community Park Project IS/MND, Santa Rosa (2021; 23);
- Vista Mar Declaration of Irreparable Harm, Pacifica (2021; 3);
- LogistiCenter at Fairfield IS/MND (2021; 25);
- Alta Cuvee Mixed Use Project IS/MND, Ranch Cucamonga (2021; 29);
- Caligrows Architectural and Site Plan Review, Patterson (2021; 21);
- 1055 E. Sandhill Avenue Warehouse IS/MND, Carson (2021; 10);
- Chestnut & Tenth Street Commercial Project IS/MND, Gilroy (2021; 27);
- Libitzky Management Warehouse IS/MND, Modesto (2021; 20);
- 3rd Replies on Heber 2 Geothermal Repower Project IS/MND, El Centro (2021; 10);
- Medical Office Building DEIR, Santa Cruz (2021; 30);
- Scannell Warehouse DEIR, Richmond (2021; 24);
- Diamond Heights Application, San Francisco (2021; 24);
- Costa Azul Mixed-Use EIR Addendum, San Diego (2021; 25);
- Woodland Research Park DEIR (2021; 45);
- 2nd Replies on Diamond Street Industrial IS/MND, San Marcos (2021; 9);
- Replies on Diamond Street Industrial IS/MND, San Marcos (2021; 3);
- Diamond Street Industrial IS/MND, San Marcos (2021; 28);
- DHS 109 Industrial Park IS/MND, Desert Hot Springs (2021; 33);
- Jersey Industrial Complex Rancho Cucamonga (2022; 22);
- 1188 Champions Drive Parking Garage Staff Report, San Jose (2021; 5);
- San Pedro Mountain, Pacifica (2021; 22);
- Pixior Warehouse IS/MND, Hesperia (2021; 29);
- 2nd Replies on Heber 2 Geothermal Repower Project IS/MND, El Centro (2021; 9);
- Hearn Veterans Village IS/MND, Santa Rosa (2021; 23);
- Second visit, Veterans Affairs Site Plan Review No. 20-0102 MND, Bakersfield (2021; 11);
- Replies on Station East Residential/Mixed Use EIR, Union City (2021; 26);
- Schulte Logistics Centre EIR, Tracy (2021; 30);
- 4150 Point Eden Way Industrial Development EIR, Hayward (2021; 13);
- Airport Business Centre IS/MND, Manteca (2021; 27);
- Dual-branded Hotel IS/MND, Santa Clara (2021; 26);
- Legacy Highlands Specific Plan EIR, Beaumont (2021; 47);
- UC Berkeley LRDP and Housing Projects #1 and #2 EIR (2021; 27);
- Santa Maria Airport Business Park EIR, Santa Maria (2021; 27);
- Replies on Coachella Valley Arena EIR Addendum, Thousand Palms (2021; 20);
- Coachella Valley Arena EIR Addendum, Thousand Palms (2021; 35);
- Inland Harbor Warehouse NOD, Ontario (2021; 8);
- Alvarado Specific Plan DEIR, La Mesa (2021; 35);
- Harvill Avenue and Rider Street Terminal Project MND, Riverside (2021; 23);

- Gillespie Field EIR Addendum, El Cajon (2021; 28);
- Heritage Wind Energy Project section 94-c siting process, New York (2021: 99);
- Commercial Street Hotels project Site Plans, Oakland (2021; 19);
- Heber 1 Geothermal Repower Project MND, El Centro (2021; 11);
- Citrus-Slover Warehouse Project MND, Fontana (2021; 20);
- Scott Ranch Project RDEIR (Davidon Homes), Petaluma (2021; 31);
- Replies on StratosFuel Renewable H2 Project MND, Victorville (2021; 5);
- StratosFuel Renewable H2 Project MND, Victorville (2021; 25);
- Replies on PARS Global Storage MND, Murietta (2021; 22);
- Baldwin-Zacharias Master Plans EIR, Patterson (2021; 38);
- 1000 Gibraltar Drive EIR, Milpitas (2021; 20);
- Mango Avenue Industrial Warehouse Project, Fontana, MND (2021; 20);
- Veterans Affairs Site Plan Review No. 20-0102 MND, Bakersfield (2021; 25);
- Replies on UCSF Comprehensive Parnassus Heights Plan EIR (2021; 13);
- 14 Charles Hill Circle Design Review (2021; 11);
- SDG Commerce 217 Warehouse IS, American Canyon (2021; 26);
- Mulqueeney Ranch Wind Repowering Project DSEIR (2021; 98);
- Clawiter Road Industrial Project IS/MND, Hayward (2021; 18);
- Garnet Energy Center Stipulations, New York (2020);
- Heritage Wind Energy Project, New York (2020: 71);
- Ameresco Keller Canyon RNG Project IS/MND, Martinez (2020; 11);
- Cambria Hotel Project Staff Report, Dublin (2020; 19);
- Central Pointe Mixed-Use Staff Report, Santa Ana (2020; 20);
- Oak Valley Town Center EIR Addendum, Calimesa (2020; 23);
- Coachillin Specific Plan MND Amendment, Desert Hot Springs (2020; 26);
- Stockton Avenue Hotel and Condominiums Project Tiering to EIR, San Jose (2020; 19);
- Cityline Sub-block 3 South Staff Report, Sunnyvale (2020; 22);
- Station East Residential/Mixed Use EIR, Union City (2020; 21);
- Multi-Sport Complex & Southeast Industrial Annexation Suppl. EIR, Elk Grove (2020; 24);
- Sun Lakes Village North EIR Amendment 5, Banning, Riverside County (2020; 27);
- 2nd comments on 1296 Lawrence Station Road, Sunnyvale (2020; 4);
- 1296 Lawrence Station Road, Sunnyvale (2020; 16);
- Mesa Wind Project EA, Desert Hot Springs (2020; 31);
- 11th Street Development Project IS/MND, City of Upland (2020; 17);
- Vista Mar Project IS/MND, Pacifica (2020; 17);
- Emerson Creek Wind Project Application, Ohio (2020; 64);
- Replies on Wister Solar Energy Facility EIR, Imperial County (2020; 12);
- Wister Solar Energy Facility EIR, Imperial County (2020; 28);
- Crimson Solar EIS/EIR, Mojave Desert (2020, 35) not submitted;
- Sakioka Farms EIR tiering, Oxnard (2020; 14);
- 3440 Wilshire Project IS/MND, Los Angeles (2020; 19);
- Replies on 2400 Barranca Office Development Project EIR, Irvine (2020; 8);
- 2400 Barranca Office Development Project EIR, Irvine (2020; 25);
- Replies on Heber 2 Geothermal Repower Project IS/MND, El Centro (2020; 4);

- 2nd comments on Heber 2 Geothermal Repower Project IS/MND, El Centro (2020; 8);
- Heber 2 Geothermal Repower Project IS/MND, El Centro (2020; 3);
- Lots 4-12 Oddstad Way Project IS/MND, Pacifica (2020; 16);
- Declaration on DDG Visalia Warehouse project (2020; 5);
- Terraces of Lafayette EIR Addendum (2020; 24);
- AMG Industrial Annex IS/MND, Los Banos (2020; 15);
- Replies to responses on Casmalia and Linden Warehouse, Rialto (2020; 15);
- Clover Project MND, Petaluma (2020; 27);
- Ruby Street Apartments Project Env. Checklist, Hayward (2020; 20);
- Replies to responses on 3721 Mt. Diablo Boulevard Staff Report (2020; 5);
- 3721 Mt. Diablo Boulevard Staff Report (2020; 9);
- Steeno Warehouse IS/MND, Hesperia (2020; 19);
- UCSF Comprehensive Parnassus Heights Plan EIR (2020; 24);
- North Pointe Business Center MND, Fresno (2020; 14);
- Casmalia and Linden Warehouse IS, Fontana (2020; 15);
- Rubidoux Commerce Center Project IS/MND, Jurupa Valley (2020; 27);
- Haun and Holland Mixed Use Center MND, Menifee (2020; 23);
- First Industrial Logistics Center II, Moreno Valley IS/MND (2020; 23);
- GLP Store Warehouse Project Staff Report (2020; 15);
- Replies on Beale WAPA Interconnection Project EA & CEQA checklist (2020; 29);
- 2nd comments on Beale WAPA Interconnection Project EA & CEQA checklist (2020; 34);
- Beale WAPA Interconnection Project EA & CEQA checklist (2020; 30);
- Levine-Fricke Softball Field Improvement Addendum, UC Berkeley (2020; 16);
- Greenlaw Partners Warehouse and Distribution Center Staff Report, Palmdale (2020; 14);
- Humboldt Wind Energy Project DEIR (2019; 25);
- Sand Hill Supplemental EIR, Altamont Pass (2019; 17);
- 1700 Dell Avenue Office Project, Campbell (2019, 28);
- 1180 Main Street Office Project MND, Redwood City (2019; 19);
- Summit Ridge Wind Farm Request for Amendment 4, Oregon (2019; 46);
- Shafter Warehouse Staff Report (2019; 4);
- Park & Broadway Design Review, San Diego (2019; 19);
- Pinnacle Pacific Heights Design Review, San Diego (2019; 19);
- Pinnacle Park & C Design Review, San Diego (2019; 19);
- Preserve at Torrey Highlands EIR, San Diego (2019; 24);
- Santana West Project EIR Addendum, San Jose (2019; 18);
- The Ranch at Eastvale EIR Addendum, Riverside County (2020; 19);
- Hageman Warehouse IS/MND, Bakersfield (2019; 13);
- Oakley Logistics Center EIR, Antioch (2019; 22);
- 27 South First Street IS, San Jose (2019; 23);
- 2nd replies on Times Mirror Square Project EIR, Los Angeles (2020; 11);
- Replies on Times Mirror Square Project EIR, Los Angeles (2020; 13);
- Times Mirror Square Project EIR, Los Angeles (2019; 18);
- East Monte Vista & Aviator General Plan Amend EIR Addendum, Vacaville (2019; 22);
- Hillcrest LRDP EIR, La Jolla (2019; 36);

- 555 Portola Road CUP, Portola Valley (2019; 11);
- Johnson Drive Economic Development Zone SEIR, Pleasanton (2019; 27);
- 1750 Broadway Project CEQA Exemption, Oakland (2019; 19);
- Mor Furniture Project MND, Murietta Hot Springs (2019; 27);
- Harbor View Project EIR, Redwood City (2019; 26);
- Visalia Logistics Center (2019; 13);
- Cordelia Industrial Buildings MND (2019; 14);
- Scheu Distribution Center IS/ND, Rancho Cucamonga (2019; 13);
- Mills Park Center Staff Report, San Bruno (2019; 22);
- Site visit to Desert Highway Farms IS/MND, Imperial County (2019; 9);
- Desert Highway Farms IS/MND, Imperial County (2019; 12);
- ExxonMobil Interim Trucking for Santa Ynez Unit Restart SEIR, Santa Barbara (2019; 9);
- Olympic Holdings Inland Center Warehouse Project MND, Rancho Cucamonga (2019; 14);
- Replies to responses on Lawrence Equipment Industrial Warehouse, Banning (2019; 19);
- PARS Global Storage MND, Murietta (2019; 13);
- Slover Warehouse EIR Addendum, Fontana (2019; 16);
- Seefried Warehouse Project IS/MND, Lathrop (2019; 19)
- World Logistics Center Site Visit, Moreno Valley (2019; 19);
- Merced Landfill Gas-To-Energy Project IS/MND (2019; 12);
- West Village Expansion FEIR, UC Davis (2019; 11);
- Site visit, Doheny Ocean Desalination EIR, Dana Point (2019; 11);
- Replies to responses on Avalon West Valley Expansion EIR, San Jose (2019; 10);
- Avalon West Valley Expansion EIR, San Jose (2019; 22);
- Sunroad – Otay 50 EIR Addendum, San Diego (2019; 26);
- Del Rey Pointe Residential Project IS/MND, Los Angeles (2019; 34);
- 1 AMD Redevelopment EIR, Sunnyvale (2019; 22);
- Lawrence Equipment Industrial Warehouse IS/MND, Banning (2019; 14);
- SDG Commerce 330 Warehouse IS, American Canyon (2019; 21);
- PAMA Business Center IS/MND, Moreno Valley (2019; 23);
- Cupertino Village Hotel IS (2019; 24);
- Lake House IS/ND, Lodi (2019; 33);
- Campo Wind Project DEIS, San Diego County (DEIS, (2019; 14);
- Stirling Warehouse MND site visit, Victorville (2019; 7);
- Green Valley II Mixed-Use Project EIR, Fairfield (2019; 36);
- We Be Jammin rezone MND, Fresno (2019; 14);
- Gray Whale Cove Pedestrian Crossing IS/ND, Pacifica (2019; 7);
- Visalia Logistics Center & DDG 697V Staff Report (2019; 9);
- Mather South Community Masterplan Project EIR (2019; 35);
- Del Hombro Apartments EIR, Walnut Creek (2019; 23);
- Otay Ranch Planning Area 12 EIR Addendum, Chula Vista (2019; 21);
- The Retreat at Sacramento IS/MND (2019; 26);
- Site visit to Sunroad – Centrum 6 EIR Addendum, San Diego (2019; 9);
- Sunroad – Centrum 6 EIR Addendum, San Diego (2018; 22);
- North First and Brokaw Corporate Campus Buildings EIR Addendum, San Jose (2018; 30);

- South Lake Solar IS, Fresno County (2018; 18);
- Galloo Island Wind Project Application, New York (not submitted) (2018; 44);
- Doheny Ocean Desalination EIR, Dana Point (2018; 15);
- Stirling Warehouse MND, Victorville (2018; 18);
- LDK Warehouse MND, Vacaville (2018; 30);
- Gateway Crossings FEIR, Santa Clara (2018; 23);
- South Hayward Development IS/MND (2018; 9);
- CBU Specific Plan Amendment, Riverside (2018; 27);
- 2nd replies to responses on Dove Hill Road Assisted Living Project MND (2018; 11);
- Replies to responses on Dove Hill Road Assisted Living Project MND (2018; 7);
- Dove Hill Road Assisted Living Project MND (2018; 12);
- Deer Ridge/Shadow Lakes Golf Course EIR, Brentwood (2018; 21);
- Pyramid Asphalt BLM Finding of No Significance, Imperial County (2018; 22);
- Am re Apartments IS/MND, Martinez (2018; 15);
- Petaluma Hill Road Cannabis MND, Santa Rosa (2018; 21);
- 2nd comments on Zeiss Innovation Center IS/MND, Dublin (2018; 12);
- Zeiss Innovation Center IS/MND, Dublin (2018; 32);
- City of Hope Campus Plan EIR, Duarte (2018; 21);
- Palo Verde Center IS/MND, Blythe (2018; 14);
- Logisticcenter at Vacaville MND (2018; 24);
- IKEA Retail Center SEIR, Dublin (2018; 17);
- Merge 56 EIR, San Diego (2018; 15);
- Natomas Crossroads Quad B Office Project P18-014 EIR, Sacramento (2018; 12);
- 2900 Harbor Bay Parkway Staff Report, Alameda (2018; 30);
- At Dublin EIR, Dublin (2018; 25);
- Fresno Industrial Rezone Amendment Application No. 3807 IS (2018; 10);
- Nova Business Park IS/MND, Napa (2018; 18);
- Updated Collision Risk Model Priors for Estimating Eagle Fatalities, USFWS (2018; 57);
- 750 Marlborough Avenue Warehouse MND, Riverside (2018; 14);
- Replies to responses on San Bernardino Logistics Center IS (2018; 12);
- San Bernardino Logistics Center IS (2018; 19);
- CUP2017-16, Costco IS/MND, Clovis (2018; 11);
- Desert Land Ventures Specific Plan EIR, Desert Hot Springs (2018; 18);
- Ventura Hilton IS/MND (2018; 30);
- North of California Street Master Plan Project IS, Mountain View (2018; 11);
- Tamarind Warehouse MND, Fontana (2018; 16);
- Lathrop Gateway Business Park EIR Addendum (2018; 23);
- Centerpointe Commerce Center IS, Moreno Valley (2019; 18);
- Amazon Warehouse Notice of Exemption, Bakersfield (2018; 13);
- CenterPoint Building 3 project Staff Report, Manteca (2018; 23);
- Cessna & Aviator Warehouse IS/MND, Vacaville (2018; 24);
- Napa Airport Corporate Center EIR, American Canyon (2018, 15);
- 800 Opal Warehouse Initial Study, Mentone, San Bernardino County (2018; 18);
- 2695 W. Winton Ave Industrial Project IS, Hayward (2018; 22);

- Trinity Cannabis Cultivation and Manufacturing Facility DEIR, Calexico (2018; 15);
- Shoe Palace Expansion IS/MND, Morgan Hill (2018; 21);
- Newark Warehouse at Morton Salt Plant Staff Report (2018; 15);
- Northlake Specific Plan FEIR “Peer Review”, Los Angeles County (2018; 9);
- Replies to responses on Northlake Specific Plan SEIR, Los Angeles County (2018; 13);
- Northlake Specific Plan SEIR, Los Angeles County (2017; 27);
- Bogle Wind Turbine DEIR, east Yolo County (2017; 48);
- Ferrante Apartments IS/MND, Los Angeles (2017; 14);
- The Villages of Lakeview EIR, Riverside (2017; 28);
- Data Needed for Assessing Trail Management Impacts on Northern Spotted Owl, Marin County (2017; 5);
- Notes on Proposed Study Options for Trail Impacts on Northern Spotted Owl (2017; 4);
- Pyramid Asphalt IS, Imperial County (Declaration) (2017; 5);
- San Geronio Crossings EIR, Riverside County (2017; 22);
- Replies to responses on Jupiter Project IS and MND, Apple Valley (2017; 12);
- Proposed World Logistics Center Mitigation Measures, Moreno Valley (2017, 2019; 12);
- MacArthur Transit Village Project Modified 2016 CEQA Analysis (2017; 12);
- PG&E Company Bay Area Operations and Maintenance HCP (2017; 45);
- Central SoMa Plan DEIR (2017; 14);
- Suggested mitigation for trail impacts on northern spotted owl, Marin County (2016; 5);
- Colony Commerce Center Specific Plan DEIR, Ontario (2016; 16);
- Fairway Trails Improvements MND, Marin County (2016; 13);
- Review of Avian-Solar Science Plan (2016; 28);
- Replies on Pyramid Asphalt IS, Imperial County (2016; 5);
- Pyramid Asphalt IS, Imperial County (2016; 4);
- Agua Mansa Distribution Warehouse Project Initial Study (2016; 14);
- Santa Anita Warehouse MND, Rancho Cucamonga (2016; 12);
- CapRock Distribution Center III DEIR, Rialto (2016; 12);
- Orange Show Logistics Center IS/MND, San Bernardino (2016; 9);
- City of Palmdale Oasis Medical Village Project IS/MND (2016; 7);
- Comments on proposed rule for incidental eagle take, USFWS (2016, 49);
- Replies on Grapevine Specific and Community Plan FEIR, Kern County (2016; 25);
- Grapevine Specific and Community Plan DEIR, Kern County (2016; 15);
- Clinton County Zoning Ordinance for Wind Turbine siting (2016);
- Hallmark at Shenandoah Warehouse Project Initial Study, San Bernardino (2016; 6);
- Tri-City Industrial Complex Initial Study, San Bernardino (2016; 5);
- Hidden Canyon Industrial Park Plot Plan 16-PP-02, Beaumont (2016; 12);
- Kimball Business Park DEIR (2016; 10);
- Jupiter Project IS and MND, Apple Valley, San Bernardino County (2016; 9);
- Revised Draft Giant Garter Snake Recovery Plan of 2015 (2016, 18);
- Palo Verde Mesa Solar Project EIR, Blythe (2016; 27);
- Reply on Fairview Wind Project Natural Heritage Assessment, Ontario, Canada (2016; 14);
- Fairview Wind Project Natural Heritage Assessment, Ontario, Canada (2016; 41);
- Reply on Amherst Island Wind Farm Natural Heritage Assessment, Ontario (2015, 38);

- Amherst Island Wind Farm Natural Heritage Assessment, Ontario (2015, 31);
- Second Reply on White Pines Wind Farm, Ontario (2015, 6);
- Reply on White Pines Wind Farm Natural Heritage Assessment, Ontario (2015, 10);
- White Pines Wind Farm Natural Heritage Assessment, Ontario (2015, 9);
- Proposed Section 24 Specific Plan Agua Caliente Band of Cahuilla Indians DEIS (2015, 9);
- Replies on 24 Specific Plan Agua Caliente Band of Cahuilla Indians FEIS (2015, 6);
- Sierra Lakes Commerce Center Project DEIR, Fontana (2015, 9);
- Columbia Business Center MND, Riverside (2015; 8);
- West Valley Logistics Center Specific Plan DEIR, Fontana (2015, 10);
- Willow Springs Solar Photovoltaic Project DEIR (2015, 28);
- Alameda Creek Bridge Replacement Project DEIR (2015, 10);
- World Logistic Center Specific Plan FEIR, Moreno Valley (2015, 12);
- Elkhorn Valley Wind Power Project Impacts, Oregon (2015; 143);
- Bay Delta Conservation Plan EIR/EIS, Sacramento (2014, 21);
- Addison Wind Energy Project DEIR, Mojave (2014, 32);
- Replies on the Addison Wind Energy Project DEIR, Mojave (2014, 15);
- Addison and Rising Tree Wind Energy Project FEIR, Mojave (2014, 12);
- Palen Solar Electric Generating System FSA (CEC), Blythe (2014, 20);
- Rebuttal testimony on Palen Solar Energy Generating System (2014, 9);
- Seven Mile Hill and Glenrock/Rolling Hills impacts + Addendum, Wyoming (2014; 105);
- Rising Tree Wind Energy Project DEIR, Mojave (2014, 32);
- Replies on the Rising Tree Wind Energy Project DEIR, Mojave (2014, 15);
- Soitec Solar Development Project PEIR, Boulevard, San Diego County (2014, 18);
- Oakland Zoo expansion on Alameda whipsnake and California red-legged frog (2014; 3);
- Alta East Wind Energy Project FEIS, Tehachapi Pass (2013, 23);
- Blythe Solar Power Project Staff Assessment, California Energy Commission (2013, 16);
- Clearwater and Yakima Solar Projects DEIR, Kern County (2013, 9);
- West Antelope Solar Energy Project IS/MND, Antelope Valley (2013, 18);
- Cuyama Solar Project DEIR, Carrizo Plain (2014, 19);
- Desert Renewable Energy Conservation Plan (DRECP) EIR/EIS (2015, 49);
- Kingbird Solar Photovoltaic Project EIR, Kern County (2013, 19);
- Lucerne Valley Solar Project IS/MND, San Bernardino County (2013, 12);
- Tule Wind project FEIR/FEIS (Declaration) (2013; 31);
- Sunlight Partners LANDPRO Solar Project MND (2013; 11);
- Declaration in opposition to BLM fracking (2013; 5);
- Blythe Energy Project (solar) CEC Staff Assessment (2013;16);
- Rosamond Solar Project EIR Addendum, Kern County (2013; 13);
- Pioneer Green Solar Project EIR, Bakersfield (2013; 13);
- Replies on Soccer Center Solar Project MND (2013; 6);
- Soccer Center Solar Project MND, Lancaster (2013; 10);
- Plainview Solar Works MND, Lancaster (2013; 10);
- Alamo Solar Project MND, Mojave Desert (2013; 15);
- Replies on Imperial Valley Solar Company 2 Project (2013; 10);
- Imperial Valley Solar Company 2 Project (2013; 13);

- FRV Orion Solar Project DEIR, Kern County (PP12232) (2013; 9);
- Casa Diablo IV Geothermal Development Project (2013; 6);
- Reply on Casa Diablo IV Geothermal Development Project (2013; 8);
- Alta East Wind Project FEIS, Tehachapi Pass (2013; 23);
- Metropolitan Air Park DEIR, City of San Diego (2013;);
- Davidson Homes Tentative Subdivision Rezoning Project DEIR, Petaluma (2013; 9);
- Oakland Zoo Expansion Impacts on Alameda Whipsnake (2013; 10);
- Campo Verde Solar project FEIR, Imperial Valley (2013; 11pp);
- Neg Dec comments on Davis Sewer Trunk Rehabilitation (2013; 8);
- North Steens Transmission Line FEIS, Oregon (Declaration) (2012; 62);
- Summer Solar and Springtime Solar Projects IS/MND Lancaster (2012; 8);
- J&J Ranch, 24 Adobe Lane Environmental Review, Orinda (2012; 14);
- Replies on Hudson Ranch Power II Geothermal Project and Simbol Calipatria Plant II (2012; 8);
- Hudson Ranch Power II Geothermal Project and Simbol Calipatria Plant II (2012; 9);
- Desert Harvest Solar Project EIS, near Joshua Tree (2012; 15);
- Solar Gen 2 Array Project DEIR, El Centro (2012; 16);
- Ocotillo Sol Project EIS, Imperial Valley (2012; 4);
- Beacon Photovoltaic Project DEIR, Kern County (2012; 5);
- Butte Water District 2012 Water Transfer Program IS/MND (2012; 11);
- Mount Signal and Calxico Solar Farm Projects DEIR (2011; 16);
- City of Elk Grove Sphere of Influence EIR (2011; 28);
- Sutter Landing Park Solar Photovoltaic Project MND, Sacramento (2011; 9);
- Rabik/Gudath Project, 22611 Coleman Valley Road, Bodega Bay (CPN 10-0002) (2011; 4);
- Ivanpah Solar Electric Generating System (ISEGS) (Declaration) (2011; 9);
- Draft Eagle Conservation Plan Guidance, USFWS (2011; 13);
- Niles Canyon Safety Improvement Project EIR/EA (2011; 16);
- Route 84 Safety Improvement Project (Declaration) (2011; 7);
- Rebuttal on Whistling Ridge Wind Energy Power DEIS, Skamania County, (2010; 6);
- Whistling Ridge Wind Energy Power DEIS, Skamania County, Washington (2010; 41);
- Klickitat County's Decisions on Windy Flats West Wind Energy Project (2010; 17);
- St. John's Church Project DEIR, Orinda (2010; 14);
- Results Radio Zone File #2009-001 IS/MND, Conaway site, Davis (2010; 20);
- Rio del Oro Specific Plan Project FEIR, Rancho Cordova (2010;12);
- Results Radio Zone File #2009-001, Mace Blvd site, Davis (2009; 10);
- Answers to Questions on 33% RPS Implementation Analysis Preliminary Results Report (2009; 9);
- SEPA Determination of Non-significance regarding zoning adjustments for Skamania County, Washington (Second Declaration) (2008; 17);
- Draft 1A Summary Report to CAISO (2008; 10);
- Hilton Manor Project Categorical Exemption, County of Placer (2009; 9);
- Protest of CARE to Amendment to the Power Purchase and Sale Agreement for Procurement of Eligible Renewable Energy Resources Between Hatchet Ridge Wind LLC and PG&E (2009; 3);

- Tehachapi Renewable Transmission Project EIR/EIS (2009; 142);
- Delta Shores Project EIR, south Sacramento (2009; 11 + addendum 2);
- Declaration in Support of Care's Petition to Modify D.07-09-040 (2008; 3);
- The Public Utility Commission's Implementation Analysis December 16 Workshop for the Governor's Executive Order S-14-08 to implement a 33% Renewable Portfolio Standard by 2020 (2008; 9);
- The Public Utility Commission's Implementation Analysis Draft Work Plan for the Governor's Executive Order S-14-08 to implement a 33% Renewable Portfolio Standard by 2020 (2008; 11);
- Draft 1A Summary Report to California Independent System Operator for Planning Reserve Margins (PRM) Study (2008; 7.);
- SEPA Determination of Non-significance regarding zoning adjustments for Skamania County, Washington (Declaration) (2008; 16);
- Colusa Generating Station, California Energy Commission PSA (2007; 24);
- Rio del Oro Specific Plan Project Recirculated DEIR, Mather (2008; 66);
- Replies on Regional University Specific Plan EIR, Roseville (2008; 20);
- Regional University Specific Plan EIR, Roseville (2008; 33);
- Clark Precast, LLC's "Sugarland" project, ND, Woodland (2008; 15);
- Cape Wind Project DEIS, Nantucket (2008; 157);
- Yuba Highlands Specific Plan EIR, Spenceville, Yuba County (2006; 37);
- Replies to responses on North Table Mountain MND, Butte County (2006; 5);
- North Table Mountain MND, Butte County (2006; 15);
- Windy Point Wind Farm EIS (2006; 14 and Powerpoint slide replies);
- Shiloh I Wind Power Project EIR, Rio Vista (2005; 18);
- Buena Vista Wind Energy Project NOP, Byron (2004; 15);
- Callahan Estates Subdivision ND, Winters (2004; 11);
- Winters Highlands Subdivision IS/ND (2004; 9);
- Winters Highlands Subdivision IS/ND (2004; 13);
- Creekside Highlands Project, Tract 7270 ND (2004; 21);
- Petition to California Fish and Game Commission to list Burrowing Owl (2003; 10);
- Altamont Pass Wind Resource Area CUP renewals, Alameda County (2003; 41);
- UC Davis Long Range Development Plan: Neighborhood Master Plan (2003; 23);
- Anderson Marketplace Draft Environmental Impact Report (2003; 18);
- Negative Declaration of the proposed expansion of Temple B'nai Tikyah (2003; 6);
- Antonio Mountain Ranch Specific Plan Public Draft EIR (2002; 23);
- Replies on East Altamont Energy Center evidentiary hearing (2002; 9);
- Revised Draft Environmental Impact Report, The Promenade (2002; 7);
- Recirculated Initial Study for Calpine's proposed Pajaro Valley Energy Center (2002; 3);
- UC Merced -- Declaration (2002; 5);
- Replies on Atwood Ranch Unit III Subdivision FEIR (2003; 22);
- Atwood Ranch Unit III Subdivision EIR (2002; 19);
- California Energy Commission Staff Report on GWF Tracy Peaker Project (2002; 20);
- Silver Bend Apartments IS/MND, Placer County (2002; 13);
- UC Merced Long-range Development Plan DEIR and UC Merced Community Plan DEIR (2001; 26);

- Colusa County Power Plant IS, Maxwell (2001; 6);
- Dog Park at Catlin Park, Folsom, California (2001; 5);
- Calpine and Bechtel Corporations' Biological Resources Implementation and Monitoring Program (BRMIMP) for the Metcalf Energy Center (2000; 10);
- Metcalf Energy Center, California Energy Commission FSA (2000);
- US Fish and Wildlife Service Section 7 consultation with the California Energy Commission regarding Calpine and Bechtel Corporations' Metcalf Energy Center (2000; 4);
- California Energy Commission's Preliminary Staff Assessment of the proposed Metcalf Energy Center (2000: 11);
- Site-specific management plans for the Natomas Basin Conservancy's mitigation lands, prepared by Wildlands, Inc. (2000: 7);
- Affidavit of K. Shawn Smallwood in Spirit of the Sage Council, et al. (Plaintiffs) vs. Bruce Babbitt, Secretary, U.S. Department of the Interior, et al. (Defendants), Injuries caused by the No Surprises policy and final rule which codifies that policy (1999: 9).
- California Board of Forestry's proposed amended Forest Practices Rules (1999);
- Sunset Skyranch Airport Use Permit IS/MND (1999);
- Ballona West Bluffs Project Environmental Impact Report (1999; oral presentation);
- Draft Recovery Plan for Giant Garter Snake (Fed. Reg. 64(176): 49497-49498) (1999; 8);
- Draft Recovery Plan for Arroyo Southwestern Toad (1998);
- Pacific Lumber Co. (Headwaters) HCP & EIR, Fortuna (1998; 28);
- Natomas Basin HCP Permit Amendment, Sacramento (1998);
- San Diego Multi-Species Conservation Program FEIS/FEIR (1997; 10);

Comments on other Environmental Review Documents:

- Proposed Regulation for California Fish and Game Code Section 3503.5 (2015: 12);
- Statement of Overriding Considerations related to extending Altamont Winds, Inc.'s Conditional Use Permit PLN2014-00028 (2015; 8);
- Covell Village PEIR, Davis (2005; 19);
- Bureau of Land Management Wind Energy Programmatic EIS Scoping (2003; 7.);
- NEPA Environmental Analysis for Biosafety Level 4 National Biocontainment Laboratory (NBL) at UC Davis (2003: 7);
- Notice of Preparation of UC Merced Community and Area Plan EIR, on behalf of The Wildlife Society—Western Section (2001: 8.);
- Preliminary Draft Yolo County Habitat Conservation Plan (2001; 2 letters totaling 35.);
- Merced County General Plan Revision, notice of Negative Declaration (2001: 2.);
- Notice of Preparation of Campus Parkway EIR/EIS (2001: 7.);
- Draft Recovery Plan for the bighorn sheep in the Peninsular Range (*Ovis candensis*) (2000);
- Draft Recovery Plan for the California Red-legged Frog (*Rana aurora draytonii*), on behalf of The Wildlife Society—Western Section (2000: 10.);
- Sierra Nevada Forest Plan Amendment Draft Environmental Impact Statement, on behalf of The Wildlife Society—Western Section (2000: 7.);
- State Water Project Supplemental Water Purchase Program, Draft Program EIR (1997);
- Davis General Plan Update EIR (2000);
- Turn of the Century EIR (1999: 10);

- Proposed termination of Critical Habitat Designation under the Endangered Species Act (Fed. Reg. 64(113): 31871-31874) (1999);
- NOA Draft Addendum to the Final Handbook for Habitat Conservation Planning and Incidental Take Permitting Process, termed the HCP 5-Point Policy Plan (Fed. Reg. 64(45): 11485 - 11490) (1999; 2 + attachments);
- Covell Center Project EIR and EIR Supplement (1997).

Position Statements I prepared the following position statements for the Western Section of The Wildlife Society, and one for nearly 200 scientists:

- Recommended that the California Department of Fish and Game prioritize the extermination of the introduced southern water snake in northern California. The Wildlife Society--Western Section (2001);
- Recommended that The Wildlife Society—Western Section appoint or recommend members of the independent scientific review panel for the UC Merced environmental review process (2001);
- Opposed the siting of the University of California’s 10th campus on a sensitive vernal pool/grassland complex east of Merced. The Wildlife Society--Western Section (2000);
- Opposed the legalization of ferret ownership in California. The Wildlife Society--Western Section (2000);
- Opposed the Proposed “No Surprises,” “Safe Harbor,” and “Candidate Conservation Agreement” rules, including permit-shield protection provisions (Fed. Reg. Vol. 62, No. 103, pp. 29091-29098 and No. 113, pp. 32189-32194). This statement was signed by 188 scientists and went to the responsible federal agencies, as well as to the U.S. Senate and House of Representatives.

Posters at Professional Meetings

Leyvas, E. and K. S. Smallwood. 2015. Rehabilitating injured animals to offset and rectify wind project impacts. Conference on Wind Energy and Wildlife Impacts, Berlin, Germany, 9-12 March 2015.

Smallwood, K. S., J. Mount, S. Standish, E. Leyvas, D. Bell, E. Walther, B. Karas. 2015. Integrated detection trials to improve the accuracy of fatality rate estimates at wind projects. Conference on Wind Energy and Wildlife Impacts, Berlin, Germany, 9-12 March 2015.

Smallwood, K. S. and C. G. Thelander. 2005. Lessons learned from five years of avian mortality research in the Altamont Pass WRA. AWEA conference, Denver, May 2005.

Neher, L., L. Wilder, J. Woo, L. Spiegel, D. Yen-Nakafugi, and K.S. Smallwood. 2005. Bird’s eye view on California wind. AWEA conference, Denver, May 2005.

Smallwood, K. S., C. G. Thelander and L. Spiegel. 2003. Toward a predictive model of avian fatalities in the Altamont Pass Wind Resource Area. Windpower 2003 Conference and Convention, Austin, Texas.

Smallwood, K.S. and Eva Butler. 2002. Pocket Gopher Response to Yellow Star-thistle Eradication as part of Grassland Restoration at Decommissioned Mather Air Force Base, Sacramento County,

California. White Mountain Research Station Open House, Barcroft Station.

Smallwood, K.S. and Michael L. Morrison. 2002. Fresno kangaroo rat (*Dipodomys nitratoides*) Conservation Research at Resources Management Area 5, Lemoore Naval Air Station. White Mountain Research Station Open House, Barcroft Station.

Smallwood, K.S. and E.L. Fitzhugh. 1989. Differentiating mountain lion and dog tracks. Third Mountain Lion Workshop, Prescott, AZ.

Smith, T. R. and K. S. Smallwood. 2000. Effects of study area size, location, season, and allometry on reported *Sorex* shrew densities. Annual Meeting of the Western Section of The Wildlife Society.

Presentations at Professional Meetings and Seminars

Long-Term Population Trend of Burrowing Owls in the Altamont. Golden Gate Audubon, 21 October 2020.

Long-Term Population Trend of Burrowing Owls in the Altamont. East Bay Regional Park District 2020 Stewardship Seminar, Oakland, California, 18 November 2020.

Smallwood, K.S., D.A. Bell, and S. Standish. Dogs detect larger wind energy effects on bats and birds. The Wildlife Society, 28 September 2020.

Smallwood, K.S. and D.A. Bell. Effects of wind turbine curtailment on bird and bat fatalities in the Altamont Pass Wind Resource Area. The Wildlife Society, 28 September 2020.

Smallwood, K.S., D.A. Bell, and S. Standish. Dogs detect larger wind energy effects on bats and birds. The Wildlife Survey, 7 February 2020.

Smallwood, K.S. and D.A. Bell. Effects of wind turbine curtailment on bird and bat fatalities in the Altamont Pass Wind Resource Area. The Wildlife Survey, 7 February 2020.

Dog detections of bat and bird fatalities at wind farms in the Altamont Pass Wind Resource Area. East Bay Regional Park District 2019 Stewardship Seminar, Oakland, California, 13 November 2019.

Repowering the Altamont Pass. Altamont Symposium, The Wildlife Society – Western Section, 5 February 2017.

Developing methods to reduce bird mortality in the Altamont Pass Wind Resource Area, 1999-2007. Altamont Symposium, The Wildlife Society – Western Section, 5 February 2017.

Conservation and recovery of burrowing owls in Santa Clara Valley. Santa Clara Valley Habitat Agency, Newark, California, 3 February 2017.

Mitigation of Raptor Fatalities in the Altamont Pass Wind Resource Area. Raptor Research Foundation Meeting, Sacramento, California, 6 November 2015.

From burrows to behavior: Research and management for burrowing owls in a diverse landscape. California Burrowing Owl Consortium meeting, 24 October 2015, San Jose, California.

The Challenges of repowering. Keynote presentation at Conference on Wind Energy and Wildlife Impacts, Berlin, Germany, 10 March 2015.

Research Highlights Altamont Pass 2011-2015. Scientific Review Committee, Oakland, California, 8 July 2015.

Siting wind turbines to minimize raptor collisions: Altamont Pass Wind Resource Area. US Fish and Wildlife Service Golden Eagle Working Group, Sacramento, California, 8 January 2015.

Evaluation of nest boxes as a burrowing owl conservation strategy. Sacramento Chapter of the Western Section, The Wildlife Society. Sacramento, California, 26 August 2013.

Predicting collision hazard zones to guide repowering of the Altamont Pass. Conference on wind power and environmental impacts. Stockholm, Sweden, 5-7 February 2013.

Impacts of Wind Turbines on Wildlife. California Council for Wildlife Rehabilitators, Yosemite, California, 12 November 2012.

Impacts of Wind Turbines on Birds and Bats. Madrone Audubon Society, Santa Rosa, California, 20 February 2012.

Comparing Wind Turbine Impacts across North America. California Energy Commission Staff Workshop: Reducing the Impacts of Energy Infrastructure on Wildlife, 20 July 2011.

Siting Repowered Wind Turbines to Minimize Raptor Collisions. California Energy Commission Staff Workshop: Reducing the Impacts of Energy Infrastructure on Wildlife, 20 July 2011.

Siting Repowered Wind Turbines to Minimize Raptor Collisions. Alameda County Scientific Review Committee meeting, 17 February 2011

Comparing Wind Turbine Impacts across North America. Conference on Wind energy and Wildlife impacts, Trondheim, Norway, 3 May 2011.

Update on Wildlife Impacts in the Altamont Pass Wind Resource Area. Raptor Symposium, The Wildlife Society—Western Section, Riverside, California, February 2011.

Siting Repowered Wind Turbines to Minimize Raptor Collisions. Raptor Symposium, The Wildlife Society - Western Section, Riverside, California, February 2011.

Wildlife mortality caused by wind turbine collisions. Ecological Society of America, Pittsburgh, Pennsylvania, 6 August 2010.

Map-based repowering and reorganization of a wind farm to minimize burrowing owl fatalities. California burrowing Owl Consortium Meeting, Livermore, California, 6 February 2010.

Environmental barriers to wind power. Getting Real About Renewables: Economic and Environmental Barriers to Biofuels and Wind Energy. A symposium sponsored by the Environmental & Energy Law & Policy Journal, University of Houston Law Center, Houston, 23 February 2007.

Lessons learned about bird collisions with wind turbines in the Altamont Pass and other US wind farms. Meeting with Japan Ministry of the Environment and Japan Ministry of the Economy, Wild Bird Society of Japan, and other NGOs Tokyo, Japan, 9 November 2006.

Lessons learned about bird collisions with wind turbines in the Altamont Pass and other US wind farms. Symposium on bird collisions with wind turbines. Wild Bird Society of Japan, Tokyo, Japan, 4 November 2006.

Responses of Fresno kangaroo rats to habitat improvements in an adaptive management framework. California Society for Ecological Restoration (SERCAL) 13th Annual Conference, UC Santa Barbara, 27 October 2006.

Fatality associations as the basis for predictive models of fatalities in the Altamont Pass Wind Resource Area. EEI/APLIC/PIER Workshop, 2006 Biologist Task Force and Avian Interaction with Electric Facilities Meeting, Pleasanton, California, 28 April 2006.

Burrowing owl burrows and wind turbine collisions in the Altamont Pass Wind Resource Area. The Wildlife Society - Western Section Annual Meeting, Sacramento, California, February 8, 2006.

Mitigation at wind farms. Workshop: Understanding and resolving bird and bat impacts. American Wind Energy Association and Audubon Society. Los Angeles, CA. January 10 and 11, 2006.

Incorporating data from the California Wildlife Habitat Relationships (CWHR) system into an impact assessment tool for birds near wind farms. Shawn Smallwood, Kevin Hunting, Marcus Yee, Linda Spiegel, Monica Parisi. Workshop: Understanding and resolving bird and bat impacts. American Wind Energy Association and Audubon Society. Los Angeles, CA. January 10 and 11, 2006.

Toward indicating threats to birds by California's new wind farms. California Energy Commission, Sacramento, May 26, 2005.

Avian collisions in the Altamont Pass. California Energy Commission, Sacramento, May 26, 2005.

Ecological solutions for avian collisions with wind turbines in the Altamont Pass Wind Resource Area. EPRI Environmental Sector Council, Monterey, California, February 17, 2005.

Ecological solutions for avian collisions with wind turbines in the Altamont Pass Wind Resource Area. The Wildlife Society—Western Section Annual Meeting, Sacramento, California, January 19, 2005.

Associations between avian fatalities and attributes of electric distribution poles in California. The Wildlife Society - Western Section Annual Meeting, Sacramento, California, January 19, 2005.

Minimizing avian mortality in the Altamont Pass Wind Resources Area. UC Davis Wind Energy Collaborative Forum, Palm Springs, California, December 14, 2004.

Selecting electric distribution poles for priority retrofitting to reduce raptor mortality. Raptor Research Foundation Meeting, Bakersfield, California, November 10, 2004.

Responses of Fresno kangaroo rats to habitat improvements in an adaptive management framework. Annual Meeting of the Society for Ecological Restoration, South Lake Tahoe, California, October 16, 2004.

Lessons learned from five years of avian mortality research at the Altamont Pass Wind Resources Area in California. The Wildlife Society Annual Meeting, Calgary, Canada, September 2004.

The ecology and impacts of power generation at Altamont Pass. Sacramento Petroleum Association, Sacramento, California, August 18, 2004.

Burrowing owl mortality in the Altamont Pass Wind Resource Area. California Burrowing Owl Consortium meeting, Hayward, California, February 7, 2004.

Burrowing owl mortality in the Altamont Pass Wind Resource Area. California Burrowing Owl Symposium, Sacramento, November 2, 2003.

Raptor Mortality at the Altamont Pass Wind Resource Area. National Wind Coordinating Committee, Washington, D.C., November 17, 2003.

Raptor Behavior at the Altamont Pass Wind Resource Area. Annual Meeting of the Raptor Research Foundation, Anchorage, Alaska, September, 2003.

Raptor Mortality at the Altamont Pass Wind Resource Area. Annual Meeting of the Raptor Research Foundation, Anchorage, Alaska, September, 2003.

California mountain lions. Ecological & Environmental Issues Seminar, Department of Biology, California State University, Sacramento, November, 2000.

Intra- and inter-turbine string comparison of fatalities to animal burrow densities at Altamont Pass. National Wind Coordinating Committee, Carmel, California, May, 2000.

Using a Geographic Positioning System (GPS) to map wildlife and habitat. Annual Meeting of the Western Section of The Wildlife Society, Riverside, CA, January, 2000.

Suggested standards for science applied to conservation issues. Annual Meeting of the Western Section of The Wildlife Society, Riverside, CA, January, 2000.

The indicators framework applied to ecological restoration in Yolo County, California. Society for Ecological Restoration, September 25, 1999.

Ecological restoration in the context of animal social units and their habitat areas. Society for Ecological Restoration, September 24, 1999.

Relating Indicators of Ecological Health and Integrity to Assess Risks to Sustainable Agriculture and Native Biota. International Conference on Ecosystem Health, August 16, 1999.

A crosswalk from the Endangered Species Act to the HCP Handbook and real HCPs. Southern California Edison, Co. and California Energy Commission, March 4-5, 1999.

Mountain lion track counts in California: Implications for Management. Ecological & Environmental Issues Seminar, Department of Biological Sciences, California State University, Sacramento, November 4, 1998.

“No Surprises” -- Lack of science in the HCP process. California Native Plant Society Annual Conservation Conference, The Presidio, San Francisco, September 7, 1997.

In Your Interest. A half hour weekly show aired on Channel 10 Television, Sacramento. In this episode, I served on a panel of experts discussing problems with the implementation of the Endangered Species Act. Aired August 31, 1997.

Spatial scaling of pocket gopher (*Geomyidae*) density. Southwestern Association of Naturalists 44th Meeting, Fayetteville, Arkansas, April 10, 1997.

Estimating prairie dog and pocket gopher burrow volume. Southwestern Association of Naturalists 44th Meeting, Fayetteville, Arkansas, April 10, 1997.

Ten years of mountain lion track survey. Fifth Mountain Lion Workshop, San Diego, February 27, 1996.

Study and interpretive design effects on mountain lion density estimates. Fifth Mountain Lion Workshop, San Diego, February 27, 1996.

Small animal control. Session moderator and speaker at the California Farm Conference, Sacramento, California, Feb. 28, 1995.

Small animal control. Ecological Farming Conference, Asylomar, California, Jan. 28, 1995.

Habitat associations of the Swainson's Hawk in the Sacramento Valley's agricultural landscape. 1994 Raptor Research Foundation Meeting, Flagstaff, Arizona.

Alfalfa as wildlife habitat. Seed Industry Conference, Woodland, California, May 4, 1994.

Habitats and vertebrate pests: impacts and management. Managing Farmland to Bring Back Game Birds and Wildlife to the Central Valley. Yolo County Resource Conservation District, U.C. Davis, February 19, 1994.

Management of gophers and alfalfa as wildlife habitat. Orland Alfalfa Production Meeting and Sacramento Valley Alfalfa Production Meeting, February 1 and 2, 1994.

Patterns of wildlife movement in a farming landscape. Wildlife and Fisheries Biology Seminar

Series: Recent Advances in Wildlife, Fish, and Conservation Biology, U.C. Davis, Dec. 6, 1993.

Alfalfa as wildlife habitat. California Alfalfa Symposium, Fresno, California, Dec. 9, 1993.

Management of pocket gophers in Sacramento Valley alfalfa. California Alfalfa Symposium, Fresno, California, Dec. 8, 1993.

Association analysis of raptors in a farming landscape. Plenary speaker at Raptor Research Foundation Meeting, Charlotte, North Carolina, Nov. 6, 1993.

Landscape strategies for biological control and IPM. Plenary speaker, International Conference on Integrated Resource Management and Sustainable Agriculture, Beijing, China, Sept. 11, 1993.

Landscape Ecology Study of Pocket Gophers in Alfalfa. Alfalfa Field Day, U.C. Davis, July 1993.

Patterns of wildlife movement in a farming landscape. Spatial Data Analysis Colloquium, U.C. Davis, August 6, 1993.

Sound stewardship of wildlife. Veterinary Medicine Seminar: Ethics of Animal Use, U.C. Davis. May 1993.

Landscape ecology study of pocket gophers in alfalfa. Five County Grower's Meeting, Tracy, California. February 1993.

Turbulence and the community organizers: The role of invading species in ordering a turbulent system, and the factors for invasion success. Ecology Graduate Student Association Colloquium, U.C. Davis. May 1990.

Evaluation of exotic vertebrate pests. Fourteenth Vertebrate Pest Conference, Sacramento, California. March 1990.

Analytical methods for predicting success of mammal introductions to North America. The Western Section of the Wildlife Society, Hilo, Hawaii. February 1988.

A state-wide mountain lion track survey. Sacramento County Dept Parks and Recreation. April 1986.

The mountain lion in California. Davis Chapter of the Audubon Society. October 1985.

Ecology Graduate Student Seminars, U.C. Davis, 1985-1990: Social behavior of the mountain lion; Mountain lion control; Political status of the mountain lion in California.

Other forms of Participation at Professional Meetings

- Scientific Committee, Conference on Wind energy and Wildlife impacts, Berlin, Germany, March 2015.
- Scientific Committee, Conference on Wind energy and Wildlife impacts, Stockholm,

Sweden, February 2013.

- Workshop co-presenter at Birds & Wind Energy Specialist Group (BAWESG) Information sharing week, Bird specialist studies for proposed wind energy facilities in South Africa, Endangered Wildlife Trust, Darling, South Africa, 3-7 October 2011.
- Scientific Committee, Conference on Wind energy and Wildlife impacts, Trondheim, Norway, 2-5 May 2011.
- Chair of Animal Damage Management Session, The Wildlife Society, Annual Meeting, Reno, Nevada, September 26, 2001.
- Chair of Technical Session: Human communities and ecosystem health: Comparing perspectives and making connection. Managing for Ecosystem Health, International Congress on Ecosystem Health, Sacramento, CA August 15-20, 1999.
- Student Awards Committee, Annual Meeting of the Western Section of The Wildlife Society, Riverside, CA, January, 2000.
- Student Mentor, Annual Meeting of the Western Section of The Wildlife Society, Riverside, CA, January, 2000.

Printed Mass Media

Smallwood, K.S., D. Mooney, and M. McGuinness. 2003. We must stop the UCD biolab now. Op-Ed to the Davis Enterprise.

Smallwood, K.S. 2002. Spring Lake threatens Davis. Op-Ed to the Davis Enterprise.

Smallwood, K.S. Summer, 2001. Mitigation of habitation. The Flatlander, Davis, California.

Entrikan, R.K. and K.S. Smallwood. 2000. Measure O: Flawed law would lock in new taxes. Op-Ed to the Davis Enterprise.

Smallwood, K.S. 2000. Davis delegation lobbies Congress for Wildlife conservation. Op-Ed to the Davis Enterprise.

Smallwood, K.S. 1998. Davis Visions. The Flatlander, Davis, California.

Smallwood, K.S. 1997. Last grab for Yolo's land and water. The Flatlander, Davis, California.

Smallwood, K.S. 1997. The Yolo County HCP. Op-Ed to the Davis Enterprise.

Radio/Television

PBS News Hour,

FOX News, Energy in America: Dead Birds Unintended Consequence of Wind Power

Development, August 2011.

KXJZ Capital Public Radio -- Insight (Host Jeffrey Callison). Mountain lion attacks (with guest Professor Richard Coss). 23 April 2009;

KXJZ Capital Public Radio -- Insight (Host Jeffrey Callison). Wind farm Rio Vista Renewable Power. 4 September 2008;

KQED QUEST Episode #111. Bird collisions with wind turbines. 2007;

KDVS Speaking in Tongues (host Ron Glick), Yolo County HCP: 1 hour. December 27, 2001;

KDVS Speaking in Tongues (host Ron Glick), Yolo County HCP: 1 hour. May 3, 2001;

KDVS Speaking in Tongues (host Ron Glick), Yolo County HCP: 1 hour. February 8, 2001;

KDVS Speaking in Tongues (host Ron Glick & Shawn Smallwood), California Energy Crisis: 1 hour. Jan. 25, 2001;

KDVS Speaking in Tongues (host Ron Glick), Headwaters Forest HCP: 1 hour. 1998;

Davis Cable Channel (host Gerald Heffernon), Burrowing owls in Davis: half hour. June, 2000;

Davis Cable Channel (hosted by Davis League of Women Voters), Measure O debate: 1 hour. October, 2000;

KXTV 10, In Your Interest, The Endangered Species Act: half hour. 1997.

Committees

- Scientific Review Committee, Alameda County, Altamont Pass Wind Resource Area
- Ph.D. Thesis Committee, Steve Anderson, University of California, Davis
- MS Thesis Committee, Marcus Yee, California State University, Sacramento

Other Professional Activities or Products

Testified in Federal Court in Denver during 2005 over the fate of radio-nuclides in the soil at Rocky Flats Plant after exposure to burrowing animals. My clients won a judgment of \$553,000,000. I have also testified in many other cases of litigation under CEQA, NEPA, the Warren-Alquist Act, and other environmental laws. My clients won most of the cases for which I testified.

Testified before Environmental Review Tribunals in Ontario, Canada regarding proposed White Pines, Amherst Island, and Fairview Wind Energy projects.

Testified in Skamania County Hearing in 2009 on the potential impacts of zoning the County for development of wind farms and hazardous waste facilities.

Testified in deposition in 2007 in the case of O'Dell et al. vs. FPL Energy in Houston, Texas.

Testified in Klickitat County Hearing in 2006 on the potential impacts of the Windy Point Wind Farm.

Memberships in Professional Societies

The Wildlife Society
Raptor Research Foundation

Honors and Awards

Fulbright Research Fellowship to Indonesia, 1987
J.G. Boswell Full Academic Scholarship, 1981 college of choice
Certificate of Appreciation, The Wildlife Society—Western Section, 2000, 2001
Northern California Athletic Association Most Valuable Cross Country Runner, 1984
American Legion Award, Corcoran High School, 1981, and John Muir Junior High, 1977
CIF Section Champion, Cross Country in 1978
CIF Section Champion, Track & Field 2 mile run in 1981
National Junior Record, 20 kilometer run, 1982
National Age Group Record, 1500 meter run, 1978

Community Activities

District 64 Little League Umpire, 2003-2007
Dixon Little League Umpire, 2006-07
Davis Little League Chief Umpire and Board member, 2004-2005
Davis Little League Safety Officer, 2004-2005
Davis Little League Certified Umpire, 2002-2004
Davis Little League Scorekeeper, 2002
Davis Visioning Group member
Petitioner for Writ of Mandate under the California Environmental Quality Act against City of Woodland decision to approve the Spring Lake Specific Plan, 2002
Served on campaign committees for City Council candidates

Exhibit B

Date: April 2, 2024

To: Marjan Kris Abubo
Lozeau | Drury LLP
1939 Harrison Street, Suite 150
Oakland, California 94612

From: Francis J. Offermann PE CIH

Subject: Indoor Air Quality: Lockwood III Apartments Project, Oxnard, CA.
(IEE File Reference: P-4789)

Pages: 18

Indoor Air Quality Impacts

Indoor air quality (IAQ) directly impacts the comfort and health of building occupants, and the achievement of acceptable IAQ in newly constructed and renovated buildings is a well-recognized design objective. For example, IAQ is addressed by major high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014). Indoor air quality in homes is particularly important because occupants, on average, spend approximately ninety percent of their time indoors with the majority of this time spent at home (EPA, 2011). Some segments of the population that are most susceptible to the effects of poor IAQ, such as the very young and the elderly, occupy their homes almost continuously. Additionally, an increasing number of adults are working from home at least some of the time during the workweek. Indoor air quality also is a serious concern for workers in hotels, offices and other business establishments.

The concentrations of many air pollutants often are elevated in homes and other buildings relative to outdoor air because many of the materials and products

used indoors contain and release a variety of pollutants to air (Hodgson et al., 2002; Offermann and Hodgson, 2011). With respect to indoor air contaminants for which inhalation is the primary route of exposure, the critical design and construction parameters are the provision of adequate ventilation and the reduction of indoor sources of the contaminants.

Indoor Formaldehyde Concentrations Impact. In the California New Home Study (CNHS) of 108 new homes in California (Offermann, 2009), 25 air contaminants were measured, and formaldehyde was identified as the indoor air contaminant with the highest cancer risk as determined by the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), No Significant Risk Levels (NSRL) for carcinogens. The NSRL is the daily intake level calculated to result in one excess case of cancer in an exposed population of 100,000 (i.e., ten in one million cancer risk) and for formaldehyde is 40 µg/day. The NSRL concentration of formaldehyde that represents a daily dose of 40 µg is 2 µg/m³, assuming a continuous 24-hour exposure, a total daily inhaled air volume of 20 m³, and 100% absorption by the respiratory system. All of the CNHS homes exceeded this NSRL concentration of 2 µg/m³. The median indoor formaldehyde concentration was 36 µg/m³, and ranged from 4.8 to 136 µg/m³, which corresponds to a median exceedance of the 2 µg/m³ NSRL concentration of 18 and a range of 2.3 to 68.

Therefore, the cancer risk of a resident living in a California home with the median indoor formaldehyde concentration of 36 µg/m³, is 180 per million as a result of formaldehyde alone. The CEQA significance threshold for airborne cancer risk is 10 per million, as established by the San Diego County Air Pollution Control District (SDAPCD, 2021).

Besides being a human carcinogen, formaldehyde is also a potent eye and respiratory irritant. In the CNHS, many homes exceeded the non-cancer reference exposure levels (RELs) prescribed by California Office of Environmental Health Hazard Assessment (OEHHA, 2017b). The percentage of homes exceeding the RELs ranged from 98% for the Chronic REL of 9 µg/m³ to 28% for the Acute REL of 55 µg/m³.

The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.

In January 2009, the California Air Resources Board (CARB) adopted an airborne toxics control measure (ATCM) to reduce formaldehyde emissions from composite wood products, including hardwood plywood, particleboard, medium density fiberboard, and also furniture and other finished products made with these wood products (California Air Resources Board 2009). While this formaldehyde ATCM has resulted in reduced emissions from composite wood products sold in California, they do not preclude that homes built with composite wood products meeting the CARB ATCM will have indoor formaldehyde concentrations below cancer and non-cancer exposure guidelines.

A follow up study to the California New Home Study (CNHS) was conducted in 2016-2018 (Singer et. al., 2019), and found that the median indoor formaldehyde in new homes built after 2009 with CARB Phase 2 Formaldehyde ATCM materials had lower indoor formaldehyde concentrations, with a median indoor concentrations of $22.4 \mu\text{g}/\text{m}^3$ (18.2 ppb) as compared to a median of $36 \mu\text{g}/\text{m}^3$ found in the 2007 CNHS. Unlike in the CNHS study where formaldehyde concentrations were measured with pumped DNPH samplers, the formaldehyde concentrations in the HENGH study were measured with passive samplers, which were estimated to under-measure the true indoor formaldehyde concentrations by approximately 7.5%. Applying this correction to the HENGH indoor formaldehyde concentrations results in a median indoor concentration of $24.1 \mu\text{g}/\text{m}^3$, which is 33% lower than the $36 \mu\text{g}/\text{m}^3$ found in the 2007 CNHS.

Thus, while new homes built after the 2009 CARB formaldehyde ATCM have a 33% lower median indoor formaldehyde concentration and cancer risk, the median lifetime cancer risk is still 120 per million for homes built with CARB compliant composite wood products. This median lifetime cancer risk is more than 12 times the OEHHA 10 in a million cancer risk threshold (OEHHA, 2017a).

With respect to the Lockwood III Apartments Project, Oxnard, CA, the buildings consist of residential spaces.

The residential occupants will potentially have continuous exposure (e.g. 24 hours per day, 52 weeks per year). These exposures are anticipated to result in significant cancer risks resulting from exposures to formaldehyde released by the building materials and furnishing commonly found in residential construction.

Because these residences will be constructed with CARB Phase 2 Formaldehyde ATCM materials, and be ventilated with the minimum code required amount of outdoor air, the indoor residential formaldehyde concentrations are likely similar to those concentrations observed in residences built with CARB Phase 2 Formaldehyde ATCM materials, which is a median of 24.1 $\mu\text{g}/\text{m}^3$ (Singer et. al., 2020)

Assuming that the residential occupants inhale 20 m^3 of air per day, the average 70-year lifetime formaldehyde daily dose is 482 $\mu\text{g}/\text{day}$ for continuous exposure in the residences. This exposure represents a cancer risk of 120 per million, which is more than 12 times the CEQA cancer risk of 10 per million. For occupants that do not have continuous exposure, the cancer risk will be proportionally less but still substantially over the CEQA cancer risk of 10 per million (e.g. for 12/hour/day occupancy, more than 6 times the CEQA cancer risk of 10 per million).

In addition, we note that the average outdoor air concentration of formaldehyde in California is 3 ppb, or 3.7 $\mu\text{g}/\text{m}^3$, (California Air Resources Board, 2004), and thus represents an average pre-existing background airborne cancer risk of 1.85 per million. Thus, the indoor air formaldehyde exposures describe above exacerbate this pre-existing risk resulting from outdoor air formaldehyde exposures.

Appendix A, Indoor Formaldehyde Concentrations and the CARB Formaldehyde ATCM, provides analyses that show utilization of CARB Phase 2 Formaldehyde ATCM materials will not ensure acceptable cancer risks with respect to formaldehyde emissions from composite wood products.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

The following describes a method that should be used, prior to construction in the environmental review under CEQA, for determining whether the indoor concentrations resulting from the formaldehyde emissions of specific building materials/furnishings selected exceed cancer and non-cancer guidelines. Such a design analyses can be used to identify those materials/furnishings prior to the completion of the City's CEQA review and project approval, that have formaldehyde emission rates that contribute to indoor concentrations that exceed cancer and non-cancer guidelines, so that alternative lower emitting materials/furnishings may be selected and/or higher minimum outdoor air ventilation rates can be increased to achieve acceptable indoor concentrations and incorporated as mitigation measures for this project.

Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment

This formaldehyde emissions assessment should be used in the environmental review under CEQA to assess the indoor formaldehyde concentrations from the proposed loading of building materials/furnishings, the area-specific formaldehyde emission rate data for building materials/furnishings, and the design minimum outdoor air ventilation rates. This assessment allows the applicant (and the City) to determine, before the conclusion of the environmental review process and the building materials/furnishings are specified, purchased, and installed, if the total chemical emissions will exceed cancer and non-cancer guidelines, and if so, allow for changes in the selection of specific

material/furnishings and/or the design minimum outdoor air ventilations rates such that cancer and non-cancer guidelines are not exceeded.

1.) Define Indoor Air Quality Zones. Divide the building into separate indoor air quality zones, (IAQ Zones). IAQ Zones are defined as areas of well-mixed air. Thus, each ventilation system with recirculating air is considered a single zone, and each room or group of rooms where air is not recirculated (e.g. 100% outdoor air) is considered a separate zone. For IAQ Zones with the same construction material/furnishings and design minimum outdoor air ventilation rates. (e.g. hotel rooms, apartments, condominiums, etc.) the formaldehyde emission rates need only be assessed for a single IAQ Zone of that type.

2.) Calculate Material/Furnishing Loading. For each IAQ Zone, determine the building material and furnishing loadings (e.g., m^2 of material/ m^2 floor area, units of furnishings/ m^2 floor area) from an inventory of all potential indoor formaldehyde sources, including flooring, ceiling tiles, furnishings, finishes, insulation, sealants, adhesives, and any products constructed with composite wood products containing urea-formaldehyde resins (e.g., plywood, medium density fiberboard, particleboard).

3.) Calculate the Formaldehyde Emission Rate. For each building material, calculate the formaldehyde emission rate ($\mu\text{g}/\text{h}$) from the product of the area-specific formaldehyde emission rate ($\mu\text{g}/\text{m}^2\text{-h}$) and the area (m^2) of material in the IAQ Zone, and from each furnishing (e.g. chairs, desks, etc.) from the unit-specific formaldehyde emission rate ($\mu\text{g}/\text{unit-h}$) and the number of units in the IAQ Zone.

NOTE: As a result of the high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014), most manufacturers of building materials furnishings sold in the United States conduct chemical emission rate tests using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers,” (CDPH, 2017), or other equivalent chemical emission rate testing methods. Most manufacturers of building furnishings sold in the United States conduct chemical emission rate tests using ANSI/BIFMA M7.1 Standard Test Method for

Determining VOC Emissions (BIFMA, 2018), or other equivalent chemical emission rate testing methods.

CDPH, BIFMA, and other chemical emission rate testing programs, typically certify that a material or furnishing does not create indoor chemical concentrations in excess of the maximum concentrations permitted by their certification. For instance, the CDPH emission rate testing requires that the measured emission rates when input into an office, school, or residential model do not exceed one-half of the OEHHA Chronic Exposure Guidelines (OEHHA, 2017b) for the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017). These certifications themselves do not provide the actual area-specific formaldehyde emission rate (i.e., $\mu\text{g}/\text{m}^2\text{-h}$) of the product, but rather provide data that the formaldehyde emission rates do not exceed the maximum rate allowed for the certification. Thus, for example, the data for a certification of a specific type of flooring may be used to calculate that the area-specific emission rate of formaldehyde is less than 31 $\mu\text{g}/\text{m}^2\text{-h}$, but not the actual measured specific emission rate, which may be 3, 18, or 30 $\mu\text{g}/\text{m}^2\text{-h}$. These area-specific emission rates determined from the product certifications of CDPH, BIFA, and other certification programs can be used as an initial estimate of the formaldehyde emission rate.

If the actual area-specific emission rates of a building material or furnishing is needed (i.e. the initial emission rates estimates from the product certifications are higher than desired), then that data can be acquired by requesting from the manufacturer the complete chemical emission rate test report. For instance if the complete CDPH emission test report is requested for a CDHP certified product, that report will provide the actual area-specific emission rates for not only the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017), but also all of the cancer and reproductive/developmental chemicals listed in the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), all of the toxic air contaminants (TACs) in the California Air Resources Board Toxic Air Contamination List (CARB, 2011), and the 10 chemicals with the greatest emission rates.

Alternatively, a sample of the building material or furnishing can be submitted to a chemical emission rate testing laboratory, such as Berkeley Analytical Laboratory (<https://berkeleyanalytical.com>), to measure the formaldehyde emission rate.

4.) Calculate the Total Formaldehyde Emission Rate. For each IAQ Zone, calculate the total formaldehyde emission rate (i.e. $\mu\text{g/h}$) from the individual formaldehyde emission rates from each of the building material/furnishings as determined in Step 3.

5.) Calculate the Indoor Formaldehyde Concentration. For each IAQ Zone, calculate the indoor formaldehyde concentration ($\mu\text{g/m}^3$) from Equation 1 by dividing the total formaldehyde emission rates (i.e. $\mu\text{g/h}$) as determined in Step 4, by the design minimum outdoor air ventilation rate (m^3/h) for the IAQ Zone.

(Equation 1)

where:

C_{in} = indoor formaldehyde concentration ($\mu\text{g/m}^3$)

E_{total} = total formaldehyde emission rate ($\mu\text{g/h}$) into the IAQ Zone.

Q_{oa} = design minimum outdoor air ventilation rate to the IAQ Zone (m^3/h)

The above Equation 1 is based upon mass balance theory, and is referenced in Section 3.10.2 “Calculation of Estimated Building Concentrations” of the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers”, (CDPH, 2017).

6.) Calculate the Indoor Exposure Cancer and Non-Cancer Health Risks. For each IAQ Zone, calculate the cancer and non-cancer health risks from the indoor formaldehyde concentrations determined in Step 5 and as described in the OEHHA Air Toxics Hot Spots Program Risk Assessment Guidelines; Guidance Manual for Preparation of Health Risk Assessments (OEHHA, 2015).

7.) Mitigate Indoor Formaldehyde Exposures of exceeding the CEQA Cancer and/or Non-Cancer Health Risks. In each IAQ Zone, provide mitigation for any formaldehyde exposure risk as determined in Step 6, that exceeds the CEQA cancer risk of 10 per

million or the CEQA non-cancer Hazard Quotient of 1.0.

Provide the source and/or ventilation mitigation required in all IAQ Zones to reduce the health risks of the chemical exposures below the CEQA cancer and non-cancer health risks.

Source mitigation for formaldehyde may include:

- 1.) reducing the amount materials and/or furnishings that emit formaldehyde
- 2.) substituting a different material with a lower area-specific emission rate of formaldehyde

Ventilation mitigation for formaldehyde emitted from building materials and/or furnishings may include:

- 1.) increasing the design minimum outdoor air ventilation rate to the IAQ Zone.

NOTE: Mitigating the formaldehyde emissions through use of less material/furnishings, or use of lower emitting materials/furnishings, is the preferred mitigation option, as mitigation with increased outdoor air ventilation increases initial and operating costs associated with the heating/cooling systems.

Further, we are not asking that the builder “speculate” on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers,” (CDPH, 2017), and use the procedure described earlier above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Impact. Another important finding of the CNHS, was that the outdoor air ventilation rates in the homes were very low. Outdoor air ventilation is a very

important factor influencing the indoor concentrations of air contaminants, as it is the primary removal mechanism of all indoor air generated contaminants. Lower outdoor air exchange rates cause indoor generated air contaminants to accumulate to higher indoor air concentrations. Many homeowners rarely open their windows or doors for ventilation as a result of their concerns for security/safety, noise, dust, and odor concerns (Price, 2007). In the CNHS field study, 32% of the homes did not use their windows during the 24-hour Test Day, and 15% of the homes did not use their windows during the entire preceding week. Most of the homes with no window usage were homes in the winter field session. Thus, a substantial percentage of homeowners never open their windows, especially in the winter season. The median 24-hour measurement was 0.26 air changes per hour (ach), with a range of 0.09 ach to 5.3 ach. A total of 67% of the homes had outdoor air exchange rates below the minimum California Building Code (2001) requirement of 0.35 ach. Thus, the relatively tight envelope construction, combined with the fact that many people never open their windows for ventilation, results in homes with low outdoor air exchange rates and higher indoor air contaminant concentrations.

The Lockwood III Apartments Project, Oxnard, CA is close to roads with moderate to high traffic (e.g., Lakewood Street, East Gonzalez Road, Ventura Freeway -101, etc.) and thus the Project site is a sound impacted site.

According to the Initial Study/Mitigated Negative Declaration- Lockwood III Apartments Project, Oxnard, CA (ESA, 2024), Appendix I, Table 10, the ambient noise levels with the Project range from 66.1 to 71.2 dBA CNEL.

However, these ambient noise levels were only measured during a single 24-hour period (August 1-2, 2022). In order to design the building for this Project such that interior noise levels are acceptable, an acoustic study with actual on-site measurements of the existing ambient noise levels and modeled future ambient noise levels needs to be conducted. The acoustic study of the existing ambient noise levels should be conducted over a one-week period. and report the dBA CNEL or Ldn. This study will allow for the selection of a building envelope and windows with a sufficient STC such that the indoor noise levels are acceptable. A mechanical supply of outdoor air ventilation to allow for a habitable interior

environment with closed windows and doors will also be required. Such a ventilation system would allow windows and doors to be kept closed at the occupant's discretion to control exterior noise within building interiors.

PM_{2.5} Outdoor Concentrations Impact. An additional impact of the nearby motor vehicle traffic associated with this project, are the outdoor concentrations of PM_{2.5}. Initial Study/Mitigated Negative Declaration- Lockwood III Apartments Project, Oxnard, CA (ESA, 2024), the Project is located in the South Coast Air Basin, which is a State and Federal non-attainment area for PM_{2.5}.

An air quality analysis should be conducted to determine the concentrations of PM_{2.5} in the outdoor and indoor air that people inhale each day. This air quality analysis needs to consider the cumulative impacts of the project related emissions, existing and projected future emissions from local PM_{2.5} sources (e.g. stationary sources, motor vehicles, and airport traffic) upon the outdoor air concentrations at the Project site. If the outdoor concentrations are determined to exceed the California and National annual average PM_{2.5} exceedance concentration of 12 µg/m³, or the National 24-hour average exceedance concentration of 35 µg/m³, then the buildings need to have a mechanical supply of outdoor air that has air filtration with sufficient removal efficiency, such that the indoor concentrations of outdoor PM_{2.5} particles is less than the California and National PM_{2.5} annual and 24-hour standards.

It is my experience that based on the projected high traffic noise levels, the annual average concentration of PM_{2.5} will exceed the California and National PM_{2.5} annual and 24-hour standards and warrant installation of high efficiency air filters (i.e. MERV 13 or higher) in all mechanically supplied outdoor air ventilation systems.

Indoor Air Quality Impact Mitigation Measures

The following are recommended mitigation measures to minimize the impacts upon indoor quality:

Indoor Formaldehyde Concentrations Mitigation. Use only composite wood materials (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins (CARB, 2009). CARB Phase 2 certified composite wood products, or ultra-low emitting formaldehyde (ULEF) resins, do not insure indoor formaldehyde concentrations that are below the CEQA cancer risk of 10 per million. Only composite wood products manufactured with CARB approved no-added formaldehyde (NAF) resins, such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

Alternatively, conduct the previously described Pre-Construction Building Material/Furnishing Chemical Emissions Assessment, to determine that the combination of formaldehyde emissions from building materials and furnishings do not create indoor formaldehyde concentrations that exceed the CEQA cancer and non-cancer health risks.

It is important to note that we are not asking that the builder “speculate” on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers”, (CDPH, 2017), and use the procedure described above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Mitigation. Provide each habitable room with a continuous mechanical supply of outdoor air that meets or exceeds the California 2016 Building Energy Efficiency Standards (California Energy Commission, 2015) requirements of the greater of 15 cfm/occupant or 0.15 cfm/ft² of floor area. Following installation of the system conduct testing and balancing to insure that required amount of outdoor air is entering each habitable room and provide a written report documenting the outdoor airflow rates. Do not use exhaust only mechanical outdoor air systems, use only balanced

outdoor air supply and exhaust systems or outdoor air supply only systems. Provide a manual for the occupants or maintenance personnel, that describes the purpose of the mechanical outdoor air system and the operation and maintenance requirements of the system.

PM_{2.5} Outdoor Air Concentration Mitigation. Install air filtration with sufficient PM_{2.5} removal efficiency (e.g. MERV 13 or higher) to filter the outdoor air entering the mechanical outdoor air supply systems, such that the indoor concentrations of outdoor PM_{2.5} particles are less than the California and National PM_{2.5} annual and 24-hour standards. Install the air filters in the system such that they are accessible for replacement by the occupants or maintenance personnel. Include in the mechanical outdoor air ventilation system manual instructions on how to replace the air filters and the estimated frequency of replacement.

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<http://www.usgbc.org/credits/homes/v4>

APPENDIX A

INDOOR FORMALDEHYDE CONCENTRATIONS AND THE CARB FORMALDEHYDE ATCM

With respect to formaldehyde emissions from composite wood products, the CARB ATCM regulations of formaldehyde emissions from composite wood products, do not assure healthful indoor air quality. The following is the stated purpose of the CARB ATCM regulation - *The purpose of this airborne toxic control measure is to “reduce formaldehyde emissions from composite wood products, and finished goods that contain composite wood products, that are sold, offered for sale, supplied, used, or manufactured for sale in California”*. In other words, the CARB ATCM regulations do not “assure healthful indoor air quality”, but rather “reduce formaldehyde emissions from composite wood products”.

Just how much protection do the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products? Definitely some, but certainly the regulations do not “*assure healthful indoor air quality*” when CARB Phase 2 products are utilized. As shown in the Chan 2019 study of new California homes, the median indoor formaldehyde concentration was of 22.4 $\mu\text{g}/\text{m}^3$ (18.2 ppb), which corresponds to a cancer risk of 112 per million for occupants with continuous exposure, which is more than 11 times the CEQA cancer risk of 10 per million.

Another way of looking at how much protection the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products is to calculate the maximum number of square feet of composite wood product that can be in a residence without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy.

For this calculation I utilized the floor area (2,272 ft^2), the ceiling height (8.5 ft), and the number of bedrooms (4) as defined in Appendix B (New Single-Family Residence Scenario) of the Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers, Version 1.1,

2017, California Department of Public Health, Richmond, CA.
<https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/EHLB/IAQ/Pages/VOC.aspx>.

For the outdoor air ventilation rate I used the 2019 Title 24 code required mechanical ventilation rate (ASHRAE 62.2) of 106 cfm (180 m³/h) calculated for this model residence. For the composite wood formaldehyde emission rates I used the CARB ATCM Phase 2 rates.

The calculated maximum number of square feet of composite wood product that can be in a residence, without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 15 ft² (0.7% of the floor area), or
Particle Board – 30 ft² (1.3% of the floor area), or
Hardwood Plywood – 54 ft² (2.4% of the floor area), or
Thin MDF – 46 ft² (2.0 % of the floor area).

For offices and hotels the calculated maximum amount of composite wood product (% of floor area) that can be used without exceeding the CEQA cancer risk of 10 per million for occupants, assuming 8 hours/day occupancy, and the California Mechanical Code minimum outdoor air ventilation rates are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 3.6 % (offices) and 4.6% (hotel rooms), or
Particle Board – 7.2 % (offices) and 9.4% (hotel rooms), or
Hardwood Plywood – 13 % (offices) and 17% (hotel rooms), or
Thin MDF – 11 % (offices) and 14 % (hotel rooms)

Clearly the CARB ATCM does not regulate the formaldehyde emissions from composite wood products such that the potentially large areas of these products, such as for flooring, baseboards, interior doors, window and door trims, and kitchen and bathroom cabinetry,

could be used without causing indoor formaldehyde concentrations that result in CEQA cancer risks that substantially exceed 10 per million for occupants with continuous occupancy.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

If CARB Phase 2 compliant or ULEF composite wood products are utilized in construction, then the resulting indoor formaldehyde concentrations should be determined in the design phase using the specific amounts of each type of composite wood product, the specific formaldehyde emission rates, and the volume and outdoor air ventilation rates of the indoor spaces, and all feasible mitigation measures employed to reduce this impact (e.g. use less formaldehyde containing composite wood products and/or incorporate mechanical systems capable of higher outdoor air ventilation rates). See the procedure described earlier (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Alternatively, and perhaps a simpler approach, is to use only composite wood products (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins.

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Education

M.S. Mechanical Engineering (1985)
Stanford University, Stanford, CA.

Graduate Studies in Air Pollution Monitoring and Control (1980)
University of California, Berkeley, CA.

B.S. in Mechanical Engineering (1976)
Rensselaer Polytechnic Institute, Troy, N.Y.

Professional Experience

President: Indoor Environmental Engineering, San Francisco, CA. December, 1981 - present.

Direct team of environmental scientists, chemists, and mechanical engineers in conducting State and Federal research regarding indoor air quality instrumentation development, building air quality field studies, ventilation and air cleaning performance measurements, and chemical emission rate testing.

Provide design side input to architects regarding selection of building materials and ventilation system components to ensure a high quality indoor environment.

Direct Indoor Air Quality Consulting Team for the winning design proposal for the new State of Washington Ecology Department building.

Develop a full-scale ventilation test facility for measuring the performance of air diffusers; ASHRAE 129, Air Change Effectiveness, and ASHRAE 113, Air Diffusion Performance Index.

Develop a chemical emission rate testing laboratory for measuring the chemical emissions from building materials, furnishings, and equipment.

Principle Investigator of the California New Homes Study (2005-2007). Measured ventilation and indoor air quality in 108 new single family detached homes in northern and southern California.

Develop and teach IAQ professional development workshops to building owners, managers, hygienists, and engineers.

Air Pollution Engineer: Earth Metrics Inc., Burlingame, CA, October, 1985 to March, 1987.

Responsible for development of an air pollution laboratory including installation a forced choice olfactometer, tracer gas electron capture chromatograph, and associated calibration facilities. Field team leader for studies of fugitive odor emissions from sewage treatment plants, entrainment of fume hood exhausts into computer chip fabrication rooms, and indoor air quality investigations.

Staff Scientist: Building Ventilation and Indoor Air Quality Program, Energy and Environment Division, Lawrence Berkeley Laboratory, Berkeley, CA. January, 1980 to August, 1984.

Deputy project leader for the Control Techniques group; responsible for laboratory and field studies aimed at evaluating the performance of indoor air pollutant control strategies (i.e. ventilation, filtration, precipitation, absorption, adsorption, and source control).

Coordinated field and laboratory studies of air-to-air heat exchangers including evaluation of thermal performance, ventilation efficiency, cross-stream contaminant transfer, and the effects of freezing/defrosting.

Developed an *in situ* test protocol for evaluating the performance of air cleaning systems and introduced the concept of effective cleaning rate (ECR) also known as the Clean Air Delivery Rate (CADR).

Coordinated laboratory studies of portable and ducted air cleaning systems and their effect on indoor concentrations of respirable particles and radon progeny.

Co-designed an automated instrument system for measuring residential ventilation rates and radon concentrations.

Designed hardware and software for a multi-channel automated data acquisition system used to evaluate the performance of air-to-air heat transfer equipment.

Assistant Chief Engineer: Alta Bates Hospital, Berkeley, CA, October, 1979 to January, 1980.

Responsible for energy management projects involving installation of power factor correction capacitors on large inductive electrical devices and installation of steam meters on physical plant steam lines. Member of Local 39, International Union of Operating Engineers.

Manufacturing Engineer: American Precision Industries, Buffalo, NY, October, 1977 to October, 1979.

Responsible for reorganizing the manufacturing procedures regarding production of shell and tube heat exchangers. Designed customized automatic assembly, welding, and testing equipment. Designed a large paint spray booth. Prepared economic studies justifying new equipment purchases. Safety Director.

Project Engineer: Arcata Graphics, Buffalo, N.Y. June, 1976 to October, 1977.

Responsible for the design and installation of a bulk ink storage and distribution system and high speed automatic counting and marking equipment. Also coordinated material handling studies which led to the purchase and installation of new equipment.

PROFESSIONAL ORGANIZATION MEMBERSHIP

American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE)

- Chairman of SPC-145P, Standards Project Committee - Test Method for Assessing the Performance of Gas Phase Air Cleaning Equipment (1991-1992)
- Member SPC-129P, Standards Project Committee - Test Method for Ventilation Effectiveness (1986-97)
 - Member of Drafting Committee
- Member Environmental Health Committee (1992-1994, 1997-2001, 2007-2010)
 - Chairman of EHC Research Subcommittee
 - Member of Man Made Mineral Fiber Position Paper Subcommittee
 - Member of the IAQ Position Paper Committee
 - Member of the Legionella Position Paper Committee
 - Member of the Limiting Indoor Mold and Dampness in Buildings Position Paper Committee
- Member SSPC-62, Standing Standards Project Committee - Ventilation for Acceptable Indoor Air Quality (1992 to 2000)
 - Chairman of Source Control and Air Cleaning Subcommittee
- Chairman of TC-4.10, Indoor Environmental Modeling (1988-92)
 - Member of Research Subcommittee
- Chairman of TC-2.3, Gaseous Air Contaminants and Control Equipment (1989-92)
 - Member of Research Subcommittee

American Society for Testing and Materials (ASTM)

- D-22 Sampling and Analysis of Atmospheres
 - Member of Indoor Air Quality Subcommittee
- E-06 Performance of Building Constructions

American Board of Industrial Hygiene (ABIH)

American Conference of Governmental Industrial Hygienists (ACGIH)

- Bioaerosols Committee (2007-2013)

American Industrial Hygiene Association (AIHA)

Cal-OSHA Indoor Air Quality Advisory Committee

International Society of Indoor Air Quality and Climate (ISIAQ)

- Co-Chairman of Task Force on HVAC Hygiene

U. S. Green Building Council (USGBC)

- Member of the IEQ Technical Advisory Group (2007-2009)
- Member of the IAQ Performance Testing Work Group (2010-2012)

Western Construction Consultants (WESTCON)

PROFESSIONAL CREDENTIALS

Licensed Professional Engineer - Mechanical Engineering

Certified Industrial Hygienist - American Board of Industrial Hygienists

SCIENTIFIC MEETINGS AND SYMPOSIA

Biological Contamination, Diagnosis, and Mitigation, Indoor Air'90, Toronto, Canada, August, 1990.

Models for Predicting Air Quality, Indoor Air'90, Toronto, Canada, August, 1990.

Microbes in Building Materials and Systems, Indoor Air '93, Helsinki, Finland, July, 1993.

Microorganisms in Indoor Air Assessment and Evaluation of Health Effects and Probable Causes, Walnut Creek, CA, February 27, 1997.

Controlling Microbial Moisture Problems in Buildings, Walnut Creek, CA, February 27, 1997.

Scientific Advisory Committee, Roomvent 98, 6th International Conference on Air Distribution in Rooms, KTH, Stockholm, Sweden, June 14-17, 1998.

Moisture and Mould, Indoor Air '99, Edinburgh, Scotland, August, 1999.

Ventilation Modeling and Simulation, Indoor Air '99, Edinburgh, Scotland, August, 1999.

Microbial Growth in Materials, Healthy Buildings 2000, Espoo, Finland, August, 2000.

Co-Chair, Bioaerosols X- Exposures in Residences, Indoor Air 2002, Monterey, CA, July 2002.

Healthy Indoor Environments, Anaheim, CA, April 2003.

Chair, Environmental Tobacco Smoke in Multi-Family Homes, Indoor Air 2008, Copenhagen, Denmark, July 2008.

Co-Chair, ISIAQ Task Force Workshop; HVAC Hygiene, Indoor Air 2002, Monterey, CA, July 2002.

Chair, ETS in Multi-Family Housing: Exposures, Controls, and Legalities Forum, Healthy Buildings 2009, Syracuse, CA, September 14, 2009.

Chair, Energy Conservation and IAQ in Residences Workshop, Indoor Air 2011, Austin, TX, June 6, 2011.

Chair, Electronic Cigarettes: Chemical Emissions and Exposures Colloquium, Indoor Air 2016, Ghent, Belgium, July 4, 2016.

SPECIAL CONSULTATION

Provide consultation to the American Home Appliance Manufacturers on the development of a standard for testing portable air cleaners, AHAM Standard AC-1.

Served as an expert witness and special consultant for the U.S. Federal Trade Commission regarding the performance claims found in advertisements of portable air cleaners and residential furnace filters.

Conducted a forensic investigation for a San Mateo, CA pro se defendant, regarding an alleged homicide where the victim was kidnapped in a steamer trunk. Determined the air exchange rate in the steamer trunk and how long the person could survive.

Conducted *in situ* measurement of human exposure to toluene fumes released during nailpolish application for a plaintiffs attorney pursuing a California Proposition 65 product labeling case. June, 1993.

Conducted a forensic *in situ* investigation for the Butte County, CA Sheriff's Department of the emissions of a portable heater used in the bedroom of two twin one year old girls who suffered simultaneous crib death.

Consult with OSHA on the 1995 proposed new regulation regarding indoor air quality and environmental tobacco smoke.

Consult with EPA on the proposed Building Alliance program and with OSHA on the proposed new OSHA IAQ regulation.

Johnson Controls Audit/Certification Expert Review; Milwaukee, WI. May 28-29, 1997.

Winner of the nationally published 1999 Request for Proposals by the State of Washington to conduct a comprehensive indoor air quality investigation of the Washington State Department of Ecology building in Lacey, WA.

Selected by the State of California Attorney General's Office in August, 2000 to conduct a comprehensive indoor air quality investigation of the Tulare County Court House.

Lawrence Berkeley Laboratory IAQ Experts Workshop: "Cause and Prevention of Sick Building Problems in Offices: The Experience of Indoor Environmental Quality Investigators", Berkeley, California, May 26-27, 2004.

Provide consultation and chemical emission rate testing to the State of California Attorney General's Office in 2013-2015 regarding the chemical emissions from e-cigarettes.

PEER-REVIEWED PUBLICATIONS :

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W.W.Nazaroff, F.J.Offermann, and A.W.Robb, "Automated System for Measuring Air Exchange Rate and Radon Concentration in Houses," *Health Physics*, 45, pp. 525-537, 1983.

F.J.Offermann, W.J.Fisk, D.T.Grimsrud, B.Pedersen, and K.L.Revzan, "Ventilation Efficiencies of Wall- or Window-Mounted Residential Air-to-Air Heat Exchangers," *ASHRAE Annual Transactions*, 89-2B, pp 507-527, 1983.

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F.J.Offermann, R.G.Sextro, W.J.Fisk, D.T.Grimsrud, W.W.Nazaroff, A.V.Nero, and K.L.Revzan, "Control of Respirable Particles with Portable Air Cleaners," *Atmospheric Environment*, Vol. 19, pp.1761-1771, 1985.

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F.J.Offermann, "Ventilation Effectiveness and ADPI Measurements of a Forced Air Heating System," *ASHRAE Transactions* , Volume 94, Part 1, pp 694-704, 1988.

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F.J. Offermann, S.A. Loiselle, M.C. Quinlan, and M.S. Rogers, "A Study of Diesel Fume Entrainment in an Office Building," *IAQ '89*, The Human Equation: Health and Comfort, pp 179-183, ASHRAE, Atlanta, GA, 1989.

R.G.Sextro and F.J.Offermann, "Reduction of Residential Indoor Particle and Radon Progeny Concentrations with Ducted Air Cleaning Systems," submitted to *Indoor Air*, 1990.

S.A.Loiselle, A.T.Hodgson, and F.J.Offermann, "Development of An Indoor Air Sampler for Polycyclic Aromatic Compounds", *Indoor Air* , Vol 2, pp 191-210, 1991.

F.J.Offermann, S.A.Loiselle, A.T.Hodgson, L.A. Gundel, and J.M. Daisey, "A Pilot Study to Measure Indoor Concentrations and Emission Rates of Polycyclic Aromatic Compounds", *Indoor Air* , Vol 4, pp 497-512, 1991.

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F.J. Offermann, J. Daisey, A. Hodgson, L. Gundell, and S. Loiselle, "Indoor Concentrations and Emission Rates of Polycyclic Aromatic Compounds", *Indoor Air*, Vol 4, pp 497-512 (1992).

F.J. Offermann, S. A. Loiselle, R.G. Sextro, "Performance of Air Cleaners Installed in a Residential Forced Air System," *ASHRAE Journal*, pp 51-57, July, 1992.

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"Techniques for Airborne Disease Control", EPRI Healthcare Initiative Symposium; San Francisco, CA; June 7, 1994.

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“IAQ Primer”, Local 39, April 16, 1997; Amdahl Corporation, June 9, 1997; State Compensation Insurance Fund’s Safety & Health Services Department, November 21, 1996.

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“Operations and Maintenance for Healthy and Comfortable Indoor Environments”, PASMA; October 7, 1997.

“Designing for Healthy and Comfortable Indoor Environments”, Construction Specification Institute, Santa Rosa, CA, November 6, 1997.

“Ventilation System Design for Good IAQ”, University of Tulsa 10th Annual Conference, San Francisco, CA, February 25, 1998.

“The Building Shell”, Tools For Building Green Conference and Trade Show, Alameda County Waste Management Authority and Recycling Board, Oakland, CA, February 28, 1998.

“Identifying Fungal Contamination Problems In Buildings”, The City of Oakland Municipal Employees, Oakland, CA, March 26, 1998.

“Managing Indoor Air Quality in Schools: Staying Out of Trouble”, CASBO, Sacramento, CA, April 20, 1998.

“Indoor Air Quality”, CSOOC Spring Conference, Visalia, CA, April 30, 1998.

“Particulate and Gas Phase Air Filtration”, ACGIH/OSHA, Ft. Mitchell, KY, June 1998.

“Building Air Quality Facts and Myths”, The City of Oakland / Alameda County Safety Seminar, Oakland, CA, June 12, 1998.

“Building Engineering and Moisture”, Building Contamination Workshop, University of California Berkeley, Continuing Education in Engineering and Environmental Management, San Francisco, CA, October 21-22, 1999.

“Identifying and Mitigating Mold Contamination in Buildings”, Western Construction Consultants Association, Oakland, CA, March 15, 2000; AIG Construction Defect Seminar, Walnut Creek, CA, May 2, 2001; City of Oakland Public Works Agency, Oakland, CA, July 24, 2001; Executive Council of Homeowners, Alamo, CA, August 3, 2001.

“Using the EPA BASE Study for IAQ Investigation / Communication”, Joint Professional Symposium 2000, American Industrial Hygiene Association, Orange County & Southern California Sections, Long Beach, October 19, 2000.

“Ventilation,” Indoor Air Quality: Risk Reduction in the 21st Century Symposium, sponsored by the California Environmental Protection Agency/Air Resources Board, Sacramento, CA, May 3-4, 2000.

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“Closing Session Summary: ‘Building Investigations’ and ‘Building Design & Construction’”, Healthy Buildings 2000, Espoo, Finland, August 2000.

“Managing Building Air Quality and Energy Efficiency, Meeting the Standard of Care”, BOMA, MidAtlantic Environmental Hygiene Resource Center, Seattle, WA, May 23rd, 2000; San Antonio, TX, September 26-27, 2000.

“Diagnostics & Mitigation in Sick Buildings: When Good Buildings Go Bad,” University of California Berkeley, September 18, 2001.

“Mold Contamination: Recognition and What To Do and Not Do”, Redwood Empire Remodelers Association; Santa Rosa, CA, April 16, 2002.

“Investigative Tools of the IAQ Trade”, Healthy Indoor Environments 2002; Austin, TX; April 22, 2002.

“Finding Hidden Mold: Case Studies in IAQ Investigations”, AIHA Northern California Professionals Symposium; Oakland, CA, May 8, 2002.

“Assessing and Mitigating Fungal Contamination in Buildings”, Cal/OSHA Training; Oakland, CA, February 14, 2003 and West Covina, CA, February 20-21, 2003.

“Use of External Containments During Fungal Mitigation”, Invited Speaker, ACGIH Mold Remediation Symposium, Orlando, FL, November 3-5, 2003.

Building Operator Certification (BOC), 106-IAQ Training Workshops, Northwest Energy Efficiency Council; Stockton, CA, December 3, 2003; San Francisco, CA, December 9, 2003; Irvine, CA, January 13, 2004; San Diego, January 14, 2004; Irwindale, CA, January 27, 2004; Downey, CA, January 28, 2004; Santa Monica, CA, March 16, 2004; Ontario, CA, March 17, 2004; Ontario, CA, November 9, 2004, San Diego, CA, November 10, 2004; San Francisco, CA, November 17, 2004; San Jose, CA, November 18, 2004; Sacramento, CA, March 15, 2005.

“Mold Remediation: The National QUEST for Uniformity Symposium”, Invited Speaker, Orlando, Florida, November 3-5, 2003.

“Mold and Moisture Control”, Indoor Air Quality workshop for The Collaborative for High Performance Schools (CHPS), San Francisco, December 11, 2003.

“Advanced Perspectives In Mold Prevention & Control Symposium”, Invited Speaker, Las Vegas, Nevada, November 7-9, 2004.

“Building Sciences: Understanding and Controlling Moisture in Buildings”, American Industrial Hygiene Association, San Francisco, CA, February 14-16, 2005.

“Indoor Air Quality Diagnostics and Healthy Building Design”, University of California Berkeley, Berkeley, CA, March 2, 2005.

“Improving IAQ = Reduced Tenant Complaints”, Northern California Facilities Exposition, Santa Clara, CA, September 27, 2007.

“Defining Safe Building Air”, Criteria for Safe Air and Water in Buildings, ASHRAE Winter Meeting, Chicago, IL, January 27, 2008.

“Update on USGBC LEED and Air Filtration”, Invited Speaker, NAFA 2008 Convention, San Francisco, CA, September 19, 2008.

“Ventilation and Indoor air Quality in New California Homes”, National Center of Healthy Housing, October 20, 2008.

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“Mechanical Outdoor air Ventilation Systems and IAQ in New Homes”, ACI Home Performance Conference, Kansas City, MO, April 29, 2009.

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“Respiration: IEQ and Ventilation”, AIHce 2010, How IH Can LEED in Green buildings, Denver, CO, May 23, 2010.

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“What Pollutants are Really There ?”, ACI Home Performance Conference, San Francisco, CA, March 30, 2011.

“Energy Conservation and Health in Residences Workshop”, Indoor Air 2011, Austin, TX, June 6, 2011.

“Assessing IAQ and Improving Health in Residences”, US EPA Weatherization Plus Health, September 7, 2011.

“Ventilation: What a Long Strange Trip It’s Been”, Westcon, May 21, 2014.

“Chemical Emissions from E-Cigarettes: Direct and Indirect Passive Exposures”, Indoor Air 2014, Hong Kong, July, 2014.

“Infectious Disease Aerosol Exposures With and Without Surge Control Ventilation System Modifications”, Indoor Air 2014, Hong Kong, July, 2014.

“Chemical Emissions from E-Cigarettes”, IMF Health and Welfare Fair, Washington, DC, February 18, 2015.

“Chemical Emissions and Health Hazards Associated with E-Cigarettes”, Roswell Park Cancer Institute, Buffalo, NY, August 15, 2014.

“Formaldehyde Indoor Concentrations, Material Emission Rates, and the CARB ATCM”, Harris Martin’s Lumber Liquidators Flooring Litigation Conference, WQ Minneapolis Hotel, May 27, 2015.

“Chemical Emissions from E-Cigarettes: Direct and Indirect Passive Exposure”, FDA Public Workshop: Electronic Cigarettes and the Public Health, Hyattsville, MD June 2, 2015.

“Creating Healthy Homes, Schools, and Workplaces”, Chautauqua Institution, Athenaeum Hotel, August 24, 2015.

“Diagnosing IAQ Problems and Designing Healthy Buildings”, University of California Berkeley, Berkeley, CA, October 6, 2015.

“Diagnosing Ventilation and IAQ Problems in Commercial Buildings”, BEST Center Annual Institute, Lawrence Berkeley National Laboratory, January 6, 2016.

“A Review of Studies of Ventilation and Indoor Air Quality in New Homes and Impacts of Environmental Factors on Formaldehyde Emission Rates From Composite Wood Products”, AIHce2016, May, 21-26, 2016.

“Admissibility of Scientific Testimony”, Science in the Court, Proposition 65 Clearinghouse Annual Conference, Oakland, CA, September 15, 2016.

“Indoor Air Quality and Ventilation”, ASHRAE Redwood Empire, Napa, CA, December 1, 2016.

Exhibit C



WI #24-002.07

April 8th, 2023

Ms. Marjan Kris Abubo
Lozeau | Drury LLP
1939 Harrison Street, Suite 150
Oakland, CA 94612

**SUBJECT: Lockwood III Apartments
Oxnard, California
Review and Comment on Noise Study**

Dear Mr. Abubo,

Per your request, Wilson Ihrig has reviewed the information and noise impact analysis in the Initial Study/Mitigated Negative Declaration (IS/MND) for the Lockwood III apartments, with an emphasis on the Appendix I, the Noise Study, developed by Meridian Consultants and dated September 2023. The Proposed Project is construction of a 5-story approximately 234-unit multi-family residential building on undeveloped land in the City of Oxnard. The projected is surrounded by sensitive uses, including the California Lutheran University Satellite Campus at 2201 Outlet Center Drive, as well as medical office buildings at 1900, 1901, and 2024 Outlet Center Drive

Wilson Ihrig, Acoustical Consultants, has practiced exclusively in the field of acoustics since 1966. During our 57 years of operation, we have prepared hundreds of noise studies for Environmental Impact Reports and Statements. We have one of the largest technical laboratories in the acoustical consulting industry. We also utilize industry-standard acoustical programs such as Roadway Construction Noise Model (RCNM), SoundPLAN, and CADNA. In short, we are well qualified to prepare environmental noise studies and review studies prepared by others.

Adverse Effects of Noise¹

Although the health effects of noise are not taken as seriously in the United States as they are in other countries, they are real and, in many parts of the country, pervasive.

Noise-Induced Hearing Loss. If a person is repeatedly exposed to loud noises, he or she may experience noise-induced hearing impairment or loss. In the United States, both the Occupational Health and Safety Administration (OSHA) and the National Institute for Occupational Safety and

¹ More information on these and other adverse effects of noise may be found in *Guidelines for Community Noise*, eds B Berglund, T Lindvall, and D Schwela, World Health Organization, Geneva, Switzerland, 1999. (<https://www.who.int/docstore/peh/noise/Comnoise-1.pdf>)

Health (NIOSH) promote standards and regulations to protect the hearing of people exposed to high levels of industrial noise.

Speech Interference. Another common problem associated with noise is speech interference. In addition to the obvious issues that may arise from misunderstandings, speech interference also leads to problems with concentration fatigue, irritation, decreased working capacity, and automatic stress reactions. For complete speech intelligibility, the sound level of the speech should be 15 to 18 dBA higher than the background noise. Typical indoor speech levels are 45 to 50 dBA at 1 meter, so any noise above 30 dBA begins to interfere with speech intelligibility. The common reaction to higher background noise levels is to raise one's voice. If this is required persistently for long periods of time, stress reactions and irritation will likely result.

Sleep Disturbance. Noise can disturb sleep by making it more difficult to fall asleep, by waking someone after they are asleep, or by altering their sleep stage, e.g., reducing the amount of rapid eye movement (REM) sleep. Noise exposure for people who are sleeping has also been linked to increased blood pressure, increased heart rate, increase in body movements, and other physiological effects. Not surprisingly, people whose sleep is disturbed by noise often experience secondary effects such as increased fatigue, depressed mood, and decreased work performance.

Cardiovascular and Physiological Effects. Human's bodily reactions to noise are rooted in the "fight or flight" response that evolved when many noises signaled imminent danger. These include increased blood pressure, elevated heart rate, and vasoconstriction. Prolonged exposure to acute noises can result in permanent effects such as hypertension and heart disease.

Impaired Cognitive Performance. Studies have established that noise exposure impairs people's abilities to perform complex tasks (tasks that require attention to detail or analytical processes) and it makes reading, paying attention, solving problems, and memorizing more difficult. This is why there are standards for classroom background noise levels and why offices and libraries are designed to provide quiet work environments.

Construction Noise Threshold is Misinterpreted

The Noise Memo in Appendix I errs by using the Federal Transit Administration (FTA) detailed assessment methodology with the contradictory and less stringent general assessment threshold. Appendix I states on page 11 that "a construction-related noise level threshold is adopted from the FTA Construction Noise Handbook for General Assessment Construction Noise Criteria" and that "The construction noise criteria threshold for residential uses is 90 dBA (Leq-1hour) during the daytime." This is correctly cited from the manual.

Additionally, on Page 15, the Noise Appendix states that in order to "calculate construction noise levels, hourly activity or utilization factors ... are estimated based on the temporal characteristics of other previous and current construction projects." These values are then given as an input in Table 6, which affects the construction noise source level used in the model (and thus the final modeled construction noise level).

However, it should be noted that the FTA advises assuming a usage factor of 1 when using a general assessment in the Transit Noise and Vibration Impact Assessment Manual.² The same document notes that usage factors are only utilized in the detailed assessment. Included usage factors in a general assessment underestimates noise by as much as 7 decibels for pieces of equipment that are used in the analysis, such as cranes. This difference is baked into the different criteria. The general assessment will almost always have higher levels than the detailed assessment since there is no usage factor adjustment, and thus has a higher criterion of 90 dBA. The detailed assessment is the inverse; typically lower modeled construction noise levels with a lower criterion of 80 dBA. The document's approach of using FTA general assessment criteria while incorporating usage factors significantly underestimates the potential impact of construction noise, especially since the modeled noise for the Site Preparation and Grading phases are 7 dBA over the 80 dBA threshold. This error should be fixed in an updated EIR, with more attention paid to consistency different construction noise modeling methodologies and thresholds.

On-Site Operational Noise Analysis is Incomplete

The Noise Analysis does not study impacts generated by noise produced by this project on nearby receivers. As such, it's possible the rooftop mechanical equipment, among other things, would raise nearby ambient levels over impact thresholds. This is especially a concern at night since HVAC systems can run at any hour.

There are no calculations nor any evidence provided that demonstrates mechanical equipment used in the Project will not be potentially significant at nearby sensitive receivers. Typical noise levels associated with mechanical equipment can be placed in a noise model with distance attenuation and project geometry to determine if there is an impact that would require mitigation. To confirm a less than significant impact, the Project Applicant should demonstrate in an Environmental Impact Report that the level generated by these sources is below reasonable significance thresholds.

The Potential for Building Damage Caused by Construction Vibration is Not Studied

Table 8 presents modeled construction vibration annoyance levels along with associated thresholds for applicable sensitive receivers. The FTA guidance manual states on Page 182 that "Buildings founded on the soil near the construction site [can] respond to these [construction] vibrations with ... slight damage at the highest [vibration] levels." As such, it is imperative that all nearby sensitive receivers are analyzed for construction vibration damage to nearby structures, as such levels are within the realm of possibility. This should be included in an Environmental Impact Report.

Off-Site Operational Noise Analysis is Incomplete

Table 9 in the Noise Analysis presents Existing Plus Project Noise Levels with and without the project traffic and compares this difference to significance thresholds. However, the analysis only considers Rice Avenue, Gonzales Road, and Rose Avenue. This means that potential traffic noise increases on Lockwood Ave and Outlet Center Drive are not considered.

This is particularly egregious for Lockwood Street, which is the main access road in and out of the site. Current traffic levels are presumably low, and even slight increases may double traffic, which

² https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf page 177

could increase noise levels by 3 dBA³. As such, there is a potential for significant impacts, and the issue should be studied in an Environmental Impact Report.

Conclusion

The IS/MND includes several errors, including an improper interpretation of construction noise guidelines, and little to no analysis on rooftop mechanical noise, construction vibration damage to buildings, and off-site noise on Lockwood Ave and Outlet Center Drive. These error and omissions should be corrected in a revised IS/MND or in an Environmental Impact Report.

Please feel free to contact me with any questions on this information.

Very truly yours,
WILSON IHRIG

A handwritten signature in blue ink, appearing to read "John Meighan", is written over a horizontal line.

John Meighan
Associate

lockwood 3 apartments mnd - comments on noise analysis - j meighan.docx

³Since 3dBA represents a doubling of sound energy <https://www.nps.gov/subjects/sound/mapfaq.htm>



JACK MEIGHAN

Associate

Jack joined Wilson Ihrig in 2021 and works out of our Los Angeles office. He is an experienced acoustical engineer with expertise in projects involving rail transit systems, highways, CEQA analysis, environmental noise reduction, mechanical drawing reviews, and construction noise and vibration mitigation. He has hands-on experience with project management, including client coordination and presentations, as well as in designing, developing, and testing MATLAB code used in acoustics applications. His expertise includes field measurements, developing test plans and specifying, purchasing, setting up and repairing acoustic measurement equipment. He has experience in using Traffic Noise Model (TNM), CadnaA, EASE, Visual Basic, LabView, and CAD software.

Education

- B.S. in Mechanical Engineering, University of Southern California, Los Angeles, CA

Project Experience

LA Metro Regional Connector, Los Angeles CA

Planned, took, and processed measurements as part of a team to determine the effectiveness of floating slab trackwork for a new subway in downtown Los Angeles that travels below the Walt Disney Concert Hall and the Colburn School of Music.

Rodeo Credit Enterprise CEQA Analysis for New Construction, Palmdale, CA

Wrote an accepted proposal and executed it for a noise study project to determine noise mitigation requirements on a new housing development. Led all aspects of the project and managed the budget during all phases of project completion. Completed five separate projects of this type for this company.

Blackhall Studios, Santa Clarita, CA

Led the vibration measurement effort for a new soundstage directly adjacent to an existing freight and commuter rail line. Tested equipment, processed data, and analyzed results to determine the vibration propagation through the soil to the proposed soundstage locations, and was part of the team that developed mitigation techniques for the office spaces directly next to the rail line.

Octavia Residential Condos CEQA Study, San Francisco, CA

Calculated the STC ratings for the proposed windows to meet Title 24 requirements, modeled the acoustic performance of floor and ceiling structures, researched noise codes, helped with a mechanical design review, and wrote a report summarizing the results for a new Condominium project being developed in San Francisco.

ARRIVE San Diego Airport Terminal 1 Replacement, CA

Conducted interior noise and vibration measurements, analyzed measurement data to help determine project criteria, modeled the existing and future terminals in CadnaA, and was part of a team that did a complete HVAC analysis of the entire terminal, as part of a CEQA analysis where a new terminal for the airport is being designed.

Five Points Apartments Noise Study, Whittier, CA

Conducted measurements, researched sound data and solutions, and recommended mitigation for a new apartment complex that was located next to an existing car wash, as part of a CEQA review.

USC Ellison Vibration Survey, Los Angeles, CA

Conducted vibration measurements as part of a survey to determine the effectiveness of vibration isolation platforms that are used to insulate cell growth in a cancer research facility. Determined the effectiveness and presented this information to the client. Researched and recommended a permanent monitoring system so the client could view data in real time.

TEN50 Condos Noise Investigation, Los Angeles, CA

Was part of a team that investigated the noise source of an unwanted popping noise in luxury condominiums in Downtown Los Angeles. Helped isolate the noise source location with accelerometers to determine where vibrations were occurring first and used an acoustic camera to determine where in the condo the noise was coming from.

2000 University Mixed-Use Building, Berkely, CA

Wrote a construction noise monitoring plan based on environmental noise calculations, as required by CEQA, wrote a report summarizing the results, and attended a client meeting to discuss options.

Bay Area Rapid Transit (BART) On-Track, CA, San Francisco Bay Area, CA*

Day to day project manager, responsible for meetings, presentations, and coordination with the client for an ongoing noise study on the BART system. Developed MATLAB code to process measurements and determine areas where high corrugation was present, contributing to excessively high in-car noise levels. Performed noise measurements inside both the right of way and the vehicle cabin, in addition to rail corrugation measurements.

California I-605/SR-60 Interchange Improvement, Los Angeles, CA*

Developed a noise model of the area that predicted sound levels for abatement design, in addition to conducting noise measurements and analysis. Led the Team in use of the FHWA Traffic Noise Model Software for the project, involving three major highways and two busy interchanges extending over 17 miles in southern California.

Sound Transit On-Track, Seattle, WA*

Took measurements, fixed equipment, and developed software in MATLAB to process Corrugation Analysis Trolley measurements as part of an ongoing noise study on the Sound Transit Link system. Tested vibration data to determine the best measurement and processing techniques to store the data in an online database for in-car measurements.

LA Metro CRRC Railcar Testing, Los Angeles, CA*

Led the effort to plan the measurements, determine measurement locations and finalize the test plan. Formulated a method to capture speed data directly from legacy train vehicles. Executed noise and vibration specification measurements for new rail cars delivered by CRRC.

City of Los Angeles, Pershing Square Station Rehabilitation Noise Monitoring, CA*

Built noise models, wrote a construction noise plan, and assisted in on-site construction noise issues as they arose for a renovation of the Pershing Square metro station in downtown Los

** Work done prior to working for Wilson Ihrig*

Angeles. Trained construction personnel in techniques for noise reduction and how to conduct noise monitoring measurements to meet project specifications.

City of Orange Metrolink Parking Garage Construction Monitoring, CA*

Wrote an adaptive management vibration monitoring plan, set up equipment to monitor live vibration levels, and generated weekly reports as part of an effort to build a new parking garage. Designed, planned, and completed measurements to predict and mitigate pile driving construction impacts at three historic building locations adjacent to the construction site. Coordinated with the client whenever an on-site problem arose.

LA Metro Westside Subway Construction, Los Angeles, CA*

Planned, organized, and processed noise measurements for the Purple Line extension construction. Implemented both long term microphones to measure noise levels and accelerometers to measure vibration levels in existing subway tunnels. Oversaw noise monitoring at sensitive construction sites for the project and worked with the contractor to find ways to reduce construction noise levels by approximately 10dB.

Montreal Réseau Express Métropolitain, Canada*

Conducted vibration propagation measurements used to create models to predict operational vibration levels for an under-construction transit line. Managed equipment, solved problems in the field, and wrote parts of the report summarizing the findings of the acoustic study.

NCHRP Research Report 882 & 886, Multiple Locations (Dayton and Columbus, OH)

Took on-highway measurements and wrote, designed, developed, and tested MATLAB code to identify specific spectrograms to use for analyses for a project evaluating barrier reflected highway traffic noise differences in the presence of a single absorptive or reflective noise barrier.

Siemens Railcar Testing for Sound Transit, Seattle, WA*

Measured in-car noise and vibration for new rail cars delivered by Siemens. Developed new internal techniques for measurements based on the written specifications. Contributed to the team that helped identify issues that new cars had in meeting the Sound Transit specifications for noise and vibration. Participated in developing the test plan and specified then acquired new equipment for the measurement.

Toronto/Ontario Eglinton Crosstown Light Rail, Final Design, Canada*

Assisted in vibration propagation measurements, analysis, and recommendations for mitigation for a 12-mile light-rail line both on and under Eglinton Avenue. Set up and ran equipment for at-grade measurements with an impact hammer for underground measurements with an impact load cell that was used during pre-construction borehole drilling.

** Work done prior to working for Wilson Ihrig*

RECEIVED

AUG 15 2024

PLANNING DIVISION
CITY OF OXNARD

CITY CLERK OXNARD
AUG 15 '24 PM2:16



REQUEST FOR APPEAL
Community Development Department

Use this form to request an appeal of a decision rendered on one of the following type of permits: Administrative Wireless Permit; Discretionary Development Permit decision rendered by the Development Services Director; or a Discretionary Development Permit decision rendered by the Planning Commission.

After paying the required appeal fee to the Planning Division, submit the original request for appeal and two (2) copies along with verification that the appropriate appeal fee has been paid to the City Clerk's Office. To determine your appeal fee go to: oxnard.org/planning and click on planning handouts and applications or contact the Planning Division at (805) 385-7858.

Supporters Alliance for Environmental Responsibility ("SAFER")
I, (represented by Marjan R. Abubo), am requesting an appeal of a decision made by

Print name
City of Oxnard Planning Commission that was made on August 1, 2024 regarding

State decision making body Date
Planning and Zoning Permit No. 22-500-04 (Special Use Permit) and No. 22-535-03 (Density Bonus)

Specify PZ No.

Check one of the following:

- ☐ **Appeal of a Decision Rendered on a Wireless Permit.** Pursuant to Section No. 16-488 (C) of the Oxnard City Code, I am submitting an appeal to the Secretary of the Planning Commission and I am paying the necessary fees to the Planning Division. I am filing this appeal within 10 days of the Planning Manager's decision on a wireless communications facility permit. I am requesting that this appeal be considered by the Planning Commission.
- ☐ **Appeal of a Decision Rendered on a Discretionary Permit - Development Services Director.** Pursuant to Section No. 16-525 (B) of the Oxnard City Code, I am submitting an appeal to the City Clerk and I am paying the necessary fees to the Planning Division. I am filing this appeal within 10 days of the Development Services Director's decision on a discretionary permit. I am requesting that this appeal be considered by the Planning Commission.
- ☒ **Appeal of a Decision Rendered on a Discretionary Permit - Planning Commission.** Pursuant to Section 16-545/17-58(J) of the Oxnard City Code, I am submitting an appeal to the City Clerk and I am paying the necessary fees to the Planning Division. I am filing this appeal within 18 days / 10 working days of the Planning Commission's decision on a discretionary permit. I am requesting that this appeal be considered by the City Council.

State the grounds, facts, and if known the code sections supporting your request: (Provide additional sheets if necessary)

SAFER believes that the City cannot proceed with the Project as proposed because it fails to meet the City's required minimum affordability requirement (OMC Section 16-420). Additionally, SAFER has submitted substantial evidence of a fair argument that the Project may have potentially significant environmental effects, and the MND prepared for the Project does not adequately analyze or mitigate the potentially significant impacts from the Project. See attached letters dated April 12, 2024 and August 1, 2024.

X _____
Appellant Signature

8/14/24
Date

cc: City Attorney
Director
Project Planner
Applicant

OFFICE USE ONLY	
Date Received:	
Received By:	
Contacted Dept/Division Rep:	

Updated Jan 7, 2019 - City of Oxnard Planning Division
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Via Email

August 1, 2024

Oxnard Planning Commission
Ronald Arruejo, Chair
Vincent Stewart, Vice-Chair
Katherine Connelly, Commissioner
Miguel Lopez, Commissioner
Steve Nash, Commissioner
James Schuelke, Commissioner
Anna Zielsdorf, Commissioner
City of Oxnard
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Rose Chaparro, City Clerk
City Clerk's Office
City of Oxnard
300 West Third Street
Oxnard, CA 93030
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**Re: Comment on Mitigated Negative Declaration (No. 24-01)
Lockwood III Apartments Project
Planning Commission Agenda Item 3 (August 1, 2024)**

Dear Chair Arruejo and Honorable Members of the Planning Commission:

I am writing on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") and its members living, working, and recreating in and around the City of Oxnard ("City") regarding to the Initial Study and Mitigated Negative Declaration (MND No. 24-01) ("MND") prepared for the Lockwood III Apartments Project ("Project") to be heard as Agenda Item 3 at the Planning Commission's August 1, 2024 meeting.

After careful review of the MND and its accompanying documents prepared by Environmental Science Associates, SAFER believes that the City cannot proceed with the Project as proposed because it fails to meet the City's required minimum affordability requirement. SAFER previously submitted comments on this Project and incorporates those comments herein.

SAFER further believes that the MND is improper under the California Environmental Quality Act ("CEQA"), and that an environmental impact report ("EIR") is required. As explained in more detail below, there is a fair argument that the Project may have potentially

significant environmental impacts related to biological resources, air quality, and noise. Furthermore, the MND's Mitigation Monitoring and Reporting Program fails to reflect the inclusion of a mitigation measure to address the Project's air quality impact, thereby violating CEQA.

SAFER's review of the MND was assisted by expert biologist Dr. Shawn Smallwood; expert consulting firm Soil/Water/Air Protection Enterprise ("SWAPE"); indoor air quality expert Francis Offermann, CIH; and the expert acoustical consulting firm Wilson Ihrig. Their expert comments and CVs are attached as Exhibits A through G, respectively.

SAFER requests that the Planning Commission refrain from recommending adoption of the MND and approval of the Zone Change to the City Council and refrain from approving the Project's Special Use Permit and Density Bonus. SAFER instead requests that the City enforce its local ordinance to require the minimum affordability requirements and prepare an EIR to ensure that potentially significant environmental impacts of this Project are fully disclosed, analyzed, and mitigated.

PROJECT DESCRIPTION

The Project is located at 2151 Lockwood Street, in Oxnard, California. The Applicant, SVM Development LLC, Inc., proposes the construction of a new multifamily residential development comprised of 234 dwelling units located within buildings up to five-stories, all situated atop a two-level subterranean parking garage with 351 parking spaces.

The Project gross floor area measures 225,348 square feet and the Project site sits on approximately 5.17 acres, with sensitive receptors surrounding the site. The total residential space would be 201,115 SF; covered balconies, patios, parking and walkways would comprise 75,250 SF; corridors would comprise 40,497 SF; balconies 22,610 SF; utility space 16,710 SF; and community space 13,609 SF. The remaining SF would be comprised of corridor and vertical circulation (2,668 SF) and non-conditioned building (592 SF).

LEGAL STANDARD

As the California Supreme Court has held "[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR." (*Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319-320 [citing *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 88; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491, 504-05].) "Significant environmental effect" is defined very broadly as "a substantial or potentially substantial adverse change in the environment." (Pub. Res. Code § 21068; *see also* 14 CCR § 15382.)

The EIR is the very heart of CEQA. **Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214 (*Bakersfield Citizens*); *Pocket Protectors v. City*

of Sacramento (2004) 124 Cal.App.4th 903, 927. The EIR is an “environmental ‘alarm bell’ whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return.” *Bakersfield Citizens*, 124 Cal.App.4th at 1220. The EIR also functions as a “document of accountability,” intended to “demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.” *Laurel Heights Improvements Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 392. The EIR process “protects not only the environment but also informed self-government.” *Pocket Protectors*, 124 Cal.App.4th at 927.

Where an initial study shows that the project may have a significant effect on the environment, a mitigated negative declaration may be appropriate. However, a mitigated negative declaration is proper *only* if the project revisions would avoid or mitigate the potentially significant effects identified in the initial study “to a point where clearly no significant effect on the environment would occur, and...there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.” PRC §§ 21064.5 and 21080(c)(2); *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 331. In that context, “may” means a reasonable possibility of a significant effect on the environment. PRC §§ 21082.2(a), 21100, 21151(a); *Pocket Protectors*, 124 Cal.App.4th at 927; *League for Protection of Oakland's etc. Historic Res. v. City of Oakland* (1997) 52 Cal.App.4th 896, 904–05.

Under the “fair argument” standard, an EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency’s decision. 14 CCR § 15064(f)(1); *Pocket Protectors*, 124 Cal.App.4th at 931; *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-51; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602. The “fair argument” standard creates a “low threshold” favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. *Pocket Protectors*, 124 Cal.App.4th at 928. The “fair argument” standard is virtually the opposite of the typical deferential standard accorded to agencies. As a leading CEQA treatise explains:

This ‘fair argument’ standard is very different from the standard normally followed by public agencies in making administrative determinations. Ordinarily, public agencies weigh the evidence in the record before them and reach a decision based on a preponderance of the evidence. [Citations]. The fair argument standard, by contrast, prevents the lead agency from weighing competing evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact. The lead agency’s decision is thus largely legal rather than factual; it does not resolve conflicts in the evidence but determines only whether substantial evidence exists in the record to support the prescribed fair argument.

Kostka & Zisheke, *Practice Under CEQA*, §6.29, pp. 273–74.

The Courts have explained that “it is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency’s determination. Review is *de novo*, with a *preference for resolving doubts in favor of environmental review*.” *Pocket Protectors*, 124 Cal.App.4th at 928 (emphasis in original).

DISCUSSION

I. The Project Fails to Satisfy the Minimum Affordable Housing Requirement under the City’s Affordable Housing Additive Zone.

The City cannot approve the Project and its related entitlements until it satisfies the affordable housing zone requirements under the City’s municipal code. The Applicant requests for a zone change to include the affordable housing discretionary additive zone (“AHD Zone”) because the Project site is currently zoned as Business Research Park (“BRP”). (Staff Report, p. 1.) Oxnard Municipal Code Section 16-420 includes the provisions for the City’s AHD Zone, which requires residential development proposals to designate 20% of *all* units for affordable housing, defined as affordable to extremely-low income, very-low income, or low income households. (OMC, Sections 16-420D(A)(1) & 16-420(E)(A).) Notably, the requirements under the AHD Zone “are separate, and in addition to, the “State” density bonus” laws. (OMC, Section 16-420(A).)

Here, the City must deny Planning and Zoning Permit No. 22-570-01 (allowing for the zone change) because the Project’s designation of affordable housing units violates the requirements of the AHD Zone. Specifically, only 38 of the 234 proposed units (16%) will be reserved for low-income and very low-income level housing. (MND, p. 6.) Because that is well below the required minimum of twenty percent, the Project must propose an additional nine affordable units (for a total of 47 affordable housing units) to comply with the AHD Zone.

Unless and until this affordability requirement is met, the City cannot proceed with any Project approvals, including any and all entitlements requested by the Applicant.

II. The IS/MND Fails to Adequately Describe the Project’s Environmental Setting.

The City inadequately characterized the existing environmental setting and the site’s ability to provide habitat for special-status species. Expert wildlife biologist Dr. Shawn Smallwood, Ph.D. reviewed the Project and Response to Comments and concluded that the Project site has value as a habitat for special status species and that the Project may have significant impacts on biological resources. Dr. Smallwood’s comments are supported by a site visit by wildlife biologist Noriko Smallwood (“Ms. Smallwood”). (Ex. A, p. 1.) Ms. Smallwood is an expert wildlife ecologist with a focus on urban ecology, avian ecology, and habitat conservation. Dr. Smallwood’s comments and CVs are attached Exhibits A and B.

Every CEQA document must start from a “baseline” assumption. The CEQA “baseline” is the set of environmental conditions against which to compare a project’s anticipated impacts.

Communities for a Better Env't. v. So. Coast Air Qual. Mgmt. Dist. (2010) 48 Cal. 4th 310, 321. Section 15125(a) of the CEQA Guidelines states in pertinent part that a lead agency's environmental review under CEQA:

“...must include a description of the physical environmental conditions in the vicinity of the project, ***as they exist at the time [environmental analysis] is commenced***, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant.” (Emphasis added.)

((14 C.C.R., § 15125(a)); see *Save Our Peninsula Committee v. County of Monterey* (2001) 87 Cal.App.4th 99, 124-25.) As the court of appeal has explained, “the impacts of the project must be measured against the ‘real conditions on the ground,’” and not against hypothetical permitted levels. (*Save Our Peninsula, supra*, 87 Cal.App.4th 99, 121-23.)

The field survey prepared by the applicant's consultants, Environmental Science Associates (“ESA”), which was used to inform the environmental setting, is deficient. The reconnaissance survey concluded that a mere three species were detected at the Project site. However, as SAFER's ecologist, Dr. Smallwood, notes that ESA failed to include the methodological details that shaped the survey findings, information that is essential “to characterize the environmental setting as a basis for opining on, or predicting, potential project impacts to biological resources.” (Ex. A, p. 15.) Of the three species detected by ESA, Ms. Smallwood detected one during her site visit, but the rest of ESA's findings and subsequent conclusion starkly differs from Ms. Smallwood's site visit and findings. (*Id.*) As Dr. Smallwood explains, it remains unclear as to why and how ESA's survey omitted wildlife that were so abundant when Ms. Smallwood visited the Project site (*Id.*) The clear disparities between what ESA's and Ms. Smallwood's surveys as well as the unclear method in which ESA's survey was performed and documented require additional review.

Furthermore, Ms. Smallwood observed 25 species of vertebrate wildlife at and/or near the Project site, three of which were special-status species. (Ex. A, p. 3, Table 1.) These species include the Western gull (*Larus occidentalis*), which is classified as a “Bird of Conservation Concern.”¹ (*Id.*) Birds of Conservation Concern include “migratory nongame birds that without additional conservation action are likely to become candidates for listing under the Endangered Species Act (ESA) of 1973.”² Ms. Smallwood also observed the American kestrel (*Falco sparverius*) actively hunting on-site as well as Red-tailed hawk flying nearby. Both species are considered Birds of Prey, which are a valuable resource to the State of California, and are protected under state law.³ (*Id.*) “

¹ See, US Fish & Wildlife Service (“USFW”), Birds of Conservation Concern 2021, pp. 18-19 <https://www.fws.gov/sites/default/files/documents/birds-of-conservation-concern-2021.pdf>.

² *Id.*, p. 4.

³ See, Fish and Game Code, Sections 3503, 3503.5, 3505 and 3513, and California Code of Regulation, Title 14, Sections 251.1, 652 and 783-786.6

After SAFER submitted Dr. Smallwood's comment previously, the City responded that the three identified bird species that Dr. Smallwood noted as "special status species" are not special status species "because they do not appear on CDFW's Special Animals List..." and are therefore "not protected under state law." (Response to Comments, p. 3-161.) However, Dr. Smallwood underlines how this is misleading because the absence of species on CDFW's Special Animals List alone is not conclusive evidence that they are not "special status species." (Ex. B, p. 3.) For example, the Western gull, also identified on the Project site, is not on CDFW's Special Animals List, but is identified as a Bird of Conservation Concern under the US Fish and Wildlife Service ("USFWS"). The USFWS, notably, is identified in the California Resources Agency's Guidelines for Implementation of CEQA as an agency to identify certain species as special-status species. (*Id.*, p. 3.) As such, the City is incorrect in concluding the identified bird species are not "special status species."

Clearly, the IS/MND fails to accurately describe the Project's environmental setting. A new CEQA document is therefore required.

III. There is Substantial Evidence of a Fair Argument that the Project May Have Significant Biological Resources Impacts.

An EIR is required because substantial evidence in the record indicates a fair argument that the Project may have significant biological impacts. Dr. Smallwood's findings related to habitat loss, wildlife movement, collisions from windows and traffic, as well as impacts from domesticated animals underline the importance of preparing an EIR. For the following reasons set forth below, the City should not certify the MND and must instead prepare and circulate an EIR for the Project.

a. Habitat Loss.

Dr. Smallwood concludes that the Project may have potentially significant impacts on special status species through direct loss of habitat. (Ex. A, p. 24.) For example, given the documented breeding activity by Ms. Smallwood, Dr. Smallwood's analysis of the Project site's productive capacity finds that the Project would deny the ability to host 26 bird nests and close to a hundred birds every season. (Ex. A. pp. 14, 17.) This is especially concerning since at least four special-status species have been observed utilizing or flying over the Project site. In conjunction, then, the Project will result in the loss of foraging area for special status species. (*Id.*, p. 25.). As Dr. Smallwood further explains, the City fails to implement any mitigation measures to adequately address the impacts of habitat loss caused by the Project. (Ex. B, p. 12.)

b. Wildlife Movement.

Dr. Smallwood similarly points out that the Project will adversely impact wildlife movement. He concludes that volant wildlife use the site as a stopover area. The project would cut wildlife off from one of the last remaining stopovers and staging opportunities in the project area, forcing volant wildlife to travel even farther between remaining stopover sites." (Ex. A. p. 17.) In response, the City argues that Dr. Smallwood's findings are unsubstantiated assumptions.

However, this is incorrect. As Dr. Smallwood explains, “[t]hese patches of open space are all that many birds have left to rely on for stopover and staging. The project site itself was used by many western gulls this way, while [Ms. Smallwood] was doing her survey.” (Ex. B, p. 9.) As such, Dr. Smallwood’s conclusion were not mere assumptions, but rather expert findings based on observations of the Project site and the resulting behaviors of identified special-status wildlife species.

c. Collisions and Traffic.

The IS/MND fails to analyze the Project’s impacts due to bird-window collisions. Dr. Smallwood concludes that the extensive use of glass in the 5-story buildings will lead to increased bird-window collisions, and that the Project does not adequately consider the impacts that the height of the building would have on birds, during both the day and at night. (Ex. A, pp. 26-27.) He notes that there are “96 special status species of birds with potential to use the site’s aerosphere.” (*Id.*) While MND does not adequately detail to what extent glass windows will be used for the Project, Dr. Smallwood predicts that many of these birds are likely to experience window collisions. (*Id.*) As such, Dr. Smallwood calculates that the Project will cause 292 bird deaths due to window collisions each year, with a significant amount of these birds being protected under the Migratory Bird Treaty Act. (*Id.*, p. 29.)

Furthermore, the IS/MND fails to analyze the Project’s impacts related to wildlife traffic fatalities. Dr. Smallwood calculates that the Project will generate 22,242,187.5 annual vehicle miles travelled. (Ex. A, . p. 31). He predicts that this will result in 2,008 wildlife fatalities per year. (*Id.*).

d. The MND’s Proposed Mitigation Measures are Unenforceable and Ineffective.

The Project’s proposed mitigation measures for biological resources will certainly not reduce Project-related biological and/or cumulative impacts to a level below significance. CEQA requires that policies and mitigation measures be enforceable and effective. (CEQA Guidelines, § 15126.4(a)(1) & (2).) Here, the City maintains that Mitigation Measure BIO-1 will sufficiently address all significant impacts to all wildlife and special-status species alike. However, as Dr. Smallwood emphasizes, the mitigation measure only discusses the preparation of a preconstruction survey. Notably, Dr. Smallwood explains,

“A preconstruction survey addresses only direct take-avoidance, and does nothing to avoid or minimize the permanent loss of productive capacity of the species that would result from habitat loss. The most significant impacts are neither avoided nor minimized, nor are they compensated in any way. This measure would inadequately mitigate the impacts of the project to wildlife.”

(Ex. B, p. 2.)

The City also maintains that Mitigation Measure BIO-1 will sufficiently address cumulative biological impacts. However, as Dr. Smallwood explains, Mitigation Measure BIO-1 is a preconstruction “take-avoidance” survey, meaning that they are not positioned to minimize or reduce impacts, but rather to avoid direct take where feasible. (Ex. B, p. 12.) This mitigation measure does not, therefore, address impacts that construction activities would have on nesting birds or the Project’s impact on the productive capacity of the Project site post-construction. (*Id.*)

Dr. Smallwood’s comments and rebuttals constitute substantial evidence of a fair argument that the Project may have potentially significant biological impacts that the City fails to adequately mitigate. Clearly, an EIR is required to analyze the feasibility, enforceability, and effectiveness of such proposed mitigation measure.

Dr. Smallwood additionally proposes numerous mitigation measures that could vastly reduce the above impacts, such as avoiding construction during nesting season, applying bird-safe window treatments, landscaping measures and many others. (Ex. A, p. 36.) These mitigation measures should be analyzed in an EIR and implemented if feasible. Since there is substantial evidence of a fair argument that the Project may have potentially significant biological impacts, an EIR is required to analyze and mitigate those impacts.

IV. There is Substantial Evidence of a Fair Argument that the Project May Have Potentially Significant Air Quality Impacts.

The Project cannot proceed with an MND because there is substantial evidence of a fair argument that the Project may result in potentially significant air quality impacts. SWAPE reviewed the Project, the IS/MND, and its supporting documents and concluded that the Project may have significant air quality impacts. As a result, the City cannot rely on an MND and must instead prepare an EIR. SWAPE’s expert comments and CVs are attached as Exhibit C.

The MND references a health risk assessment (“HRA”) to support its conclusion that the Project will not have a significant health risk impact as a result of TAC emissions. The HRA prepared for the MND is incorrect because the HRA fails to evaluate impacts from the Project’s construction and operational emissions. Specifically, while the MND does quantify the health risk posed by nearby freeways to the residents of the Project themselves, it fails to acknowledge the toxic air contaminant (“TAC”) emissions associated with construction and operation of the Project. (MND, pp. 42-43.) Without conducting a quantitative construction and operational HRA, the MND therefore fails to evaluate the combined lifetime cancer risks of the Project as a whole.

The Maximally Exposed Individual at an Existing Residential Receptor

Age Group	Emissions Source	Duration (years)	Concentration (ug/m3)	Cancer Risk
3rd Trimester	Construction	0.25	0.2207	2.55E-06

Infant (0 - 2)	Construction	2	0.2207	6.16E-05
	<i>Construction</i>	<i>0.24</i>	<i>0.2207</i>	<i>9.88E-07</i>
	<i>Operation</i>	<i>13.76</i>	<i>0.0917</i>	<i>2.35E-05</i>
Child (2 - 16)	Total	14		2.45E-05
Adult (16 - 30)	Operation	14	0.0917	3.68E-06
Lifetime		30		9.23E-05

(Ex. A, p. 7.)

SWAPE performed a screening-level HRA to evaluate potential human health impacts from the construction and operation of the Project. SWAPE used AERSCREEN, the leading screening-level air quality dispersion model. (Ex. A, p. 3-7.) SWAPE calculated that the Project's construction and operation may result in an excess cancer risk of 92.3 per million over a residential lifetime, which exceeds the VCAPCD significance threshold of 10 in one million. (*Id.*, p. 7.) SWAPE's conclusions constitute substantial evidence that the Project may have a significant impact on human health, necessitating the preparation of an EIR.

V. There is Substantial Evidence of a Fair Argument that the Project May Have Significant Health Risks from Indoor Air Quality Emissions.

The Project cannot proceed with an MND because there is substantial evidence of a fair argument that the Project may result in potentially significant indoor air quality impacts. Certified Industrial Hygienist, Francis Offermann, PE, CIH, conducted a review of the Project and relevant documents regarding the Project's indoor air emissions. Mr. Offermann concludes that the Project will expose residents of the Project to significant impacts related to indoor air quality, and in particular, emissions of the cancer-causing chemical formaldehyde. Mr. Offermann is one of the world's leading experts on indoor air quality and has published extensively on the topic. As discussed below and in Mr. Offermann's comments, the Project's emissions of formaldehyde to the air will result in very significant cancer risks to future residents of the Project's residential units. Mr. Offermann's expert comments and CV are attached as Exhibits D and E.

Mr. Offermann explains that many composite wood products used in building materials and furnishings commonly found in offices, warehouses, residences, hotels, and commercial spaces contain formaldehyde-based glues which off-gas formaldehyde over a long period of time. He states, "The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring,

cabinetry, baseboards, window shades, interior doors, and window and door trims.” (Ex. D, pp. 2-3.) Notably, the MND includes some discussion of impacts or health risks, but no required mitigations for significant emissions of formaldehyde to air from the Project.

Formaldehyde is a known human carcinogen and is listed by the State as a toxic air contaminant (“TAC”). Mr. Offermann concludes that future residents of the Project may be exposed to a cancer risk from formaldehyde emissions of approximately 120 per million, even assuming all materials are compliant with the California Air Resources Board’s formaldehyde airborne toxics control measure. (Ex. D, p. 3.) This exceeds the VCAPCD’s CEQA significance threshold for airborne cancer risk of 10 per million. (*Id.*)

When a Project exceeds a duly adopted CEQA significance threshold, as here, this alone establishes a fair argument that the project may have a significant environmental impact and an EIR is required. Indeed, in many instances, such air quality thresholds are the only criteria reviewed and treated as dispositive in evaluating the significance of a project’s air quality impacts. (*See, e.g. Schenck v. County of Sonoma* (2011) 198 Cal.App.4th 949, 960 [County applies Air District’s “published CEQA quantitative criteria” and “threshold level of cumulative significance”]; *see also Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 110-111 [“A ‘threshold of significance’ for a given environmental effect is simply that level at which the lead agency finds the effects of the project to be significant”].)

Mr. Offermann states that there is a fair argument that future residents will be exposed to a cancer risk from formaldehyde of approximately 120 per million, even assuming all materials are compliant with the California Air Resources Board’s (“CARB”) formaldehyde airborne toxics control measure. (Ex. D, pp. 3-4.) This is more than 12 times VCAPCD’s significance threshold of 10 per million.

In response to Mr. Offermann’s comments, the City claims that all building materials will comply with applicable state and federal laws pertaining to formaldehyde emission standards, dismissing the potential for health impacts. (Response to Comments, p. 3-166.) However, as Mr. Offermann explains, “[e]ven composite wood products manufactured with CARB certified ultra-low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde [that] meet the OEHHA cancer risks that substantially exceed 10 per million.” (Ex. C, p. 6.) Mr. Offermann’s comments do not dispute the nature of whether the Project will comply with state and federal law, but rather emphasize that even the use of products cannot guarantee emissions will fall below significance. (*Id.*)

The City also claims that Mr. Offermann’s comments are speculative. But Mr. Offermann conducted his analysis based on the information provided by the Applicant and City. The City cannot hide behind its own failure to gather relevant data. *Gentry v. City of Murrieta*, 36 Cal. App. 4th 1359, 1378-79. The duty to investigate potential environmental impacts rests with the City. (*Id.*) “If [a] local agency has failed to study an area of possible environmental impact, a fair argument may be based on the limited facts in the record. Deficiencies in the record may actually

enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311.

Furthermore, Mr. Offermann’s conclusion that the Project may have a potentially significant air quality is corroborated by the MND’s Air Quality analysis. Specifically, the City admits that the MEIR “from predicted freeway emissions without compliance with the City of Oxnard Code of Ordinance Section 16-420J could be at 13.6 in one million **which would exceed the VCAPCD cancer risk significance threshold of 10 in one million.**” (Response to Comments, p. 3-197.) As such, the Air Quality analysis supports Mr. Offermann’s findings, and, as explained in detail below, more adequate enforcement mechanisms must be in place in order to ensure that the proposed mitigation measure is implemented.

The failure to address the Project’s formaldehyde emissions is contrary to the California Supreme Court’s decision in *California Building Industry Ass’n v. Bay Area Air Quality Mgmt. Dist.* (2015) 62 Cal.4th 369, 386 (“*CBI*”). At issue in *CBI* was whether the Air District could enact CEQA guidelines that advised lead agencies that they must analyze the impacts of adjacent environmental conditions on a project. The Supreme Court held that CEQA does not generally require lead agencies to consider the environment’s effects on a project. (*CBI*, 62 Cal.4th at 800-801.) However, to the extent a project may exacerbate existing adverse environmental conditions at or near a project site, those would still have to be considered pursuant to CEQA. (*Id.* at 801 [“CEQA calls upon an agency to evaluate existing conditions in order to assess whether a project could exacerbate hazards that are already present”].) In so holding, the Court expressly held that CEQA’s statutory language required lead agencies to disclose and analyze “impacts on a project’s users or residents that arise from the project’s effects on the environment.” (*Id.* at 800 [emph. added].)

The carcinogenic formaldehyde emissions identified by Mr. Offermann are not an existing environmental condition. Those emissions to the air will be from the Project. Tenants will be users of the Project. Currently, there is presumably little if any formaldehyde emissions at the site. Once the project is built, emissions will begin at levels that pose significant health risks. Rather than excusing the City from addressing the impacts of carcinogens emitted into the indoor air from the project, the Supreme Court in *CBI* expressly finds that this type of effect by the project on the environment and a “project’s users and residents” must be addressed in the CEQA process.

The Supreme Court’s reasoning is well-grounded in CEQA’s statutory language. CEQA expressly includes a project’s effects on human beings as an effect on the environment that must be addressed in an environmental review. “Section 21083(b)(3)’s express language, for example, requires a finding of a ‘significant effect on the environment’ (§ 21083(b)) whenever the ‘environmental effects of a project will cause substantial adverse effects on human beings, directly or indirectly.’” (*CBI*, 62 Cal.4th at 800 [emph. in original].) Likewise, “the Legislature has made clear—in declarations accompanying CEQA’s enactment—that public health and safety are of great importance in the statutory scheme.” (*Id.*, citing e.g., §§ 21000, subds. (b), (c), (d), (g), 21001, subds. (b), (d).) It goes without saying that the future residents of the Project are

human beings and the health and safety of those residents and workers is as important to CEQA's safeguards as nearby residents currently living near the project site.

Because Mr. Offermann's expert comments constitute substantial evidence of a fair argument that the Project may have a significant health impact on future users of the Project, an EIR must be prepared to disclose and mitigate those impacts.

VI. Installation of Filters to Reduce Significant Impacts to a Level Below Significance Constitutes a Mitigation Measure. Use of this Mitigation Measure Must be Reflected in the Mitigation Monitoring and Reporting Program.

The City fails to include the filter mitigation measure in the Project MND's mitigation monitoring and reporting program ("MMRP"). The MND concedes that high efficiency minimum efficiency reporting value (MERV) filters of MERV 14 or greater will be installed throughout the Project, thereby bringing the cancer risk at the maximum exposed receptor to a level below significance thresholds, at 5.18 in one million. (MND, p. 37.) Both SAFER and VCAPCD have commented that such integration of the filters is a mitigation measure that must be reflected accurately in the MND.

In response, the City insists that the integration of filters is a project design feature and not a mitigation measure, thereby failing to include it in the MMRP. This is violative of CEQA for a couple reasons. First, installation of air filters is a mitigation measure. CEQA provides that "the discussion of mitigation measures shall distinguish between the measures which are proposed... to be included in the project and other measures proposed by the lead, responsible or trustee agency... if required as conditions of approving the project." (CEQA Guidelines § 15126.4(a)(1)(A).) As applied, the Applicant does not have discretion on installing the filters – the Project *must* abide by the City's municipal code by adopting Section 16-420J as a condition of approval. (Response to Comments, p. 3-166.) Furthermore, the City admits that without the installation of filters, the Project's impacts will exceed significant thresholds set by VCAPCD. (*Id.*) Therefore, the installation of filters as mitigation measures should not be read as a suggestion, but rather a mandate to reduce impacts below significance.

Additionally, CEQA requires that all mitigation measures must be included in the MMRP. A lead agency may impose conditions in a negative declaration that require monitoring of the permitted activities to ensure that potential impacts will not occur. Such conditions are acceptable if the actions required to avoid or minimize the potential impacts **are prescribed in the monitoring and enforcement program.** (*Running Fence Corp. v. Superior Court* (1975) 51 Cal.App.3d 400, 420 (emph. added).) By failing to include the use of filters to reduce the Project's air quality impacts in the MMRP, the MND is deficient.

As such, the proposed installation of high-quality MERV filters must be reflected as a mitigation measure in the MMRP. Unless and until this is included, the MND violates CEQA.

VII. There is Substantial Evidence of a Fair Argument that the Project May Have Significant Noise Impacts that were Inadequately Addressed.

The Project's determination of less-than-significant noise and vibration impacts remains unsubstantiated and there is substantial evidence of a fair argument that the Project may have potentially significant noise and vibration impacts that the City failed to adequately analyze and mitigate.

SAFER's independent experts at Wilson Ihrig reviewed the Project and related documents, including the Noise Study and Response to Comments, and concluded that the MND's noise report remains unsubstantiated and there may still be potentially significant noise impacts. Wilson Ihrig is an expert and renowned firm within the field of noise and vibration consulting. For this reason, the MND is improper and the City should instead prepare an EIR. Wilson Ihrig's comments and CV are attached as Exhibit F and G.

a. There is Substantial Evidence of a Fair Argument that the Project May Have Potentially Significant Impacts on Nearby University Campus.

The MND fails to sufficiently review or completely omits critical analyses related to the Project's potentially significant noise impacts. CEQA prohibits the use of an MND where there is substantial evidence of a fair argument that the Project may have potentially significant environmental impacts. The Noise Study fails to evaluate the Project's construction-related vibration impacts on off-site sensitive receptors. Wilson Ihrig underlines that the FTA guidance relied on for the Noise Study explains that "[b]uildings founded on the soil near the construction site [can] respond to these [construction] vibrations with ... slight damage at the highest [vibration] levels." (Ex. F, p. 3.)

While the MND acknowledged the presence of multiple sensitive receptors near the Project site, including medical buildings, senior living facilities, and a university campus, there is a reasonable possibility that the Project's construction vibration may adversely affect such buildings. (Ex. F, p. 3.) However, the MND fails to analyze these impacts. For example, the MND may have underreported potentially significant impacts on the nearby California Lutheran University ("CLU"). While the MND applies a 90 VdB threshold for "Workshops" for the university campus, the CLU building includes "classrooms, office space, clinical psychology research labs and student study space."⁴ As Wilson Ihrig notes, office spaces have an 84 VdB threshold. (Ex. G, p. 3.) Because the MND's predicted vibration level is 87 VdB for CLU, this will exceed the office threshold, therefore having a potentially significant impact on CLU. The omission of this construction vibration effects on sensitive receptors under-analyzes the Project's impacts, and Wilson Ihrig asserts that it should be studied in an EIR. (*Id.*)

b. The MND Fails to Accurately Analyze the Project's Noise Impacts.

The MND's Noise Study potentially underestimates the Project's noise impacts because it erroneously utilizes a less stringent threshold assessment. In particular, the Noise Study relies

⁴ <https://www.callutheran.edu/about/oxnard-center.html>.

on a threshold adopted from the FTA Construction Noise Handbook, but “the FTA advises assuming a usage factor of 1 when using a general assessment”, which this Project’s Noise Study does. Reviewing the Noise Study’s assessment, Wilson Ihrig underlines that such approach “significantly underestimates the potential impact of construction noise, especially since the modeled noise for the Site Preparation and Grading phases are 7 dBA over the 80 dBA threshold.” (Ex. F, p. 3.) In fact, Wilson Ihrig predicts that the Noise Study’s general assessment underestimates the noise impacts by seven decibels across the board. (*Id.*) The MND’s Noise Study, therefore, fails to capture the true extent of the Project’s noise impacts, and must instead review and assess these issues in an EIR.

In response, the City asserts that given that the Project is currently in the planning stage, the noise analysis was appropriately done. (Response to Comments, p. 3-170.) However, Wilson Ihrig maintains that the calculations are incorrect and inconsistent with the FTA guidelines. For example, Wilson Ihrig points to the City’s unsupported claims that the Project’s construction equipment may be fitted with noise-reducing devices or that equipment can be modified or redesigned to reduce noise impacts, neither of which are supported by substantial evidence. (Ex. G, p. 2.) However, Wilson Ihrig explains that equipping equipment with mufflers, as the MND suggests, is a decades-old practice and that such noise reductions may have already been accounted for in the noise analysis. (*Id.*)

c. The MND’s Use of the City’s Municipal Code to Analyze Operational Noise Impacts is Unsupported by Substantial Evidence.

The MND’s analysis of operational noise impacts is incomplete because it fails to properly analyze cumulative noise impacts. California courts have clearly held that “the lead agency should consider both the increase in noise level **and the absolute noise level associated with a project**”. (*Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 733 (emph. added) (“*Keep Our Mountains Quiet*”); see *King and Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 894 (citing *Keep Our Mountains Quiet*)). The courts have held that reliance on a maximum noise level as the sole threshold of significance for noise impacts violates CEQA because it fails to consider whether the magnitude of changes in noise levels is significant. (*King & Gardiner Farms, LLC*, 45 Cal.App.5th at 865.)

In *Keep our Mountains Quiet*, neighbors of a wedding venue sued over the County of Santa Clara’s failure to prepare an EIR for a proposed project to allow use permits for wedding and other party events at a residential property abutting an open space preserve. (See, *Keep our Mountains Quiet*.) Neighbors and their noise expert contended that previous events at the facility had caused significant noise impacts that reverberated in neighbors’ homes and disrupted the use and enjoyment of their property. (*Id.*, p. 724.)

Like the City’s noise threshold for this Project, the MND in *Keep Our Mountains Quiet* relied on the noise standards set forth in the County’s noise ordinance as its thresholds for significant noise exposure from the project, deeming any increase to be insignificant so long as the absolute noise level did not exceed those standards. (*Id.* at 732.) The Court examined a long line of CEQA cases which have uniformly held that conformity with land use regulations is not

conclusive of whether a project has significant noise impacts in holding that the County's reliance on the project's compliance with noise regulations did not constitute substantial evidence supporting the County's finding of no significant impacts. (*Id.*, citing *Citizens for Responsible & Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1338; *Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal.App.3d 872, 881–882; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1416 (project's effects can be significant even if "they are not greater than those deemed acceptable in a general plan"); *Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 354, ("CEQA nowhere calls for evaluation of the impacts of a proposed project on an existing general plan").

In *King and Gardiner Farms, LLC v. County of Kern*, the Court of Appeal cited *Keep Our Mountains Quiet* and decisions cited therein when it rejected the use of a single "absolute noise level" threshold of significance (construction and operational noise impacts were only deemed significant if they exceeded 65 dBA CNEL) on the grounds that the sole use of such a threshold fails to consider the magnitude or severity of increases in noise levels attributable to the project in different environments. The Court explained that the lead agency failed to "refer to evidence showing why the magnitude of an increase was irrelevant in determining the significance of a change in noise." (*King and Gardiner Farms, LLC, supra*, 45 Cal.App.5th 814, 894.)

In response to SAFER's earlier claim that the MND failed to analyze the operational noise impacts on nearby sensitive receptors, the City amended the MND to include an analysis for HVAC noise. The MND concludes that "the noise levels generated by these equipment types would not be substantially greater than those generated by the current HVAC equipment serving the existing buildings in the Project vicinity." (MND, p. 90.) This analysis is insufficient and precludes a comprehensive analysis of cumulative impacts because mere adherence to the city's noise ordinance is not substantial evidence of a finding that impacts may be less than significant.

Here, in utilizing the Oxnard Municipal Code as the only applicable noise threshold, the MND violates CEQA because the City did not analyze the cumulative increase in noise levels associated with the Project. In support of the MND's conclusion that the Project's operational noise will have less-than-significant impacts on sensitive receptors, the MND provides that "because the noise levels generated by the HVAC equipment serving the Proposed Project would be designed to not exceed the ambient noise levels allowable by the City of Oxnard Municipal Code, a substantial permanent increase in noise levels would not occur at the nearby sensitive receptors." (MND, p. 90.) This is incorrect because as Wilson Ihrig notes, "[t]he result is circular – the source levels would always be low enough using this method to ensure there is no impact, regardless of how unrealistic the source levels may be." (Ex. G, p. 2.) While the City has discretion to apply a significance threshold, it must evaluate both the increase in noise level *and* the absolute noise level associated with the Project. (*Keep Our Mountains Quiet v. Cty. of Santa Clara* (2015) 236 CA4th 714, 733.) The amended MND does not do so. Because the City relies on its own noise levels without taking into account the absolute and cumulative noise impacts, its conclusion that the Project's noise impacts will not exceed significance thresholds is not supported by substantial evidence.

There is at least a fair argument that the Project may have significant noise impacts. Therefore, the MND is improper and the City must instead prepare and circulate an EIR for review.

CONCLUSION

SAFER has submitted substantial evidence of a fair argument that the Project may have potentially significant environmental effects, and the MND prepared for the Project does not adequately analyze or mitigated the potentially significant environmental impacts stemming from the Project. Furthermore, the Project's failure to designate the minimum affordable housing units clearly violates the City's municipal code to grant the zone change. For the foregoing reasons, SAFER requests that the Planning Commission refrain from taking any action on the Project at this time. Instead, the City must supply the much-needed affordable housing required by the City's zoning code and must and prepare an EIR to analyze and mitigate the Project's potentially significant environmental impacts prior to Project approval. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marjan R. Abubo', is positioned above the printed name.

Marjan R. Abubo
LOZEAU DRURY LLP

Exhibit A

Shawn Smallwood, PhD
3108 Finch Street
Davis, CA 95616

Attn: Joe Pearson II
City of Oxnard Community Development Department
Planning Division
214 South C Street
Oxnard, California 93030

31 March 2024

RE: Lockwood III Apartments IS/MND

Dear Mr. Pearson,

I write to comment on potential impacts to biological resources that could result from the proposed Lockwood III Apartments Project, which I understand would add a five-story, 67.5-foot-tall, 373,069-square-foot residential building with 234 residential units and a 1,247 square-foot dog run among other amenities on 5.17 acres on Lockwood Street. I comment on the characterization of the existing environmental setting and on analyses of impacts to biological resources in the IS/MND (City of Oxnard 2024).

My qualifications for preparing expert comments are the following. I hold a Ph.D. degree in Ecology from University of California at Davis, where I also worked as a post-graduate researcher in the Department of Agronomy and Range Sciences. My research has been on animal density and distribution, habitat selection, wildlife interactions with the anthroposphere, and conservation of rare and endangered species. I authored many papers on these and other topics. I served as Chair of the Conservation Affairs Committee for The Wildlife Society – Western Section. I am a member of The Wildlife Society and Raptor Research Foundation, and I've lectured part-time at California State University, Sacramento. I was Associate Editor of wildlife biology's premier scientific journal, The Journal of Wildlife Management, as well as of Biological Conservation, and I was on the Editorial Board of Environmental Management. I have performed wildlife surveys in California for thirty-seven years. My CV is attached.

SITE VISIT

On my behalf, Noriko Smallwood, a wildlife biologist with a Master's Degree from California State University Los Angeles, visited the site of the proposed project for 3.63 hours from 07:26 to 11:04 hours on 28 March 2024. She walked the site's perimeter, stopping to scan for wildlife with use of binoculars. Noriko recorded all species of vertebrate wildlife she detected, including those whose members flew over the site or were seen nearby, off the site. Animals of uncertain species identity were either omitted or, if possible, recorded to the Genus or higher taxonomic level.

Conditions were cloudy to sunny with 3 mph north wind and temperatures of 51-61° F. The site was covered in annual grass with a few native shrubs and bordered by ornamental trees (Photos 1-3).



Photos 1-3. Views of the project site, 28 March 2024. Photos by Noriko Smallwood.

Noriko detected 25 species of vertebrate wildlife at or adjacent to the project site, including three species with special status (Table 1). Noriko saw American kestrel hunting on site (Photos 4 and 5), bushtit (Photos 6 and 16), western gull and barn swallow (Photos 7 and 8), white-crowned sparrow (Photos 9 and 10), yellow-rumped warbler (Photos 11 and 12), Cassin's kingbird and American crow (Photos, 13, 14, and 17), European starling (Photos 15 and 20), common raven (Photo 18), house sparrow

(Photo 19), house finch and rock pigeon (Photos 21 and 22), Botta's pocket gopher (Photo 23), Great Basin fence lizard and western side-blotched lizard (Photos 24 and 25), among the other species listed in Table 1.

Noriko Smallwood certifies that the foregoing and following survey results are true and accurately reported.

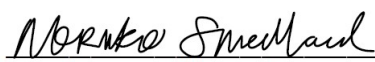

Noriko Smallwood

Table 1. Species of wildlife Noriko observed during 3.63 hours of survey on 28 March 2024.

Common name	Species name	Status ¹	Notes
Great Basin fence lizard	<i>Sceloporus occidentalis longipes</i>		Many, displays to each other
Western side-blotched lizard	<i>Uta stansburiana elegans</i>		
Mallard	<i>Anas platyrhynchos</i>		Flew over
Rock pigeon	<i>Columba livia</i>	Non-native	
Eurasian collared-dove	<i>Streptopelia decaocto</i>	Non-native	Flew over
Mourning dove	<i>Zenaida macroura</i>		Flew over
Anna's hummingbird	<i>Calypte anna</i>		Flew over, calling
Western gull	<i>Larus occidentalis</i>	BCC	Many flew over, perched nearby
Red-tailed hawk	<i>Buteo jamaicensis</i>	BOP	Two soaring nearby
American kestrel	<i>Falco sparverius</i>	BOP	Caught two lizards on site
Cassin's kingbird	<i>Tyrannus vociferans</i>		Displayed to each other
American crow	<i>Corvus brachyrhynchos</i>		
Common raven	<i>Corvus corax</i>		
Barn swallow	<i>Hirundo rustica</i>		Flew over, foraged nearby
Bushtit	<i>Psaltirparus minimus</i>		Gathered nest material
Northern mockingbird	<i>Mimus polyglottos</i>		Just off site
European starling	<i>Sturnus vulgaris</i>	Non-native	Gathered nest material, nesting in tower on site
House sparrow	<i>Passer domesticus</i>	Non-native	Just off site
House finch	<i>Haemorphous mexicanus</i>		
Lesser goldfinch	<i>Spinus psaltria</i>		
White-crowned sparrow	<i>Zonotrichia leucophrys</i>		Many, foraged
California towhee	<i>Melospiza crissalis</i>		Just off site
Yellow-rumped warbler	<i>Setophaga coronata</i>		Foraged
California ground squirrel	<i>Otospermophilus beecheyi</i>		Calling from adjacent site
Botta's pocket gopher	<i>Thomomys bottae</i>		Many burrows

¹ BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, and BOP = Birds of Prey (California Fish and Game Code 3503.5).



Photos 4 and 5. American kestrel flying with two separate lizards that it caught on site, 28 March 2024. Photos by Noriko Smallwood.



Photo 6. Bushtit on the project site, 28 March 2024. Photo by Noriko Smallwood.



Photos 7 and 8. Western gull (left), and barn swallow (right) flying over the project site, 28 March 2024. Photos by Noriko Smallwood.



Photos 9 and 10. White-crowned sparrows on the project site, 28 March 2024. Photos by Noriko Smallwood.



Photos 11 and 12. Yellow-rumped warblers on the project site, 28 March 2024. Photos by Noriko Smallwood.



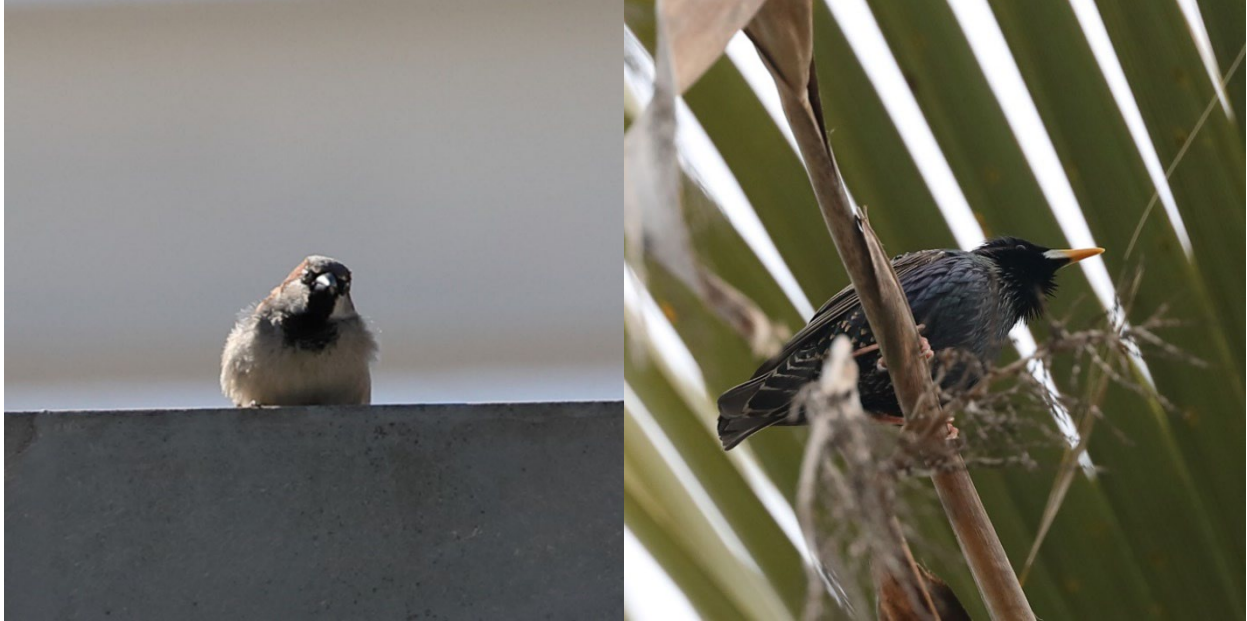
Photos 13 and 14. Cassin's kingbirds displaying to each other (left) and an American crow sitting on its nest just off site (left), 28 March 2024. Photos by Noriko Smallwood.



Photos 15 and 16. European starling with nest material (left), and bushtit with nest material (right) on the project site, 28 March 2024. Photos by Noriko Smallwood.



Photos 17 and 18. American crow (left), and common raven (right) on the project site, 28 March 2024. Photos by Noriko Smallwood.



Photos 19 and 20. House sparrow adjacent to the project site (left), and European starling on the project site (right), 28 March 2024. Photos by Noriko Smallwood.



Photos 21 and 22. House finch (left), and rock pigeon (right) on the project site, 28 March 2024. Photos by Noriko Smallwood.



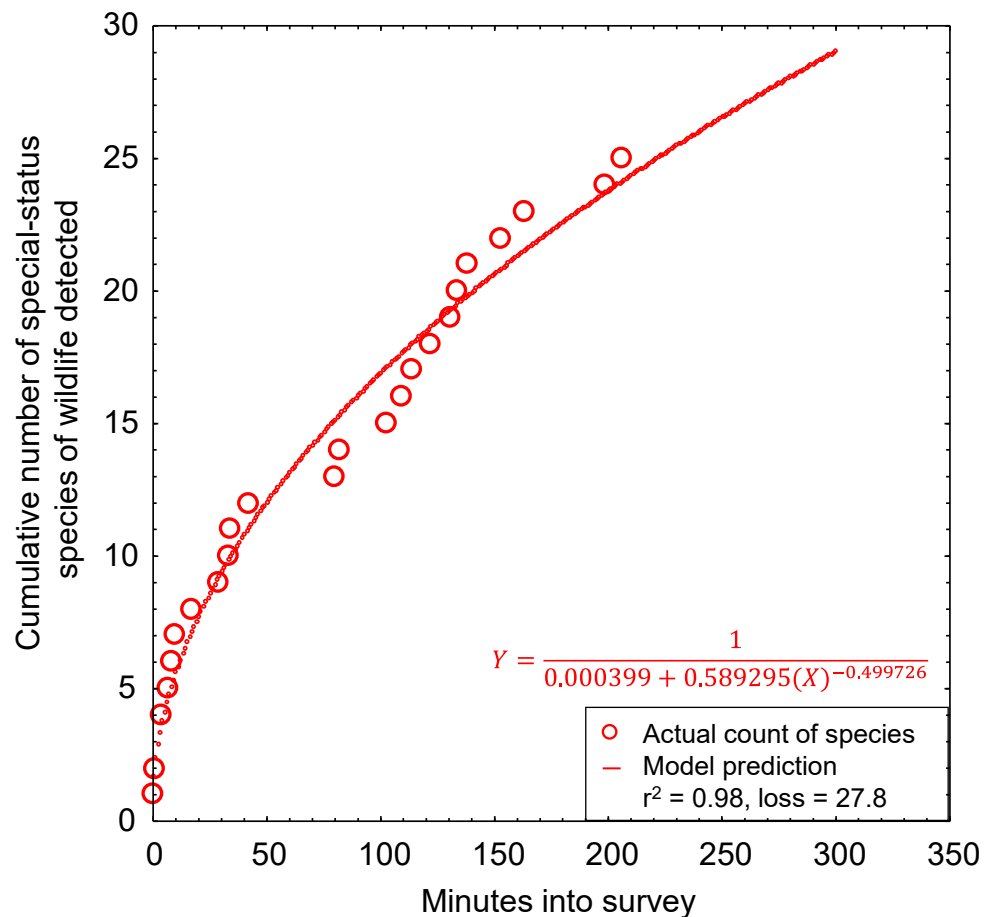
Photo 23. Botta's pocket gopher across the street from the project site, 28 March 2024. Photo by Noriko Smallwood.



Photos 24 and 25. Great Basin fence lizard (left) and western side-blotched lizard (bottom) on the project site, 28 March 2024. Photos by Noriko Smallwood.

I fit a nonlinear regression model to Noriko's cumulative number of vertebrate species detected with time into her 28 March 2024 survey to predict the number of species that she would have detected with a longer survey or perhaps with additional biologists available to assist her. The model is a logistic growth model which reaches an asymptote that corresponds with the maximum number of vertebrate wildlife species that could have been detected during the survey. In this case, the model predicts many more species of vertebrate wildlife were available to be detected on the morning of March 28th (Figure 1). Unfortunately, I do not know the identities of the undetected species, but the pattern in her data indicates more species could have been detected after more survey time at the site. Importantly, however, the species that Noriko did and did not detect on 28 March 2024 composed only a fraction of the species that would occur at the project site over the period of a year or longer. This is because many species are seasonal in their occurrences.

Figure 1. Actual and predicted relationships between the number of vertebrate wildlife species detected and the elapsed survey time based on Noriko's visual-scan survey on 28 March 2024. Note that the relationship would differ if the survey was based on another method or during another season.



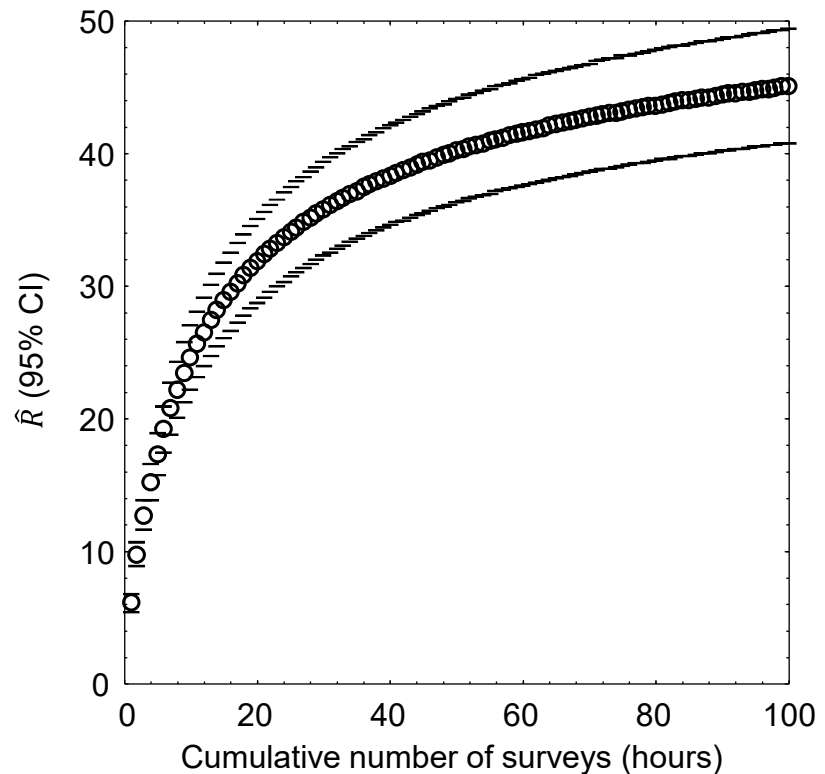
At least a year's worth of surveys would be needed to more accurately report the number of vertebrate species that occur at the project site, but I only have Noriko's one survey. However, by use of an analytical bridge, a modeling effort applied to a large, robust data set from a research site can predict the number of vertebrate wildlife species that likely make use of the site over the longer term. As part of my research, I completed a much larger survey effort across 167 km² of annual grasslands of the Altamont Pass Wind

Resource Area, where from 2015 through 2019 I performed 721 1-hour visual-scan surveys, or 721 hours of surveys, at 46 stations. I used binoculars and otherwise the methods were the same as the methods I and other consulting biologists use for surveys at proposed project sites. At each of the 46 survey stations, I tallied new species detected with each sequential survey at that station, and then related the cumulative species detected to the hours (number of surveys, as each survey lasted 1 hour) used to accumulate my counts of species detected. I used combined quadratic and simplex methods of estimation in Statistica to estimate least-squares, best-fit nonlinear models of the number of cumulative species detected regressed on hours of survey (number of surveys) at the station: $\hat{R} = \frac{1}{1/a + b \times (\text{Hours})^c}$, where $\hat{R}$ represented cumulative species richness detected. The coefficients of determination, r^2 , of the models ranged 0.88 to 1.00, with a mean of 0.97 (95% CI: 0.96, 0.98); or in other words, the models were excellent fits to the data.

I projected the predictions of each model to thousands of hours to find predicted asymptotes of wildlife species richness. The mean model-predicted asymptote of species richness was 57 after 11,857 hours of visual-scan surveys among the 46 stations of my research site. I also averaged model predictions of species richness at each incremental increase of number of surveys, i.e., number of hours (Figure 2). On average I would have detected 14.3 species over my first 3.63 hours of surveys at my research site in the Altamont Pass (3.63 hours to match the 3.63 hours Noriko surveyed at the project site), which composed 25% of the predicted total number of species I would detect with a much larger survey effort at the research site. Given the example illustrated in Figure 2, the 25 species Noriko detected after her 3.63 hours of survey at the project site likely represented 25% of the species to be detected after many more visual-scan surveys over another year or longer. With many more repeat surveys through the year, Noriko would likely detect $25/0.25 = 100$ species of vertebrate wildlife at the site. Assuming Noriko's ratio of special-status to non-special-status species was to hold through the detections of all 100 predicted species, then continued surveys would eventually detect 12 special-status species of vertebrate wildlife.

Because my prediction of 100 species of vertebrate wildlife, including 12 special-status species of vertebrate wildlife, is derived from daytime visual-scan surveys, and would detect few nocturnal mammals such as bats, the true number of species composing the wildlife community of the site must be larger. Noriko's reconnaissance survey should serve only as a starting point toward characterization of the site's wildlife community, but it certainly cannot alone inform of the inventory of species that use the site. More surveys are needed than her survey to inventory use of the project site by wildlife. Nevertheless, the large number of species I predict at the project site is indicative of a much more species-rich wildlife community than characterized in the IS/MND (see below), and warrants a serious survey effort.

Figure 2. Mean (95% CI) predicted wildlife species richness, $\hat{R}$, as a nonlinear function of hour-long survey increments across 46 visual-scan survey stations across the Altamont Pass Wind Resource Area, Alameda and Contra Costa Counties, 2015–2019. Note that the location of the study is largely irrelevant to the utility of the graph to the interpretation of survey outcomes at the project site. It is the pattern in the data that is relevant, because the pattern is typical of the pattern seen elsewhere.



EXISTING ENVIRONMENTAL SETTING

The first step in analysis of potential project impacts to biological resources is to accurately characterize the existing environmental setting, including the biological species that use the site, their relative abundances, how they use the site, key ecological relationships, and known and ongoing threats to those species with special status. A reasonably accurate characterization of the environmental setting can provide the basis for determining whether the site holds habitat value to wildlife, as well as a baseline against which to analyze potential project impacts. For these reasons, characterization of the environmental setting, including the project site's regional setting, is one of CEQA's essential analytical steps. Methods to achieve this first step typically include (1) surveys of the site for biological resources, and (2) reviews of literature, databases and local experts for documented occurrences of special-status species. In the case of the proposed project, these needed steps have been inadequate.

Environmental Setting informed by Field Surveys

To CEQA's primary objective to disclose potential environmental impacts of a proposed project, the analysis should be informed of which biological species are known to occur at the proposed project site, which special-status species are likely to occur, as well as the limitations of the survey effort directed to the site. Analysts need this information to characterize the environmental setting as a basis for opining on, or predicting, potential project impacts to biological resources.

On 8 August 2023, ESA deployed a biologist to perform a reconnaissance survey “to characterize existing conditions and determine the potential for sensitive biological resources [later said to be special-status species of plants and wildlife] to occur within the Project site or in a 200-foot buffer area.” According to the IS/MND, “land cover types were characterized and delineated,” as well. Unfortunately, the IS/MND does not report important methodological details that the reader needs to assess the meaning of the survey results. The IS/MND neglects to report when the survey started and how long the survey lasted. As far as I know, the survey could have started at the worst time of day for detecting wildlife, e.g., at 14:00 hours, and it could have lasted a mere 15 minutes. Also unreported is how ESA’s biologist assessed the project site’s potential for supporting various special-status species.

The only quantifiable outcome of ESA’s survey was the number of wildlife species detected. ESA’s biologist saw three species of vertebrate wildlife: American crow, California gull and black phoebe. Two of these species were not detected by Noriko Smallwood, who surveyed the site on 28 March 2024 on my behalf. However, ESA’s biologist did not detect 24 of the 25 species that Noriko detected. In only 3.63 hours of survey, Noriko detected more than eight times the number of species that ESA’s biologist detected. Whereas there are nearly always differences in which species are detected between surveys at a given site, Noriko and I do not experience anywhere near this magnitude of difference when we repeat our own surveys at a given site. The reconnaissance survey completed by ESA is inadequate, and it has been used to inaccurately characterize the existing environmental setting of the project site. Many more than three species of vertebrate wildlife exist at the project site.

ESA documented little of the breeding activity that Noriko saw and photographed (see Table 1 and Photos 13 to 16 and 24). Given the body sizes and ubiquity of some of the species, it is difficult to understand how they could have been missed by ESA. Noriko saw many western gulls at the site. Western gulls are large birds. How did ESA not see the western gulls? Red-tailed hawks are large birds. Cassin’s kingbirds and mourning doves are highly noticeable. Botta’s pocket gophers leave evidence of their presence all over the place, and Noriko even photo-captured at least one gopher looking about from one of its burrows (Photo 23). According to Noriko, lizards were abundant at the site, and sufficiently abundant that she witnessed one or more American kestrels capture at least two of them (see Photos 4 and 5). How did ESA miss all of these species?

Whereas ESA reportedly surveyed a 200-foot buffer around the project site, it missed the California ground squirrels just to the south side of Lockwood Street. The occurrence of the squirrels is especially significant because burrowing owls rely on ground squirrels and their burrows, and the occurrence of ground squirrels greatly increases the likelihood of use of the site by burrowing owls. According to ESA, “Suitable habitat for this species [Burrowing owl] was not detected. The vegetation was dense and tall and the small mammal burrows detected were not the appropriate size or morphology for this species.” That ESA failed to detect burrowing owl is of no surprise to me, considering that ESA detected 12% of the species Noriko did, but ESA’s determination of the site’s unsuitability to burrowing owls is grossly inaccurate. Photos 1–3 depict a grassland environment that typifies the environments where I have studied

burrowing owls in the highest-recorded densities in the published literature (Smallwood et al. 2013, Smallwood and Morrison 2018)). Furthermore, there were ground squirrels across the street.

A protocol-level detection survey (CDFW 2012) is warranted for burrowing owls at the project site, but has yet to be completed. Furthermore, ESA's reconnaissance survey achieved very few if any of the minimum standards of reconnaissance survey for special-status species of plants (CDFW 2018). Conclusions of potential project impacts to biological resources are too poorly founded on wildlife and plant surveys to be relied upon for decision-making.

Environmental Setting informed by Desktop Review

The purpose of literature and database review and of consulting with local experts is to inform the field survey, and to augment interpretation of its outcome. Analysts need this information to identify which species are known to have occurred at or near the project site, and to identify which other special-status species could conceivably occur at the site due to geographic range overlap and migration flight paths.

ESA did not reportedly review eBird (<https://eBird.org>) or iNaturalist (<https://www.inaturalist.org>) for documented occurrence records at or near the project site. Instead, ESA queried the California Natural Diversity Data Base (CNDDB) for documented occurrences of special-status species within the USGS Quadrangle of the project site and the immediately surrounding Quadrangles. By taking this approach, the IS/MND immediately screens out many special-status species from further consideration in the characterization of the wildlife community as part of the existing environmental setting. CNDDB is not designed to support absence determinations or to screen out species from characterization of a site's wildlife community. As noted by CNDDB, *"The CNDDB is a positive sighting database. It does not predict where something may be found. We map occurrences only where we have documentation that the species was found at the site. There are many areas of the state where no surveys have been conducted and therefore there is nothing on the map. That does not mean that there are no special status species present."* ESA and the IS/MND misuse CNDDB.

CNDDB relies entirely on volunteer reporting from biologists who were allowed access to whatever properties they report from. Many properties have never been surveyed by biologists. Many properties have been surveyed, but the survey outcomes never reported to CNDDB. Many properties have been surveyed multiple times, but not all survey outcomes reported to CNDDB. Furthermore, CNDDB is interested only in the findings of special-status species, which means that species more recently assigned special status will have been reported many fewer times to CNDDB than were species assigned special status since the inception of CNDDB. The lack of many CNDDB records for species recently assigned special status had nothing to do with whether the species' geographic ranges overlap the project site, but rather more to do with the brief time for records to have accumulated since the species were assigned special status. And because negative

findings are not reported to CNDDDB, CNDDDB cannot provide the basis for estimating occurrence likelihoods of species undocumented on the project site.

In my assessment based on database reviews and site visits, 121 special-status species of wildlife are known to occur near enough to the site to warrant analysis of occurrence potential (Table 2). Of these 121 species, 4 (3%) were recorded on or just off of the project site, and another 23 (19%) species have been documented within 1.5 miles of the site ('Very close'), another 52 (43%) within 1.5 and 4 miles ('Nearby'), and another 33 (27%) within 4 to 30 miles ('In region'). Nearly two-thirds (65%) of the species in Table 2 have been reportedly seen within 4 miles of the project site. The site therefore supports multiple special-status species of wildlife and carries the potential for supporting many more special-status species of wildlife based on proximity of recorded occurrences. The site is far richer in special-status species than is characterized in the IS/MND.

The IS/MND analyzes the occurrence likelihoods of only 8 (6.6%) of the special-status species in my Table 2. The IS/MND's smaller analytical effort results from its misuse of CNDDDB to screen out most of the species that could potentially occur at the project site (see comments above). Of the species the IS/MND analyzes, the IS/MND determines the occurrence likelihoods to be moderate for one species – California horned lark, and low for the other seven species. And for 113 special-status species in my Table 2, the IS/MND provides no occurrence likelihood determinations at all, including for four species documented on or next to the project site. The analysis is flawed from the IS/MND's initial misuse of CNDDDB to screen out special-status species from next-steps. Its determinations of occurrence likelihoods are also flawed (see below).

The IS/MND provides one over-arching reason for its decision to omit all special-status plant species and 45 special-status species of wildlife from its analysis, which was the disturbed nature of the study area and the absence of suitable habitat. However, no explanation is provided of why disturbance at the project site prevents all of these species whereas disturbance elsewhere does not prevent the occurrences of the same species. Every place in California is disturbed to some degree. The IS/MND provides no evidence of a threshold of disturbance that prevents the occurrences of special-status species of plants and animals, nor does it prevent evidence that such a threshold has been breached.

Of the seven species the IS/MND determines to have low occurrence potential, two have been documented within 1.5 miles of the project site and three have been documented within 1.5 and 4 miles of the site. The documented proximities of these species do not comport with the IS/MND's determinations.

Based on environmental conditions where I have observed California horned larks at other locations, I see no reason why horned larks should be determined to have a high rather than a moderate occurrence likelihood at the project site. Photos 1–3 show an environment that typifies where I have found this species. The site appears like the type of site where California horned larks breed.

Table 2. Occurrence likelihoods of special-status bird species at or near the proposed project site, according to eBird/iNaturalist records (<https://eBird.org>, <https://www.inaturalist.org>) and on-site survey findings, where ‘Very close’ indicates within 1.5 miles of the site, “nearby” indicates within 1.5 and 4 miles, and “in region” indicates within 4 and 30 miles, and ‘in range’ means the species’ geographic range overlaps the site. Entries in bold font identify species detected by Noriko.

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Monarch	<i>Danaus plexippus</i>	FC	Low	Very close
Crotch’s bumble bee	<i>Bombus crotchii</i>	CCE	Low	In region
Western spadefoot	<i>Spea hammondi</i>	SSC		In region
Western pond turtle	<i>Emys marmorata</i>	SSC		In region
Blainville’s horned lizard	<i>Phrynosoma blainvillii</i>	SSC	Low	Nearby
Coastal whiptail	<i>Aspidoscelis tigris stejnegeri</i>	SSC	Low	In region
San Diegan legless lizard	<i>Anniella stebbinsi</i>	SSC		Nearby
California glossy snake	<i>Arizona elegans occidentalis</i>	SSC		In range
Coast patch-nosed snake	<i>Salvadora hexalepis virgultea</i>	SSC		In region
Two-striped gartersnake	<i>Thamnophis hammondi</i>	SSC		In region
South coast gartersnake	<i>Thamnophis sirtalis pop. 1</i>	SSC		In region
Brant	<i>Branta bernicla</i>	SSC2		Nearby
Cackling goose (Aleutian)	<i>Branta hutchinsii leucopareia</i>	WL		Nearby
Redhead	<i>Aythya americana</i>	SSC2		Nearby
Harlequin duck	<i>Histrionicus histrionicus</i>	SSC2		In region
Western grebe	<i>Aechmophorus occidentalis</i>	BCC		Nearby
Clark’s grebe	<i>Aechmophorus clarkii</i>	BCC		Nearby
Western yellow-billed cuckoo	<i>Coccyzus americanus occidentalis</i>	FT, CE, BCC		Nearby
Black swift	<i>Cypseloides niger</i>	SSC3, BCC		Nearby
Vaux’s swift	<i>Chaetura vauxi</i>	SSC2, BCC		Nearby
Costa’s hummingbird	<i>Calypte costae</i>	BCC		Nearby
Rufous hummingbird	<i>Selasphorus rufus</i>	BCC		Very close
Allen’s hummingbird	<i>Selasphorus sasin</i>	BCC		Very close
Lesser sandhill crane	<i>Antigone canadensis canadensis</i>	SSC3		In region
American avocet ²	<i>Recurvirostra americana</i>	BCC		Nearby

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Mountain plover	<i>Charadrius montanus</i>	SSC2, BCC		In region
Snowy plover	<i>Charadrius nivosus</i>	BCC		Nearby
Western snowy plover	<i>Charadrius nivosus nivosus</i>	FT, SSC, BCC		In region
Whimbrel ²	<i>Numenius phaeopus</i>	BCC		Very close
Long-billed curlew	<i>Numenius americanus</i>	WL		Nearby
Marbled godwit	<i>Limosa fedoa</i>	BCC		Nearby
Red knot (Pacific)	<i>Calidris canutus</i>	BCC		In region
Short-billed dowitcher	<i>Limnodromus griseus</i>	BCC		In region
Willet	<i>Tringa semipalmata</i>	BCC		Nearby
Laughing gull	<i>Leucophaeus atricilla</i>	WL		In region
Heermann's gull	<i>Larus heermanni</i>	BCC		Nearby
Western gull	<i>Larus occidentalis</i>	BCC		On site
California gull	<i>Larus californicus</i>	BCC, WL	Observed	On site
California least tern	<i>Sternula antillarum browni</i>	FE, CE, FP		Nearby
Black tern	<i>Chlidonias niger</i>	SSC2, BCC		Nearby
Elegant tern	<i>Thalasseus elegans</i>	BCC, WL		Nearby
Black skimmer	<i>Rynchops niger</i>	BCC, SSC3		Nearby
Common loon	<i>Gavia immer</i>	SSC		Nearby
Wood stork	<i>Mycteria americana</i>	SSC1		Nearby
Brandt's cormorant	<i>Urile penicillatus</i>	BCC		Nearby
Double-crested cormorant	<i>Phalacrocorax auritus</i>	WL		Nearby
American white pelican	<i>Pelicanus erythrorhynchos</i>	SSC1, BCC		Very close
California brown pelican	<i>Pelecanus occidentalis californicus</i>	FP		In region
Least bittern	<i>Ixobrychus exilis</i>	SSC2		In region
White-faced ibis	<i>Plegadis chihi</i>	WL		Very close
Turkey vulture	<i>Cathartes aura</i>	BOP		Very close
Osprey	<i>Pandion haliaetus</i>	WL, BOP		Very close
White-tailed kite	<i>Elanus luecurus</i>	CFP, BOP		Very close
Golden eagle	<i>Aquila chrysaetos</i>	BGEPA, CFP, BOP, WL		Nearby

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Northern harrier	<i>Circus cyaneus</i>	BCC, SSC3, BOP		Very close
Sharp-shinned hawk	<i>Accipiter striatus</i>	WL, BOP		Nearby
Cooper's hawk	<i>Accipiter cooperii</i>	WL, BOP		Very close
Bald eagle	<i>Haliaeetus leucocephalus</i>	CE, BGEPA, BOP		Nearby
Red-shouldered hawk	<i>Buteo lineatus</i>	BOP		Very close
Swainson's hawk	<i>Buteo swainsoni</i>	CT, BOP		Nearby
Red-tailed hawk	<i>Buteo jamaicensis</i>	BOP		Very close
Ferruginous hawk	<i>Buteo regalis</i>	WL, BOP	Low	Nearby
Zone-tailed hawk	<i>Buteo albonotatus</i>	BOP		Nearby
Harris' hawk	<i>Parabuteo unicinctus</i>	WL, BOP		In region
Rough-legged hawk	<i>Buteo lagopus</i>	BOP		In region
Barn owl	<i>Tyto alba</i>	BOP		Nearby
Western screech-owl	<i>Megascops kennicotti</i>	BOP		Nearby
Great horned owl	<i>Bubo virginianus</i>	BOP		Very close
Burrowing owl	<i>Athene cunicularia</i>	BCC, SSC2, BOP	Low	Nearby
Long-eared owl	<i>Asio otus</i>	BCC, SSC3, BOP		In region
Short-eared owl	<i>Asia flammeus</i>	BCC, SSC3, BOP		In region
Lewis's woodpecker	<i>Melanerpes lewis</i>	BCC		Nearby
Nuttall's woodpecker	<i>Picoides nuttallii</i>	BCC		Nearby
American kestrel	<i>Falco sparverius</i>	BOP		On site
Merlin	<i>Falco columbarius</i>	WL, BOP		Very close
Peregrine falcon	<i>Falco peregrinus</i>	BOP	Low	Very close
Prairie falcon	<i>Falco mexicanus</i>	WL, BOP		Nearby
Olive-sided flycatcher	<i>Contopus cooperi</i>	BCC, SSC2		Nearby
Willow flycatcher	<i>Empidonax traillii</i>	CE		Nearby
Southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	FE, CE		In region
Vermilion flycatcher	<i>Pyrocephalus rubinus</i>	SSC2		Nearby
Least Bell's vireo	<i>Vireo bellii pusillus</i>	FE, CE		Nearby
Loggerhead shrike	<i>Lanius ludovicianus</i>	SSC2		Nearby

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Oak titmouse	<i>Baeolophus inornatus</i>	BCC		Very close
California horned lark	<i>Eremophila alpestris actia</i>	WL	Moderate	Very close
Bank swallow	<i>Riparia riparia</i>	CT		Nearby
Purple martin	<i>Progne subis</i>	SSC2		Nearby
Wrentit	<i>Chamaea fasciata</i>	BCC		Very close
California gnatcatcher	<i>Polioptila c. californica</i>	FT, SSC2		In region
California thrasher	<i>Toxostoma redivivum</i>	BCC		Very close
Cassin's finch	<i>Haemorhous cassinii</i>	BCC		In region
Lawrence's goldfinch	<i>Spinus lawrencei</i>	BCC		Nearby
Grasshopper sparrow	<i>Ammodramus savannarum</i>	SSC2		Very close
Black-chinned sparrow	<i>Spizella atrogularis</i>	BCC		In region
Gray-headed junco	<i>Junco hyemalis caniceps</i>	WL		In region
Bell's sparrow	<i>Amphispiza b. belli</i>	WL		In region
Belding's savannah sparrow ³	<i>Passerculus sandwichensis beldingi</i>	CE, BCC		Nearby
Large-billed savannah sparrow ³	<i>Passerculus sandwichensis rostratus</i>	SSC2		In region
Southern California rufous-crowned sparrow	<i>Aimophila ruficeps canescens</i>	WL		Nearby
Yellow-breasted chat	<i>Icteria virens</i>	SSC3		Nearby
Yellow-headed blackbird	<i>Xanthocephalus xanthocephalus</i>	SSC3		Nearby
Bullock's oriole	<i>Icterus bullockii</i>	BCC		Very close
Tricolored blackbird	<i>Agelaius tricolor</i>	CT, BCC, SSC1		Nearby
Lucy's warbler	<i>Leiothlypis luciae</i>	SSC3, BCC		Very close
Virginia's warbler	<i>Leiothlypis virginiae</i>	WL, BCC		Nearby
Yellow warbler	<i>Setophaga petechia</i>	SSC2		Very close
Summer tanager	<i>Piranga rubra</i>	SSC1		Nearby
Pallid bat	<i>Antrozous pallidus</i>	SSC, WBWG:H		In region
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	SSC, WBWG:H		In range
Silver-haired bat	<i>Lasionycteris noctivagans</i>	WBWG:M		In range
Western red bat	<i>Lasiurus blossevillii</i>	SSC, WBWG:H		In range

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Hoary bat	<i>Lasiurus cinereus</i>	WBWG:M		In region
Western yellow bat	<i>Lasiurus xanthinus</i>	SSC, WBWG:H		In range
Western small-footed myotis	<i>Myotis cililabrum</i>	WBWG:M		In range
Miller's myotis	<i>Myotis evotis</i>	WBWG:M		In region
Little brown myotis	<i>Myotis lucifugus</i>	WBWG:M		In region
Fringed myotis	<i>Myotis thysanodes</i>	WBWG:H		In range
Long-legged myotis	<i>Myotis volans</i>	WBWG:H		In range
Yuma myotis	<i>Myotis yumanensis</i>	WBWG:LM		In region
Western mastiff bat	<i>Eumops perotis</i>	SSC, WBWG:H		In range
American badger	<i>Taxidea taxus</i>	SSC		In region

¹ Listed as FT or FE = federal threatened or endangered, FC = federal candidate for listing, BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, CT or CE = California threatened or endangered, CCT or CCE = Candidate California threatened or endangered, CFP = California Fully Protected (California Fish and Game Code 3511), SSC = California Species of Special Concern (not threatened with extinction, but rare, very restricted in range, declining throughout range, peripheral portion of species' range, associated with habitat that is declining in extent), SSC1, SSC2 and SSC3 = California Bird Species of Special Concern priorities 1, 2 and 3, respectively (Shuford and Gardali 2008), WL = Taxa to Watch List (Shuford and Gardali 2008), and BOP = Birds of Prey (CFG Code 3503.5), and WBWG = Western Bat Working Group with priority rankings, of low (L), moderate (M), and high (H).

² Uncertain if BCC based on 2021 Bird of Conservation Concern list.

³ Uncertain of subspecies, but either resident Belding's or wintering large-billed savannah sparrows.

For each of the species of wildlife the IS/MND determines to have low occurrence potential, flawed reasons are reported. For example, the IS/MND reports that “the site is frequently disturbed and lacks connectivity to high quality habitat” of Crotch’s bumble bee. Again, the IS/MND fails to define a disturbance threshold that prevents the species at issue. The IS/MND fails to define that level of connectivity to high quality habitat that is needed, nor does it explain what it means by high quality habitat. (Habitat quality is typically represented by measures of productivity.)

Referring to Monarch, the IS/MND reports that “Suitable roosting habitat for this species does not occur within the site and host plant species were not detected.” However, this reporting implies that roosting habitat is the only resource that needs to be considered for Monarch. It is not. According to the conservation strategy of the Western Monarch Butterfly Conservation Plan, migratory habitats are no less important to the conservation of monarchs than are overwintering groves, and the Plan identifies urban areas as contributive to migratory habitat.

Referring to both coastal whiptail and coast horned lizard, the IS/MND reports that “Suitable habitat for this species does not occur within the site due to the existing level of disturbance from operating activities.” Repeating the flaw noted above, the IS/MND fails to define a disturbance threshold that prevents either species from occurring at the project site. How is it that western side-blotched lizards and Great Basin fence lizards both occur at the project site in abundance, but the disturbance of the site prevents the occurrences of special-status species? The IS/MND presents no evidence that either of these species should be determined to have low occurrence potential.

As for Ferruginous hawk, the IS/MND points out that “Suitable nesting habitat does not occur within the project site, however, there is low potential for foraging.” Whether nesting habitat is suitable on the project site is not an issue for this species. Ferruginous hawks nest far to the north, but must find sufficient forage in southern California over the winter in order to successfully nest up north. Ferruginous hawks are winter migrants to the area, and in my experience, they hunt over fields just like the project site (Photo 26). The project does not provide “low potential for foraging,” as there are many of the pocket gophers and other animals that ferruginous hawks hunt.

Referring to peregrine falcon, the IS/MND claims, “the closest foraging habitat is located over 2 miles northwest.” However, this assertion is inaccurate. The closest foraging opportunities are to be found on the project site. I have many times witnessed peregrine falcons foraging over fields just like the project site. For example, I witnessed multiple members of a family of peregrine falcons forage over a field I surveyed 14 times in Bakersfield, California – a field that was repeatedly disked and sometimes covered in trash. These peregrine falcons captured ground squirrels and birds (one was a mourning dove, which is a species Noriko saw on the project site) and carried them to their nest on a water tower 800 m away. Peregrine falcons could very well forage successfully at the project site, and they could nest in the tower mentioned by the ESA biologist.

Photo 26. *A ferruginous hawk attempts to grab a pocket gopher on a southern California field that looks not too unlike the project site.*



POTENTIAL BIOLOGICAL IMPACTS

An impacts analysis should consider whether and how a proposed project would affect members of a species, larger demographic units of the species, the whole of a species, and ecological communities. The accuracy of this analysis depends on an accurate characterization of the existing environmental setting. In the case of the proposed project, the existing environmental setting has not been accurately characterized, and several important types of potential project impacts have been inadequately analyzed. These types of impacts include habitat loss, interference with wildlife movement, bird-window collision mortality, wildlife-automobile collision mortality, house cat depredation, and parasitic loading from the dog run.

HABITAT LOSS

Between ESA's and Noriko's surveys, 27 species of vertebrate wildlife were documented on the project site, including 4 special-status species. Noriko's findings examined through an analytical bridge to my research work at an expansive study site predicts use of the project site by at least 100 species of vertebrate wildlife including 12 special-status species. Converting the site to the impervious surfaces of an apartment complex and to open space to be used as a dog run would eliminate the project site's productive capacity to all of the wildlife species that currently use it.

The IS/MND makes no attempt to estimate this lost capacity for any of the wildlife species potentially affected. In the case of birds, two methods exist for estimating the loss of productive capacity that would be caused by the project. One method would involve surveys to count the number of bird nests and chicks produced. The alternative method would be to infer productive capacity from estimates of total nest density elsewhere.

Because the project is located within an area that has undergone severe habitat fragmentation, the habitat that remains in fragmented patches probably no longer supports its original productive capacity of wildlife (Smallwood 2015). Habitat fragmentation and habitat loss have been recognized as the most likely leading causes of a documented 29% decline in overall bird abundance across North America over the last 48 years (Rosenberg et al. 2019). Habitat loss not only results in the immediate numerical decline of wildlife, but it also results in permanent loss of productive capacity. Habitat fragmentation multiplies the negative effects of habitat loss on the productive capacities of biological species (Smallwood 2015). Several studies have estimated total avian nest density at locations that had likewise been highly fragmented. Two study sites in grassland/wetland/woodland complexes within agricultural matrices had total bird nesting densities of 32.8 and 35.8 nests per acre (Young 1948, Yahner 1982) for an average 34.3 nests per acre. To acquire a total nest density closer to conditions in California, Noriko surveyed through the breeding season of 2023 over 4.29 acres of grassland in the San Jacinto Wildlife Area, where she tabulated 3.72 bird nests/acre. Applying her estimated total nest density to the project site's 5.17 acres of grassland predicts 19 bird nest sites. Assuming 1.39 broods per nest site based on Noriko's review of 322 North American bird species, which averaged 1.39 broods per year, then I predict the project would cost California 26 nest attempts/year.

The loss of 19 nest sites and 26 nest attempts/year would qualify as significant project impacts that has not been quantitatively addressed in the IS/MND. But the impact would not end with the immediate loss of nest sites as nest substrate is removed and foraging grounds graded in preparation for impervious surfaces. The reproductive capacity of the site would be lost. The average number of fledglings per nest in Young's (1948) study was 2.9. Assuming Young's (1948) study site typifies bird productivity, the project would prevent the production of 183 fledglings per year. Assuming an average bird generation time of 5 years, the lost capacity of both breeders and annual fledgling production can be estimated from an equation in Smallwood (2022): $\{(nests/year \times chicks/nest \times number\ of\ years) + (2\ adults/nest \times nests/year) \times (number\ of\ years \div years/generation)\} \div (number\ of\ years) = 83\ birds\ per\ year\ denied\ to\ California.$

INTERFERENCE WITH WILDLIFE MOVEMENT

One of CEQA's principal concerns regarding potential project impacts is whether a proposed project would interfere with wildlife movement in the region. Unfortunately, the IS/MND's analysis of whether the project would interfere with wildlife movement in the region is flawed and misleading. According to the IS/MND, "Wildlife corridors are not present within the Project site, which is surrounded by fencing and urban development. Thus, the Project would not result in impacts to existing wildlife corridors or affect wildlife movement." The IS/MND's conclusion lacks supporting evidence. The IS/MND reports no survey methodology designed to determine whether wildlife rely on the site for movement in the region. ESA implemented no sampling regime nor any program of observation to record wildlife movement patterns. ESA attempted neither to quantify nor even to qualitatively assess wildlife movement as evidence of the project's contribution to movement in the region. The conclusion in the IS/MND regarding wildlife movement is only speculative and conclusory. Not only is the IS/MND's

conclusion unfounded, but Noriko found that the site was heavily used by wildlife, including by birds flying to, from, and over the site. Because much of the surrounding area is developed, the site is one of the last remaining wildlife stopover opportunities in the region.

Furthermore, the IS/MND's premise that a wildlife corridor must overlap the project site in order for the project to interfere with wildlife movement represents a false CEQA standard, and is therefore inappropriate to the analysis. The primary phrase of the CEQA standard goes to wildlife movement regardless of whether the movement is channeled by a corridor. A site such as the proposed project site is critically important for wildlife movement because it composes an increasingly diminishing area of open space within a growing expanse of anthropogenic uses, forcing more species of volant wildlife to use the site for stopover and staging during migration, dispersal, and home range patrol (Warnock 2010, Taylor et al. 2011, Runge et al. 2014). The project would cut wildlife off from stopover and staging opportunities, forcing volant wildlife to travel even farther between remaining stopover sites. The project would interfere with wildlife movement in the region.

BIRD-WINDOW COLLISIONS

Considering the project would add a five-story, 67.5-foot-tall, 373,069-square-foot residential building with 234 residential units, along with many glass windows on the building's facades, the IS/MND neglects a large portion of habitat that is essential to many species. To understand this part of their habitat, one must consider the definition of habitat, which is a species' use of the environment (Hall et al. 1997, Morrison et al. 1998, Smallwood 2002). The gaseous atmosphere, or aerosphere, is a principal medium of life to volant animals such as birds (Davy et al. 2017, Diehl et al. 2017). The aerosphere is where birds and bats and other volant animals with wings migrate, disperse, forage, perform courtship and where some of them mate. Birds are some of the many types of animals that evolved wings as a morphological adaptation to thrive by moving through the medium of the aerosphere. The aerosphere is habitat. Indeed, an entire discipline of ecology has emerged to study this essential aspect of habitat – the discipline of aeroecology (Kunz et al. 2008).

Many special-status species of birds have been recorded at or near the aerosphere of the project site. My database review and the site visits indicate there are 96 special-status species of birds with potential to use the site's aerosphere (Table 2). Of these, 3 have been recorded on or over the project site, 23 within 1.5 miles of the site ('Very close'), 50 within 1.5 and 4 miles ('Nearby'), and another 20 within 4 to 30 miles ('In region'). The birds reported within all these distance domains from the project site can quickly fly those distances, so they would all be within short flights of the proposed project's windows.

Window collisions are often characterized as either the second or third largest source or human-caused bird mortality. The numbers behind these characterizations are often attributed to Klem's (1990) and Dunn's (1993) estimates of about 100 million to 1 billion bird fatalities in the USA, or more recently by Loss et al.'s (2014) estimate of 365-988

million bird fatalities in the USA or Calvert et al.'s (2013) and Machtans et al.'s (2013) estimates of 22.4 million and 25 million bird fatalities in Canada, respectively. The proposed project would impose windows in the airspace normally used by birds.

Glass-façades of buildings intercept and kill many birds, but these façades are differentially hazardous to birds based on spatial extent, contiguity, orientation, and other factors. At Washington State University, Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a three-story glass walkway (no fatality adjustments attempted). Prior to marking the windows to warn birds of the collision hazard, the collision rate was 84.7 per year. At that rate, and not attempting to adjust the fatality estimate for the proportion of fatalities not found, 4,574 birds were likely killed over the 54 years since the start of their study, and that's at a relatively small building façade. Accounting for the proportion of fatalities not found, the number of birds killed by this walkway over the last 54 years would have been about 14,270. And this is just for one 3-story, glass-sided walkway between two college campus buildings.

Klem's (1990) estimate was based on speculation that 1 to 10 birds are killed per building per year, and this speculated range was extended to the number of buildings estimated by the US Census Bureau in 1986. Klem's speculation was supported by fatality monitoring at only two houses, one in Illinois and the other in New York. Also, the basis of his fatality rate extension has changed greatly since 1986. Whereas his estimate served the need to alert the public of the possible magnitude of the bird-window collision issue, it was highly uncertain at the time and undoubtedly outdated more than three decades hence. Indeed, by 2010 Klem (2010) characterized the upper end of his estimated range – 1 billion bird fatalities – as conservative. Furthermore, the estimate lumped species together as if all birds are the same and the loss of all birds to windows has the same level of impact.

By the time Loss et al. (2014) performed their effort to estimate annual USA bird-window fatalities, many more fatality monitoring studies had been reported or were underway. Loss et al. (2014) incorporated many more fatality rates based on scientific monitoring, and they were more careful about which fatality rates to include. However, they included estimates based on fatality monitoring by homeowners, which in one study were found to detect only 38% of the available window fatalities (Bracey et al. 2016). Loss et al. (2014) excluded all fatality records lacking a dead bird in hand, such as injured birds or feather or blood spots on windows. Loss et al.'s (2014) fatality metric was the number of fatalities per building (where in this context a building can include a house, low-rise, or high-rise structure), but they assumed that this metric was based on window collisions. Because most of the bird-window collision studies were limited to migration seasons, Loss et al. (2014) developed an admittedly assumption-laden correction factor for making annual estimates. Also, only 2 of the studies included adjustments for carcass persistence and searcher detection error, and it was unclear how and to what degree fatality rates were adjusted for these factors. Although Loss et al. (2014) attempted to account for some biases as well as for large sources of uncertainty mostly resulting from an opportunistic rather than systematic sampling data source,

their estimated annual fatality rate across the USA was highly uncertain and vulnerable to multiple biases, most of which would have resulted in fatality estimates biased low.

In my review of bird-window collision monitoring, I found that the search radius around homes and buildings was very narrow, usually 2 meters. Based on my experience with bird collisions in other contexts, I would expect that a large portion of bird-window collision victims would end up farther than 2 m from the windows, especially when the windows are higher up on tall buildings. In my experience, searcher detection rates tend to be low for small birds deposited on ground with vegetation cover or woodchips or other types of organic matter. Also, vertebrate scavengers entrain on anthropogenic sources of mortality and quickly remove many of the carcasses, thereby preventing the fatality searcher from detecting these fatalities. Adjusting fatality rates for these factors – search radius bias, searcher detection error, and carcass persistence rates – would greatly increase nationwide estimates of bird-window collision fatalities.

Buildings can intercept many nocturnal migrants as well as birds flying in daylight. As mentioned above, Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a four-story glass walkway at Washington State University (no adjustments attempted for undetected fatalities). Somerlot (2003) found 21 bird fatalities among 13 buildings on a university campus within only 61 days. Monitoring twice per week, Hager et al. (2008) found 215 bird fatalities of 48 species, or 55 birds/building/year, and at another site they found 142 bird fatalities of 37 species for 24 birds/building/year. Gelb and Delacretaz (2009) recorded 5,400 bird fatalities under buildings in New York City, based on a decade of monitoring only during migration periods, and some of the high-rises were associated with hundreds of fatalities each. Klem et al. (2009) monitored 73 building façades in New York City during 114 days of two migratory periods, tallying 549 collision victims, nearly 5 birds per day. Borden et al. (2010) surveyed a 1.8 km route 3 times per week during 12-month period and found 271 bird fatalities of 50 species. Parkins et al. (2015) found 35 bird fatalities of 16 species within only 45 days of monitoring under 4 building façades. From 24 days of survey over a 48-day span, Porter and Huang (2015) found 47 fatalities under 8 buildings on a university campus. Sabo et al. (2016) found 27 bird fatalities over 61 days of searches under 31 windows. In San Francisco, Kahle et al. (2016) found 355 collision victims within 1,762 days under a 5-story building. Ocampo-Peñuela et al. (2016) searched the perimeters of 6 buildings on a university campus, finding 86 fatalities after 63 days of surveys. One of these buildings produced 61 of the 86 fatalities, and another building with collision-deterrent glass caused only 2 of the fatalities, thereby indicating a wide range in impacts likely influenced by various factors. There is ample evidence available to support my prediction that the proposed project would result in many collision fatalities of birds.

Project Impact Prediction

By the time of these comments, I had reviewed and processed results of bird collision monitoring at 213 buildings and façades for which bird collisions per m² of glass per year could be calculated and averaged (Johnson and Hudson 1976, O'Connell 2001, Somerlot 2003, Hager et al. 2008, Borden et al. 2010, Hager et al. 2013, Porter and

Huang 2015, Parkins et al. 2015, Kahle et al. 2016, Ocampo-Peñuela et al. 2016, Sabo et al. 2016, Barton et al. 2017, Gomez-Moreno et al. 2018, Schneider et al. 2018, Loss et al. 2019, Brown et al. 2020, City of Portland Bureau of Environmental Services and Portland Audubon 2020, Riding et al. 2020). These study results averaged 0.073 bird deaths per m² of glass per year (95% CI: 0.042-0.102). This average and its 95% confidence interval provide a robust basis for predicting fatality rates at a proposed new project.

The IS/MND does not disclose the extent of glass windows and glass railings on the proposed new building. I therefore used the building schematics in the IS/MND to measure the extent of windows. I measured windows along 10% of the building's façades, and then projected the total area of the windows measured to the entire building. I estimated 4,000 m² of exterior glass, not including glass railings. Applying the mean fatality rate (above) to my estimate of 4,000 m² of window glass in the project, I predict annual bird deaths of 292 (95% CI: 174–411).

The vast majority of these deaths would be of birds protected under the Migratory Bird Treaty Act and under the recently revised California Migratory Bird Protection Act, thus causing significant unmitigated impacts. Given the predicted level of bird-window collision mortality, and the lack of any proposed mitigation, it is my opinion that the proposed project would result in potentially significant adverse biological impacts. There is at least a fair argument for the need to prepare an EIR to appropriately analyze the impact of bird-glass collisions that might be caused by the project.

TRAFFIC IMPACTS TO WILDLIFE

Project-generated traffic would endanger wildlife that must, for various reasons, cross roads used by the project's traffic to get to and from the project site (Photos 27–29), including along roads far from the project footprint. Vehicle collisions have accounted for the deaths of many thousands of amphibian, reptile, mammal, bird, and arthropod fauna, and the impacts have often been found to be significant at the population level (Forman et al. 2003). Across North America traffic impacts have taken devastating tolls on wildlife (Forman et al. 2003). In Canada, 3,562 birds were estimated killed per 100 km of road per year (Bishop and Brogan 2013), and the US estimate of avian mortality on roads is 2,200 to 8,405 deaths per 100 km per year, or 89 million to 340 million total per year (Loss et al. 2014). Local impacts can be more intense than nationally.

Photo 27. A Gambel's quail dashes across a road on 3 April 2021. Such road crossings are usually successful, but too often prove fatal to the animal. Photo by Noriko Smallwood.



Photo 28. Mourning dove killed by vehicle on a California road. Photo by Noriko Smallwood, 21 June 2020.



Photo 29 Raccoon killed on Road 31 just east of Highway 505 in Solano County. Photo taken on 10 November 2018.

The nearest study of traffic-caused wildlife mortality was performed along a 2.5-mile stretch of Vasco Road in Contra Costa County, California. Fatality searches in this study found 1,275 carcasses of 49 species of mammals, birds, amphibians and reptiles over 15 months of searches (Mendelsohn et al. 2009). This fatality number needs to be adjusted for the proportion of fatalities that were not found due to scavenger removal and searcher error. This adjustment is typically made by placing carcasses for searchers to find (or not find) during their routine periodic fatality searches. This step was not taken at Vasco Road (Mendelsohn et al. 2009), but it was taken as part of another study next to Vasco Road (Brown et al. 2016). Brown et al.'s (2016) adjustment factors for carcass persistence resembled those of Santos et al. (2011). Also applying searcher detection rates from Brown et al. (2016), the adjusted total number of fatalities was estimated at 12,187 animals killed by traffic on the road. This fatality number over 1.25 years and 2.5 miles of road translates to 3,900 wild animals per mile per year. In terms comparable to the national estimates, the estimates from the Mendelsohn et al. (2009) study would translate to 243,740 animals killed per 100 km of road per year, or 29 times that of Loss

et al.'s (2014) upper bound estimate and 68 times the Canadian estimate. An analysis is needed of whether increased traffic generated by the project site would similarly result in local impacts on wildlife.

For wildlife vulnerable to front-end collisions and crushing under tires, road mortality can be predicted from the study of Mendelsohn et al. (2009) as a basis. My analysis of the Mendelsohn et al. (2009) data resulted in an estimated 3,900 animals killed per mile along a county road in Contra Costa County. Two percent of the estimated number of fatalities were birds, and the balance was composed of 34% mammals (many mice and pocket mice, but also ground squirrels, desert cottontails, striped skunks, American badgers, raccoons, and others), 52.3% amphibians (large numbers of California tiger salamanders and California red-legged frogs, but also Sierran treefrogs, western toads, arboreal salamanders, slender salamanders and others), and 11.7% reptiles (many western fence lizards, but also skinks, alligator lizards, and snakes of various species). VMT is useful for predicting wildlife mortality because I was able to quantify miles traveled along the studied reach of Vasco Road during the time period of the Mendelsohn et al. (2009), hence enabling a rate of fatalities per VMT that can be projected to other sites, assuming similar collision fatality rates.

Predicting project-generated traffic impacts to wildlife

The IS/MND predicts 3,664,270 annual VMT. During the Mendelsohn et al. (2009) study, 19,500 cars traveled Vasco Road daily, so the vehicle miles that contributed to my estimate of non-volant fatalities was $19,500 \text{ cars and trucks} \times 2.5 \text{ miles} \times 365 \text{ days/year} \times 1.25 \text{ years} = 22,242,187.5 \text{ vehicle miles}$ per 12,187 wildlife fatalities, or 1,825 vehicle miles per fatality. This rate divided into the predicted annual VMT, above, would predict 2,008 vertebrate wildlife fatalities per year.

Based on my analysis, the project-generated traffic would cause significant impacts to wildlife. The IS/MND does not address this potential impact, let alone propose to mitigate it. Mitigation measures to improve wildlife safety along roads are available and are feasible, and they need exploration for their suitability with the proposed project. Given the predicted level of project-generated, traffic-caused mortality, and the lack of any proposed mitigation, it is my opinion that the proposed project would result in potentially significant adverse biological impacts. A fair argument can be made for the need to prepare an EIR to appropriately analyze the potential impacts of project-generated automobile traffic on wildlife.

WILDLIFE DEPREDAATION BY HOUSE CATS

Considering national trends, it is safe to assume that house cats would be introduced to the project area by residents of the proposed 234 residential units. This is significant because house cats serve as one of the largest sources of avian mortality in North America (Dauphiné and Cooper 2009, Blancher 2013, Loss et al. 2013, Loyd et al. 2017). Loss et al. (2013) estimated 139 million cats in the USA in 2013 (range 114 to 164 million), which killed an estimated 16.95 billion vertebrate wildlife annually (range 7.6 to 26.3 billion). In 2012 there were 0.44 house cats per human, and 122 vertebrate

animals were killed per cat, free-ranging members of which killed disproportionately larger numbers of vertebrate wildlife. The IS/MND predicts the project would add 912 new residents. The above rates of cat ownership applied to this number of new residents **would predict 401 new house cats, which would kill 48,922 vertebrate wildlife per year.**

House cats also contribute to downstream loading of *Toxoplasma gondii*. According to a UC Davis wildlife health research program, *“Toxoplasma gondii is a parasite that can infect virtually all warm-blooded animals, but the only known definitive hosts are cats – domesticated and feral house cats included. Cats catch the parasite through hunting rodents and birds and they offload it into the environment through their feces... and ...rain that falls on cement creates more runoff than rain that falls on natural earth, which contributes to increased runoff that can carry fecal pathogens to the sea”* (<http://www.evotis.org/toxoplasma-gondii-sea-otters/>).

Impacts to wildlife from the introduction of house cats into the environment would be significant, and yet these impacts are not considered in the IS/MND. A fair argument can be made for the need to prepare an EIR to appropriately analyze potential impacts to wildlife due to depredation and parasite-loading by free-ranging house cats introduced by residents of the project. An obvious mitigation measure would be to constrain house cat ownership such as requiring cats to remain indoors.

DOG RUN

The project proposes the inclusion of a dog run, but the IS/MND does not analyze potential impacts to wildlife that could result from it. Dogs disturb and displace wildlife (Hennings 2016), and dog parks accumulate parasites. In one study of dog parks in Portugal (Ferreira et al. 2017), at least 7 different types of parasites were found in fecal and soil samples, and “the soil of all the parks was contaminated with hookworm eggs.” The parasite loading of the dog park could spill-over to wildlife of the immediate area or downstream to marine mammals at the coast. A fair argument can be made for the need to prepare an EIR to appropriately analyze the potential impacts to wildlife caused by the dog park.

CUMULATIVE IMPACTS

The IS/MND’s cumulative effects analysis is flawed. According to the IS/MND, “Because the Project could result in significant impacts related to biological resources ..., the Project could contribute to cumulative impacts to these resources. This contribution could be cumulatively considerable and thus significant. With the implementation of [mitigation measure BIO-1] ..., the Project’s impact related to biological resources ... would be reduced to less than cumulatively considerable and thus less than significant.” Essentially, the IS/MND implies that cumulative effects are simply residual impacts of incomplete mitigation of project-level impacts, and that no residual impacts would remain after the implementation of mitigation measure BIO-1 – the only measure proposed. This notion is inconsistent with CEQA’s definition of cumulative impacts and how to analyze them. If this was CEQA’s standard, then cumulative effects analysis

would be merely an analysis of mitigation efficacy. This is not how cumulative effects are to be analyzed; the cumulative effects analysis is fundamentally flawed.

Even should project-level mitigation be implemented as proposed in the IS/MND, development projects are causing cumulative impacts in California. To measure the impacts of habitat loss to wildlife caused by mitigated development projects, Noriko Smallwood and I revisited 80 sites of proposed projects that we had originally surveyed in support of comments on CEQA review documents (Smallwood and Smallwood 2023). We revisited the sites to repeat the survey methods at the same time of year, the same start time in the day, and the same methods and survey duration in order to measure the effects of mitigated development on wildlife. We structured the experiment in a before-after, control-impact experimental design, as some of the sites had been developed since our initial survey and some had remained undeveloped. We found that mitigated development resulted in a 66% loss of species on site, and 48% loss of species in the project area. Counts of vertebrate animals declined 90%. “Development impacts measured by the mean number of species detected per survey were greatest for amphibians (-100%), followed by mammals (-86%), grassland birds (-75%), raptors (-53%), special-status species (-49%), all birds as a group (-48%), non-native birds (-44%), and synanthropic birds (-28%). Our results indicated that urban development substantially reduced vertebrate species richness and numerical abundance, even after richness and abundance had likely already been depleted by the cumulative effects of loss, fragmentation, and degradation of habitat in the urbanizing environment,” and despite all of the mitigation measures and existing policies and regulations.

A fair argument can be made for the need to prepare an EIR to appropriately analyze potential project contributions to cumulative impacts to wildlife and plants in the region.

INSUFFICIENT MITIGATION

The only mitigation measure proposed in the IS/MND is a preconstruction survey for nesting birds:

Mitigation Measure BIO-1: *If construction activities occur within the bird nesting season (generally defined as February 15 through September 15), a qualified biologist shall conduct a nesting bird survey within 7 days prior to the start of construction. If an active nest is observed within 500 feet of the proposed construction, the nest shall be avoided, and a suitable buffer zone shall be delineated in the field such that no impacts shall occur until the nest has been determined to be inactive by a qualified biologist. Construction buffers are generally 300 feet for passerines and up to 500 feet for raptor species; however, avoidance buffers may be reduced at the discretion of the biologist, depending on the location of the nest and species tolerance to human presence and construction-related noise.*

If activities must take place within an established buffer, steps shall be taken to reduce indirect effects to nesting activity by actively reducing construction noise within proximity to a presumed nest location and/or installing temporary construction noise

barriers. If the reduction of noise is not feasible, construction activities shall be postponed until the nest is deemed inactive and/or the breeding season has concluded.

First, the avian breeding season recognized by the CDFW is now 1 February through 15 September. The IS/MND is skipping the first two weeks of the recognized avian breeding season.

Second, I concur with the implementation of preconstruction surveys, but it should be understood that preconstruction surveys are no substitute for detection surveys. It should be understood that preconstruction surveys, although warranted, actually achieve very little. Preconstruction, take-avoidance surveys consist of two steps, both of which are very difficult. First, the biologist(s) performing the survey must identify birds that are breeding. Second, the biologist(s) must locate the breeding birds' nests. The first step is typically completed by observing bird behaviors such as food deliveries and nest territory defense. These types of observations typically require many surveys on many dates spread throughout the breeding season, and these observations are to find the nest sites of single targeted species (Smallwood et al. 2013, Smallwood and Smallwood 2021). To identify the birds of all species nesting on a site requires a much greater survey effort.

To attempt to find all of the nest sites of all avian species, I completed surveys to complete the steps needed to count nest attempts of all birds on a research site. I constrained my surveys to a relatively small area of 12.74 acres, because I knew that finding all of the nest sites would be extremely difficult. I surveyed this site 30 times from March through mid-August 2023. Any one of my surveys might have resulted in one or a few nest detections, but my estimated total number of nests was 216. Cavity nests proved the easiest to find, because cavity nesters can more effectively defend their nests against predators and therefore have less need to hide the whereabouts of their nests. Nests of large raptors and herons were also relatively easy to find. I could also identify other birds engaged in nest attempts, but those birds using small cup nests in trees and shrubs and nests on the ground carefully avoided visits to their nests in my presence. Small birds in trees and shrubs and ground nesters are highly vulnerable to predation, and thus the most cryptic of nesters. Whereas I estimated lesser goldfinch as the most prolific nester on the study site, I found not one of their nest structures. Even the nesters that nest right out in the open are highly capable of hiding their nests sites from human eyes.

Even assuming all the nests could be found, the mitigation measure would apply only to the breeding season of the survey. After project construction, California would be denied the production of birds from the project site in every subsequent year. The impacts of the project to birds would be permanent and of large magnitude (see my prediction above, under Habitat Loss).

Finally, the mitigation language allows a single individual to make a subjective decision, outside the public's view, to determine and adjust the buffer area for any given species. This measure lacks objective criteria, and is unenforceable.

RECOMMENDED MEASURES

Protocol-level Detection Surveys in Support of Mitigation: If the project goes forward, detection surveys need to be completed for burrowing owl, white-tailed kite, peregrine falcon, and other special-status species. Detection survey protocols and guidelines are available from resource agencies for multiple special-status species. Otherwise, professional standards can be learned from the scientific literature and species' experts.

Pest Control: The project should commit to minimal use of rodenticides and avicides. It should commit to no placement of poison bait stations outside the buildings.

Guidelines on Building Design to Minimize Bird-Window Collisions: If the project goes forward, it should at a minimum adhere to available Bird-Safe Guidelines, such as those prepared by American Bird Conservancy and New York and San Francisco. The American Bird Conservancy (ABC) produced an excellent set of guidelines recommending actions to: (1) Minimize use of glass; (2) Placing glass behind some type of screening (grilles, shutters, exterior shades); (3) Using glass with inherent properties to reduce collisions, such as patterns, window films, decals or tape; and (4) Turning off lights during migration seasons (Sheppard and Phillips 2015). The City of San Francisco (San Francisco Planning Department 2011) also has a set of building design guidelines, based on the excellent guidelines produced by the New York City Audubon Society (Orff et al. 2007). The ABC document and both the New York and San Francisco documents provide excellent alerting of potential bird-collision hazards as well as many visual examples. The San Francisco Planning Department's (2011) building design guidelines are more comprehensive than those of New York City, but they could have gone further. For example, the San Francisco guidelines probably should have also covered scientific monitoring of impacts as well as compensatory mitigation for impacts that could not be avoided, minimized or reduced.

New research results inform the efficacy of marking windows. Whereas Klem (1990) found no deterrent effect from decals on windows, Johnson and Hudson (1976) reported a fatality reduction of about 69% after placing decals on windows. In an experiment of opportunity, Ocampo-Peñuela et al. (2016) found only 2 of 86 fatalities at one of 6 buildings – the only building with windows treated with a bird deterrent film. At the building with fritted glass, bird collisions were 82% lower than at other buildings with untreated windows. Kahle et al. (2016) added external window shades to some windowed façades to reduce fatalities 82% and 95%. Brown et al. (2020) reported an 84% lower collision probability among fritted glass windows and windows treated with ORNILUX R UV. City of Portland Bureau of Environmental Services and Portland Audubon (2020) reduced bird collision fatalities 94% by affixing marked Solyx window film to existing glass panels of Portland's Columbia Building. Many external and internal glass markers have been tested experimentally, some showing no effect and some showing strong deterrent effects (Klem 1989, 1990, 2009, 2011; Klem and Saenger 2013; Rössler et al. 2015). For example, Feather Friendly® circular adhesive markers applied in a grid pattern across all windows reduced bird-window collision mortality by 95% in one study (Riggs et al. 2023) and by 95% in another (de Groot et al. 2021).

Another study tested the efficacy of two filmshades to be applied exteriorly to windows prior to installations: BirdShades increased bird-window avoidance by 47% and Haverkamp increased avoidance by 39% (Swaddle et al. 2023).

Monitoring and the use of compensatory mitigation should be incorporated at any new building project because the measures recommended in the available guidelines remain of uncertain efficacy, and even if these measures are effective, they will not reduce collision fatalities to zero. The only way to assess mitigation efficacy and to quantify post-construction fatalities is to monitor the project for fatalities, including at residential dwelling units.

Road Mortality: Compensatory mitigation is needed for the increased wildlife mortality that would be caused by bird-window collisions and the project-generated road traffic in the region. I suggest that this mitigation can be directed toward funding research to identify fatality patterns and effective impact reduction measures such as reduced speed limits and wildlife under-crossings or overcrossings of particularly dangerous road segments. Compensatory mitigation can also be provided in the form of donations to wildlife rehabilitation facilities (see below).

House Cats: If the Specific Plan goes forward, homeowners should not be allowed to let their cats range free. A fund should be established for long-term management of house cats in the project. Management could include public education about the environmental effects of outdoor and free-ranging cats. It could also include a program to spade and neuter cats, especially free-ranging cats. It could also involve some removals of feral cats.

Fund Wildlife Rehabilitation Facilities: Compensatory mitigation ought also to include funding contributions to wildlife rehabilitation facilities to cover the costs of injured animals that will be delivered to these facilities for care. Many animals would likely be injured by collisions with windows and automobiles, and by attacks by house cats.

Landscaping: If the project goes forward, California native plant landscaping (i.e. chaparral, grassland, and locally appropriate scrub plants) should be considered to be used in residential yards, street-ways, and parks, as opposed to landscaping with lawn and exotic shrubs. Native plants offer more structure, cover, food resources, and nesting substrate for wildlife than landscaping with lawn. Native plant landscaping has been shown to increase the abundance of arthropods which act as importance sources of food for wildlife and are crucial for pollination and plant reproduction (Narango et al. 2017, Adams et al. 2020, Smallwood and Wood 2022.). Further, many endangered and threatened insects require native host plants for reproduction and migration (e.g. El Segundo blue butterfly, monarch butterfly). Around the world, landscaping with native plants over exotic plants increases the abundance and diversity of birds, and is particularly valuable to native birds (Lerman and Warren 2011, Burghardt et al. 2008, Berthon et al. 2021, Smallwood and Wood 2022). Landscaping with native plants is a way to maintain or to bring back some of the natural habitat and lessen the footprint of urbanization by acting as interconnected patches of habitat for wildlife (Goddard et al.

2009, Tallamy 2020). Lastly, not only does native plant landscaping benefit wildlife, it requires less water and maintenance than traditional landscaping with lawn and hedges.

Thank you for your attention,



Shawn Smallwood, Ph.D.

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Photo 40. Yellow-rumped warbler at the project site. Noriko Smallwood.

Exhibit B

Shawn Smallwood, PhD
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Attn: Joe Pearson II
City of Oxnard Community Development Department
Planning Division
214 South C Street
Oxnard, California 93030

26 July 2024

RE: Lockwood III Apartments IS/MND

Dear Mr. Pearson,

I write to reply to the City's responses to my comments of 31 March 2024, which I prepared regarding potential impacts to biological resources that could result from the proposed Lockwood III Apartments Project, as analyzed in the City's IS/MND. My replies follow responses in the order and numbering in which the responses appeared. However, I added sequential letters to responses that I had to break up in order to coherently reply. Most of the responses included multiple issues, and multiple issues were often addressed in single paragraphs.

Response A-6a The City notes that Ms. Smallwood was only able to survey the site from publicly accessible areas and did not have full site access, unlike ESA's biologists who undertook the biological resources assessment on the Project site.

Reply: To clarify, in case the City did not understand, Noriko's lack of access to the project site handicapped her survey relative to the ESA biologist, who enjoyed unrestricted access to the site. Despite Noriko's relative handicap, she detected more than eight times the number of species that the ESA biologist detected.

Response A-6b The commenter's assertion that significant impacts to biological resources, other than to nesting birds, is not supported.

Reply: I reported the three special-status species Noriko Smallwood saw on the project site, along with 23 other species of vertebrate wildlife. I used the pattern in her species detections to predict the number of species that were available to be detected during her survey. These species were not limited to nesting birds. I bridged Noriko's findings to a larger research effort of my own to predict the site supports 100 species of vertebrate wildlife, including 12 special-status species, over a period of at least one year. Again, these 100 species were not limited to nesting birds. I also predicted the project-generated traffic would kill 2,008 vertebrate wildlife fatalities per year, and these deaths would not be limited to birds. Underlying all of my impact predictions were data and inference drawn from those data; which as a scientist I posit to be the greatest support for impacts determinations.

Response A-6c ...with the implementation of Mitigation Measure BIO-1, potential impacts to nesting birds would be reduced to less than significant.

Reply: A preconstruction survey addresses only direct take-avoidance, and does nothing to avoid or minimize the permanent loss of productive capacity of the species that would result from habitat loss. The most significant impacts are neither avoided nor minimized, nor are they compensated in any way. This measure would inadequately mitigate the impacts of the project to wildlife.

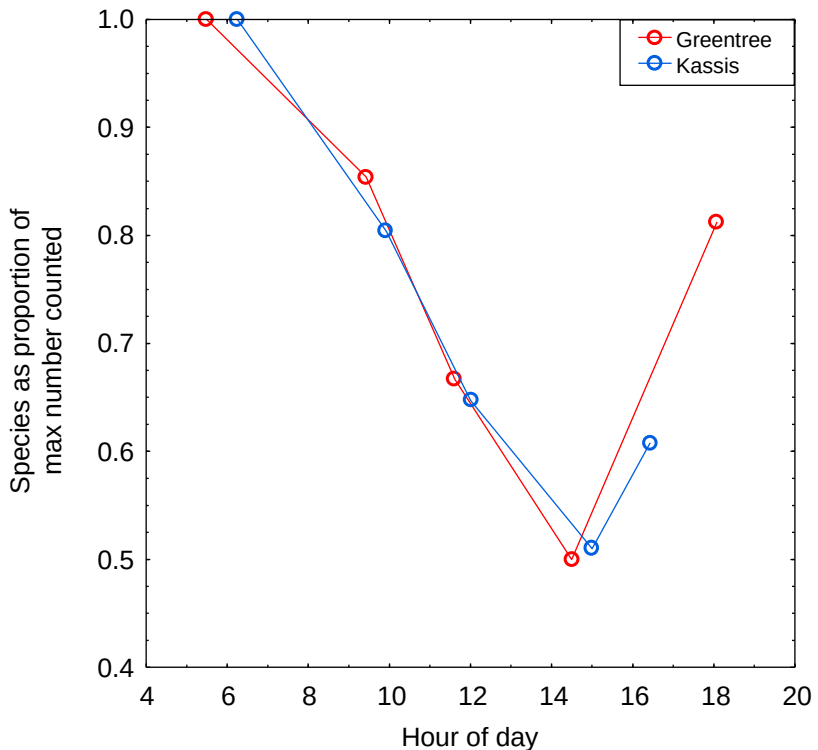
Response A-7a The comment asserts that the field survey and baseline conditions prepared by ESA, and required under CEQA guidelines, is deficient. The comment also asserts that the survey methodology was unclear. ... The methodology of conducting the site survey is also discussed in Section 3.4 of the Public Review Draft IS/MND. The biological survey consisted of walking throughout the accessible portions of the survey area that included the Project site and the 200-foot buffer area. Walking within the Project site allowed visual observations of flora and fauna, including signs (i.e., presence of scat) as well as audible detections. These observations allowed visual coverage of potentially suitable plant and wildlife habitat that assisted in characterizing the existing conditions as well as to determine the potential for special-status plant and wildlife species to occur.

Reply: The response fails to address the specifics of my comment, which were the following: “The IS/MND neglects to report when the survey started and how long the survey lasted.” The appropriate response would have been to report what time of day the biologist arrived on site, and for how long the biologist surveyed for wildlife on the project site. In my comment letter, I explained why these two methodological details are important, and why they need to be reported. The time of day when a survey is begun will have a large effect on the number of species detected (Figure 1). Beginning the survey at 14:00 hours results in half the number of species detected as compared to when surveys are begun at 06:00 hours. Survey duration is even more critical to survey outcome, as it took Noriko only 4 minutes to detect her first e species of wildlife. Did ESA’s biologist survey for only 4 minutes? Decision-makers and the public need to know the level of effort ESA committed to the survey.

Response A-7b ...resource inventory databases and various publications were reviewed...

Reply: This response does not address my comments. In my letter of 31 March 2024, I commented that the database review is incomplete, and the IS/MND misuses the CNDDB to determine most of the potentially-occurring special-status species absent before their potential occurrences have even been analyzed. It is a misuse to rely on lack of CNDDB records as evidence of absence. I further commented that the IS/MND fails to explain why disturbance at the project site prevents 45 special-status species of wildlife from occurring at the project site, and I pointed out that every place in California is disturbed to some degree. If special-status species cannot tolerate “disturbance,” then they would all be extinct already.

Figure 1. Effects of time of day when reconnaissance-level survey is begun. Data were from five 2-hour-long surveys at a project site in Vacaville and at another in Rancho Cordova in May and June 2022. (K. S. Smallwood, unpublished data)



Response A-8 The comment asserts that these three bird species [western gull, red-tailed hawk and American kestrel] are “special status species” and are therefore protected under state law. These three species are not identified as “special status species” by the California Department of Fish and Wildlife (CDFW) because they do not appear on CDFW’s Special Animals List (also known as the list of “species at risk” or “special status species” list). Therefore, these species, except for nesting activities, are not protected under state law.

Reply: CDFW is not the sole determiner of special-status species. Raptors are protected by California Fish and Game Code §3503.5, otherwise known as the Birds of Prey Code. They are indeed protected by state law. Raptors are protected by this Code because raptors are top predators wherever they live. Their positions in the food chain naturally require that they are rare, which is one of the key conditions – and one of the key words – that meets the CEQA definition of special-status species. Species that are naturally rare, such as species of raptor, are more likely identified as special-status species, e.g., California condor, bald eagle, peregrine falcon, burrowing owl, spotted owl, whereas fewer of the naturally abundant species are so identified, such as songbirds.

The California Resources Agency’s Guidelines for Implementation of CEQA specifically identifies the U.S. Fish and Wildlife Service as one of the agencies to have identified any species as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations. The U.S. Fish and Wildlife Service is the agency that identified species of birds as Birds of Conservation Concern. One of these species is western gull, which Noriko saw and photographed on the project site.

Response A-9a The comment asserts that ESA's onsite survey failed to identify suitable habitat for burrowing owls (*Athene cunicularia*) based on the commenter's siting of California ground squirrels (*Ostospermophilus beecheyi*), a species often closely associated with burrowing owls. California ground squirrels were not observed during the site surveys; however, ESA obtained full visual coverage of suitable habitat within the survey area and detected small burrows of approximately 2-3 inches in diameter. As discussed in Section 3.4 of the Public Review Draft IS/MND, these small mammal burrows were not the appropriate size or morphology for burrowing owl.

Reply: That ESA missed the ground squirrels is not surprising to me, given that ESA missed 25 of the 26 species of vertebrate wildlife Noriko detected at and adjacent to the project site. I do not contend that ESA observed mammal burrows with diameters of greater than 2-3 inches as the response states, although I do note that neither the draft IS/MND nor the responses to my comments have produced evidence that the diameters of the burrows seen by ESA were within the range of diameters reported. ESA failed to detect the occurrence of ground squirrels, and these squirrels were located well within the 150 m of the project site's boundary that the CDFW (2012) guidelines recommends be surveyed. The presence of ground squirrels warrants the implementation of CDFW's (2012) guidelines for performing breeding-season surveys.

Regardless of who saw the ground squirrels, the ground squirrels are present, and ground squirrels construct burrows with diameters >11 cm. Given that ground squirrels are present, the appropriate action is to complete breeding-season surveys for burrowing owls that achieve or exceed the minimum standards of CDFW (2012). The need to complete these surveys has become especially important since burrowing owls began rapid statewide decline that appears headed to extirpation from most of California (Miller 2024). A petition has been submitted for the listing of burrowing owls in California (Miller 2024).

Response A-9b In addition, no pellets, white-wash, or feathers were detected at the burrows which are common occurrences with the presence of burrowing owl.

Reply: As I have witnessed many times, burrowing owls do not always leave evidence of their use of a burrow. It is for this reason why the CDFW (2012) guidelines recommend the presence of burrows be treated as significant evidence of the potential presence of burrowing owls "regardless of a lack of any burrowing owl sign and/or burrow surrogates."

Response A-10a The commenter asserts that the ESA onsite survey was a desktop survey and states that the biological resources findings in the Public Review Draft IS/MND is incorrect.

Reply: I made no such assertion. Responder must have misread my comments.

Response A-10b The comment asserts that species that have been previously documented to occur within 1.5 miles and 4 miles from the site also have the potential to occur on the Project site. This assertion is incorrect because the potential is based on the

condition of the onsite habitat as well as the condition of the immediately surrounding area.

Reply: The response's premise is testable, so I tested it even though I know from experience there is no need to test it. Of the 27 species of vertebrate wildlife detected by the ESA biologist and by Noriko Smallwood, none have been reported to eBird or iNaturalist as having occurred on the project site, 23 have been documented within 1.5 miles of the site, 2 have been documented between 1.5 and 4 miles, and 2 have been documented between 4 and 30 miles of the site (Table 1). Nevertheless, all 27 of these species were detected by ESA or Noriko on the site of the proposed project, despite the condition of the site.

As I explained in my comment letter, species occurrence databases include occurrence records only of the species detected and reported by volunteers and at whatever locations the volunteers chose to visit. For example, even though California ground squirrels occur just across the street from the project site, the nearest recorded location with California ground squirrels was 2.47 miles to the west. The nearest record of California ground squirrels does not mean that the record's location is the nearest the species actually occurs to the project site. The nearest records of Great Basin fence lizard and Botta's pocket gopher are from locations farther than 4 miles from the project site, but Noriko saw them right on the project site. In fact, Noriko photographed a pocket gopher surveilling its surroundings from a burrow on the project site (see Photo 23 in my 31 March 2024 comment letter).

The argument that the condition of the project site would preclude the occurrences of special-status species also qualifies as a false premise to the response's conclusion. Wildlife endeavor to survive in environments that humans are transforming to their own immediate needs. Wildlife exploit opportunities to find forage, and they make do with the conditions that humans leave them. Noriko and I have surveyed hundreds of project sites, many of the sites in poor condition, and many that were treated in a manner to suppress wildlife just prior to our survey visits. We detected wildlife, including special-status species of wildlife, at all of these sites (Smallwood and Smallwood 2023), even at sites that had no vegetation cover due to disking or grading.

Compared to the many sites that Noriko and I have surveyed for wildlife, the project site was in relatively good condition at the time of Noriko's survey. It had last been disked about four years earlier, and at the time of Noriko's survey it was covered by non-native annual grassland. Non-native annual grassland is important to wildlife in California (Kie 2005), since about from 80% to 99.9% of California original grasslands have been lost over the past two centuries (Allen 1989). Not only do special-status species often occur in disturbed grasslands, but some are known to seek out such environments. Examples include burrowing owls, Swainson's hawks, ferruginous hawks, and California horned larks.

As for the surrounding areas, the response offers no evidence that the setting of the site would discourage its use by special-status species. Burrowing owls, white-tailed kites, northern harriers, and many other special-status species make use of the site at one time

or another. It is for this reason that protocol-level detection surveys require multiple surveys at spaced intervals by qualified biologists. Those who formulated the protocols know from experience what it takes to detect species that make their round over large home ranges or that are otherwise rare or cryptic in their nature. It is inappropriate of the City to determine species absences not based on surveys recommended by experts, but based on speculation and a flawed premise.

Table 1. Species of wildlife detected during surveys completed by ESA and Noriko Smallwood, and proximity of database records where ‘Very close’ indicates within 1.5 miles of the site, “nearby” indicates within 1.5 and 4 miles, and “in region” indicates within 4 and 30 miles.

Common name	Species name	Status ¹	Survey-detected		Database records
			ESA	Noriko	
Great Basin fence lizard	<i>Sceloporus occidentalis longipes</i>			X	In region
Western side-blotched lizard	<i>Uta stansburiana elegans</i>			X	Very close
Mallard	<i>Anas platyrhynchos</i>			X	Nearby
Rock pigeon	<i>Columba livia</i>			X	Very close
Eurasian collared-dove	<i>Streptopelia decaocto</i>			X	Very close
Mourning dove	<i>Zenaida macroura</i>			X	Very close
Anna’s hummingbird	<i>Calypte anna</i>			X	Very close
California gull	<i>Larus californicus</i>	BCC, TWL	X		Very close
Western gull	<i>Larus occidentalis</i>	BCC		X	Very close
Red-tailed hawk	<i>Buteo jamaicensis</i>	BOP		X	Very close
American kestrel	<i>Falco sparverius</i>	BOP		X	Very close
Cassin’s kingbird	<i>Tyrannus vociferans</i>			X	Very close
Black phoebe	<i>Sayornis nigricans</i>		X		Very close
American crow	<i>Corvus brachyrhynchos</i>		X	X	Very close
Common raven	<i>Corvus corax</i>			X	Very close
Barn swallow	<i>Hirundo rustica</i>			X	Very close
Bushtit	<i>Psaltirparus minimus</i>			X	Very close
Northern mockingbird	<i>Mimus polyglottos</i>			X	Very close
European starling	<i>Sturnus vulgaris</i>			X	Very close
House sparrow	<i>Passer domesticus</i>			X	Very close
House finch	<i>Haemorphous mexicanus</i>			X	Very close
Lesser goldfinch	<i>Spinus psaltria</i>			X	Very close
White-crowned sparrow	<i>Zonotrichia leucophrys</i>			X	Very close
California towhee	<i>Melozone crissalis</i>			X	Very close
Yellow-rumped warbler	<i>Setophaga coronata</i>			X	Very close
California ground squirrel	<i>Otospermophilus beecheyi</i>			X	Nearby
Botta’s pocket gopher	<i>Thomomys bottae</i>			X	In region

¹ BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, and BOP = Birds of Prey (California Fish and Game Code 3503.5).

Response A-11 The comment asserts that the IS/MND is deficient in explaining why habitat for special-status species is not available on the Project site. As discussed in the Public Review Draft IS/MND, there are a total of 8 wildlife species that have a low to moderate potential to occur within the study area. Other species that have been detected within an area larger than the study area and within the Oxnard and surrounding five U.S. Geological Survey 7.5-minute quadrangle maps based on the most recent CNDDDB, CNPS and Information for Planning and Consultation databases, do not have a potential to occur within the survey area due to the habitat requirements of the special-status species, the disturbed nature of the study area, and the absence of suitable habitat. There were 8 special-status wildlife species that were determined to have a low to moderate potential to occur within the study area. Each of these 8 special-status species identified above and their potential to occur on the Project site is discussed in Appendix C-3. No additional surveys are required to characterize the potential for special-status species to occur on the Project site.

Reply: The response does not directly address the issues I raised in my 31 March 2024 comment letter. I pointed out that critical details of the survey methodology are not reported, such as survey start time and survey duration. These details are needed because an explanation is needed as to why ESA's biologist detected only three species of vertebrate wildlife, whereas Noriko detected 27 species in only 3.63 hours. The discrepancies between the survey outcomes are vast, and in need of explanation.

The response repeats the approach that ESA (2024) describes over how the CNDDDB queries were used to identify the pool of special-status species subject to occurrence-likelihood analysis, and it notes that the occurrence potentials of the species that were selected based on the CNDDDB queries are discussed in App. C-3. This part of the response also fails to address the issues I raised about ESA's improper use of the CNDDDB. As warned by the CNDDDB, the CNDDDB should not be used to determine absence of any species at any place simply because the CNDDDB lacks occurrence records. Nearly all of the CNDDDB's occurrence records originate from volunteer reporting of opportune observations or observations from reconnaissance surveys; very few records originate from protocol-level detection surveys and none originate from the negative findings of any protocol-level detection surveys. Therefore, CNDDDB's occurrence records or lack thereof cannot be used to determine absence, and neither can it be used to filter out special-status species from the occurrence likelihood analysis. Because of how ESA (2024) misused the CNDDDB, its App. C-3 fails to discuss the occurrence potentials of too many special-status species that were improperly filtered out of the pool of species that should have been included in the analysis.

Response A-12 The comment asserts that the Project will have significant adverse impacts to wildlife through removal of habitat, impediment to wildlife movement, increased mortality through traffic and window collisions, and impacts from domestic animals. Please see Response to Comment A-25 for a discussion of each of the issues raised in this comment.

Reply: Based on the response, I moved Response A-25 up in the order (see below).

Response A-25a The comment asserts that the Project will have significant adverse impacts to wildlife through removal of habitat, impediment to wildlife movement, increased mortality through traffic and window collisions, and impacts from domestic animals. The commenter asserts that the Project site located in the City of Oxnard and adjacent to U.S. 101 would have the same productive capacity or nest density as San Jacinto Wildlife Area which is conserved land surrounded by open space and agriculture. The San Jacinto Wildlife Area is not a representative study for the Project site location. Therefore, given the lack of substantial evidence at a representative study for the Project site location, habitat loss for plants and wildlife would not be significant.

Reply: Without evidence or explanation, the response claims that total nesting density at the San Jacinto Wildlife Area is not representative of total nest density at the project site. I cannot say that I am certain the grassland of the San Jacinto Wildlife Area is representative of the project site, but I cannot say with certainty that it is not, either. But this is 2024, so Noriko and I have three new estimates of total nest density from grassland environments. From a 2.95-acre grassland east of Davis, California, I estimated 5.08 nest sites/acre. From a 4.83-acre grassland site in Murrieta, California, Noriko estimated 0.62 nest sites/acre. And from a 3.16-acre grassland site at another site in Murrieta, Noriko estimated 3.8 nest sites/acre. These estimates averaged 3.17 nest sites/acre. Applying the balance of the assumptions used in my comment letter, this average nest density would predict 16.4 bird nest sites and 22.8 nest attempts per year, and the project would deny 73 birds per year to California. The difference would be 10 fewer birds, but still too many birds.

And again, as I commented in my 31 March 2024 comment letter, “The IS/MND makes no attempt to estimate this lost capacity for any of the wildlife species potentially affected.” Neither does the response to my comment make any attempt to estimate the lost productive capacity of any wildlife that would result from the project. There remains no analysis of this obviously likely impact.

Response A-25b The commenter asserts that the Project site is a wildlife stopover and staging during migration, dispersal, and home range patrol, and therefore, affect wildlife movement. While the commenter provided source citations (Warnock 2010, Taylor et al. 2011, Runge et al. 2014) for his assumptions, these sources were not listed in the comment letter.

Reply: I somehow missed the step of including these references. They appear below:

Runge, C. A., T. G. Martin, H. P. Possingham, S. G. Willis, and R. A. Fuller. 2014. Conserving mobile species. *Frontiers in Ecology and Environment* 12(7): 395–402, doi:10.1890/130237.

Taylor, P. D., S. A. Mackenzie, B. G. Thurber, A. M. Calvert, A. M. Mills, L. P. McGuire, and C. G. Guglielmo. 2011. Landscape movements of migratory birds and bats reveal an expanded scale of stopover. *PlosOne* 6(11): e27054. doi:10.1371/journal.pone.0027054.

Warnock, N. 2010. Stopping vs. staging: the difference between a hop and a jump. *Journal of Avian Biology* 41:621-626.

As for the characterization of my comments as assumptions, they were not assumptions. Noriko and I have observed wildlife make stopover and staging use of many patches of open space that remain in highly fragmented urbanizing landscape. These patches of open space are all that many birds have left to rely on for stopover and staging. The project site itself was used by many western gulls this way, while Noriko was doing her survey.

Response A-25c While reviewing a Runge et al 2014 document, the source indicates that conservation objectives, if known, for mobile species should be applied including the connectivity between breeding and non-breeding sites. Runge et al 2014 also states that information is limited regarding migratory connectivity and requires further research. The Project site is not known to be a breeding or non-breeding site or connectivity between the two. Therefore, the current impacts would be considered less than significant for wildlife movement.

Reply: The response asserts the following standard: Lack of certainty of a relationship predetermines a less-than-significant impact. This is a false standard. In fact, there is a long tradition in science that when involving potential consequences to rare and precious resources such as special-status species of plants or wildlife, the appropriate conclusion in the face of high uncertainty is to err on the side of caution (National Research Council 1986). In risk analysis involving special-status species, which is what an impacts analysis pursuant to CEQA really is, the precautionary principle is the appropriate standard (O'Brien 1990). For example, if it remains uncertain whether a particular special-status species occurs on the site, erring on the side of caution would require the assumption that the species *does* occur. In another example, if it remains uncertain whether the project site supports the movement of wildlife within the region, then erring on the side of caution would require the assumption that the site *is* important to wildlife movement in the region. If the latter assumption is made, which would be the more appropriate assumption per the Precautionary Principle in risk analysis, then the development of the site would cause significant interference with wildlife movement in the region. This is because there would be no other patch of open space in the vicinity where wildlife can find stopover and staging opportunities. As of this writing, development of the open space across the road to the south is already well underway. As a result, the project site has likely increased in its importance to wildlife movement in the region.

Response A-25d The commenter suggested that the Project site would cause significant unmitigated impacts to birds due to bird-glass collisions associated with the project. The commenter conducted their own analysis from multiple sources at large scales or buildings with known high window collision fatalities. There is no specific source suggesting that a mid-rise building adding to an existing urban landscape and not immediately adjacent to open space, such as park, bike trail, or riparian area, would increase window collision mortality to a significant level. Therefore, the estimates

provided by the commenter are speculative and do not appropriately represent the Project site.

Reply: Among the many studies I reviewed on bird-window collision mortality, some of the buildings searched for bird fatalities were selected for their known or suspected high rates of collision. Many, however, were not selected for study this way. The response is a mischaracterization of the studies I reviewed. I will also point out that some of the most lethal buildings were located in urbanized areas and not adjacent to natural areas. My review reveals that factors contributing to bird-window collision mortality are complex, though several factors stand out: window transparency, window reflectivity, and expanse of windows on a building. Landscaping around the building is another factor.

My comments on bird-window collision mortality are not “speculative.” I reviewed the scientific literature that was directed to measurement of bird-window collision mortality and to the efficacy of mitigation intended to minimize or reduce mortality. My comments are evidence-based and well-founded. The response, however, is unreasonable in that it disregards my comments because I failed to produce a source that suggests “a mid-rise building adding to an existing urban landscape and not immediately adjacent to open space, such as park, bike trail, or riparian area, would increase window collision mortality to a significant level.” A bike trail? A riparian area? How is any of this derived from the scientific literature? The response’s standard is contrived, and inconsistent with the precautionary principal in risk analysis. And in fact, it is inaccurate. The very highest recorded bird-collision fatality rate was at a mid-rise building in a densely urban environment.

As I commented, the IS/MND fails to analyze the potential impacts of wildlife-window collision mortality. The response only attempts to discredit my comments, and fails to analyze the potential impacts.

Response A-25e The commenter suggested that the Project site would generate an increase in traffic and therefore, traffic-caused wildlife mortality which would result in potentially significant adverse biological impacts. The commenter references a publicly unavailable wildlife movement study (Mendelsohn et al 2009) but the Vasco Road as described in the Brown et al 2013 is a publicly available wildlife movement study.

Reply: I do not understand the last sentence of the above-response, but the studies I cited are both publicly available. If anyone has trouble finding them, they can always request copies from me.

Response A-25f The commenter identifies that the Project site located in the City of Oxnard and adjacent to U.S. 101 would have the same traffic-caused wildlife mortality as Vasco Road which bisects grassland habitat. The Vasco Road is a 2.5 mile stretch with known medium to large-mammal presence and is not a representative study for the Project site location. The Project site may increase traffic, but the impacts would not be significant compared to the adjacent U.S. 101, an existing site condition. Therefore, given the lack of substantial evidence at a representative study for the Project site location, traffic-caused wildlife mortality would not be significant.

Reply: I made no such assertion about U.S. 101. I did not even mention U.S. 101. This pointed out, the response assumes without evidence that U.S. 101 is safer to wildlife than is Vasco Road in Contra Costa County. The Wallis Annenberg Wildlife Crossing and the Liberty Canyon Wildlife Underpass are under construction partly out of concern for the high levels of wildlife mortality on U.S. 101.

The following passage from my comments identifies the scope of my analysis: “Project-generated traffic would endanger wildlife that must, for various reasons, cross roads used by the project’s traffic to get to and from the project site ..., including along roads far from the project footprint.” Project-generated traffic would not be confined to U.S. 101.

As I commented, the IS/MND fails to analyze the potential impacts of wildlife-automobile collision mortality. The response only attempts to discredit my comments, and fails to analyze the potential impacts.

Response A-25g The commenter also suggested that the Project site would introduce more domestic animals to the immediate vicinity which would result in an increase in wildlife depredation and parasites. As discussed in Section 3.4(a) in the IS/MND, construction activities could result in significant impact to nesting birds. As stated in the IS/MND, these potential impacts to nesting birds are reduced to less than significant with the implementation of Mitigation Measure MM BIO-1. During operation of the Project, the Project site would include ornamental landscaping and would not provide suitable habitat for special-status species. Therefore, the introduction of domestic animals such as cats and dogs to the Project site, which is located within an existing urban area, including an area immediately south of the Project site that has been graded for development, would result in less than significant impacts to special-status wildlife species.

Reply: I am not sure that I understand the response, which rambles. I think what it is saying is that a preconstruction survey would avoid or minimize the impacts of house cats and dogs after the project is built. If this is what is being said, then the assertion lacks any logical connection between preconstruction survey and the wildlife that would occur at the site post-construction. Wildlife would occur at the site post-construction, as wildlife always does, but the wildlife that would occur there would be synanthropic species that are able to adapt to urbanized environments. It is these synanthropes that would become vulnerable to house cats and dogs, though there could be impacts to downstream wildlife from the flow of parasites originated from cats and dogs. MM BIO-1 does not address the potential impacts I addressed in my comments regarding house cats and dogs.

Response A-25h The commenter suggested that the development of the Project site would cause significant cumulative impacts on biological resources. However, the disturbed nature of the Project site and survey area, the lack of special-status species or their habitat, and its distant proximity to the nearest available open space (i.e., almost

0.4 mile to the east) suggest that these impacts would be less than significant with the implementation of Mitigation Measure MM-BIO-1 prior to construction.

Reply: The response repeats the flawed argument of the IS/MND, and fails to address my comments.

Response A-13 The comment asserts that the cumulative impacts to wildlife will be significant and that Mitigation Measure BIO-1 would not resolve these impacts. The Project site and survey area are isolated from adjacent open space areas and as such, don't function as important wildlife corridors. Additionally, CDFW sensitive communities/riparian vegetation, critical habitat, aquatic resources, and city-protected trees and/or other resources are absent from the survey area. Finally, potential for special-status species has been adequately assessed, and it has been determined that one special-status species (i.e., California horned lark) and nesting migratory birds have the potential to occur onsite. Therefore, implementation of Mitigation Measure BIO-1 of the Public Review Draft IS/MND would ensure that impacts to special-status species and nesting birds would be reduced to less than significant. In addition, the implementation of Mitigation Measure BIO-1 would reduce the Project's impact to less than cumulatively considerable.

Reply: The response is flawed, starting with its expectation of what a preconstruction survey can achieve. The implementation of Bio-1 would not *reduce* impacts of any kind. A preconstruction survey is often referred to as a "take-avoidance" survey, because that is the only type of mitigation a preconstruction survey can provide. The idea is to find and protect, or find and salvage, bird nests before the heavy machinery of construction destroys them. A preconstruction survey cannot reduce impacts because the impacts have yet to happen. Neither do these surveys rectify, minimize or compensate for impacts; the only purpose is to avoid direct take to the degree that is feasible.

As I commented, preconstruction surveys cannot avoid the direct take of most of the bird nests that would be present during construction if construction is initiated during the avian breeding season. Ground-nesting birds are expert at concealing their nests. The City has done nothing to identify the general locations where birds might be nesting, because the City only required a reconnaissance survey that was obviously prone to missing most of the birds that occur at the site. It is entirely unrealistic to expect that a preconstruction survey would avoid direct take of nesting birds, let alone any single nest.

Moreover, the take that the preconstruction survey would be intended to avoid is the direct take of nests of the year. A preconstruction survey would in no way avoid the take of the productive capacity of the site. In my comments, I predicted a level of permanent loss of avian productive capacity, and in my replies to responses herein I provided a revised prediction based on additional surveys for total nest density that have been completed by Noriko and I. The project's most significant impact to birds cannot be mitigated by Mitigation Measure BIO-1 of the IS/MND. The IS/MND includes no mitigation for the potential impacts caused by habitat loss.

Response A-16a The comment asserts that Mitigation Measure BIO-1 is insufficient to reduce the Project impacts to less than significant, suggesting that it doesn't address impacts to birds during future breeding seasons, that the preconstruction nesting bird survey relies on an outdated breeding season, and that it provides "unfettered" control to the qualified biologist to adjust nest buffers, among other critiques. These concerns reflect Dr. Smallwood's opinion of what should be included in the mitigation measure in question. The Public Review Draft IS/MND identifies that the Project could result in significant impacts to nesting birds. This impact could occur during construction activities. The implementation of Mitigation Measure BIO-1 would include a preconstruction nesting bird survey and construction buffers, if warranted, and would reduce potential impacts to less than significant.

Reply: This part of the response is merely a summary of the mitigation proposed in the IS/MND and my comments on the measure.

Response A-16b If birds have future breeding (nesting) activities on the Project site subsequent to development of the Project, the nesting activities are protected under the Migratory Bird Act as well as CDFW regulations.

Reply: The birds that currently nest on the project site are not the birds that would nest on the site post-construction. For example, northern harriers nest in grasslands, but not in apartment complexes. As for the protections afforded to birds by the Migratory Bird Treaty Act or CDFW regulations, they are meaningless after avian habitat has been destroyed for the project. Regulations provide no protections to birds that have been extirpated from a site.

Response A-16c As for the provision of adjusting buffers for nesting activities during construction, the adjustment would be based on the bird species as well as the existing ambient noise levels because not all bird species require the same buffering from noise activities.

Reply: I understand the bases for the establishment and adjustments to buffers around nesting activities. This is not the issue. The issue is that the mitigation language allows a single individual to make a subjective decision, outside the public's view, to determine and adjust the buffer area for any given species. This measure lacks objective criteria, and is unenforceable.

Response A-24a The comment critiques the methodology (e.g., timing and survey duration) to characterize the environmental setting and the results of the survey. Additionally, Dr. Smallwood asks, "How did ESA miss all of these species?" and "How is it that western side-blotched lizards and Great Basin fence lizards both occur in abundance, but the disturbance of the site prevents other special-status species (i.e., coastal whiptail and coast horned lizard)?" ... The survey conducted by ESA was intended to characterize the Project site and survey area for the purposes of analyzing potential impacts of the Project under CEQA. Standards regarding survey timing, duration and/or number of species detected have not been established for general reconnaissance surveys.

Reply: It is true that specific standards have yet to be established for survey timing, duration and/or number of species detected, but there are scientific standards of reporting of methods, and there are scientific standards of interpretation of survey findings. It is simply unacceptable to report that only three species of wildlife were detected while not reporting what time the survey began or how long it lasted. As I replied earlier, Noriko detected her first three species within four minutes of her survey start time (actually, she detected four species in her first four minutes). Was it only four minutes the ESA biologist surveyed? The City needs to inform the decision-makers and the public of the methodological context of ESA's survey finding. Without the appropriate context, the survey finding is meaningless and has no bearing on the questions of whether and to what degrees the project would cause impacts to wildlife.

The response could have easily included the survey start time, and the survey duration, but it did not. The IS/MND fails to disclose an accurate characterization of the existing environmental setting, as well as potential impacts to wildlife.

Response A-24b Furthermore, the number of species observed during the survey reflects what the biologist was able to detect at the time they were present onsite.

Reply: Generally agreed, which is why the IS/MND must disclose the time spent on the project site by ESA's biologist.

Response A-24c Protocol-level detection survey for burrowing owls are warranted only if adequate burrows are available, which were not detected during the ESA survey.

Reply: Again, the City chooses not to disclose the survey start time or the survey duration, so it is impossible for the reader to ascertain whether the survey was given sufficient effort to detect ground squirrels and their burrows. In fact, ground squirrels and their burrows were present, as reported by Noriko Smallwood. That ESA's biologist failed to detect ground squirrels is all the more reason to conclude that the biologist did not survey for a sufficiently time, either that or the biologist was not qualified to detect ground squirrels. In fact, ESA (2024) does not provide the biologist's qualifications, or whether the biologist holds a degree in wildlife biology.

Implementation of the CDFW (2012) survey guidelines was warranted, and remains warranted.

Response A-24d Also, as stated in the Potential to Occur Table in Appendix C-3 of the Public Review Draft IS/MND, the vegetation was dense and tall which is not preferred by burrowing owl. Ms. Smallwood observed "California ground squirrels just to the south side of Lockwood Street". This is outside of the Project site but within the survey area. There was a seven-month gap between ESA and Ms. Smallwood's survey in which California ground squirrels could move into the survey area. The closest CDFW CNDDDB and eBird record for burrowing owl is located 2.5 miles to the east of the Project site at the Camarillo airport.

Reply: California ground squirrels do not establish colonies suddenly from nowhere. I have studied ground squirrels for many years, including 13 years of monitoring at Naval Air Station Lemoore (Smallwood and Morrison 2013) and 14 years of monitoring at Vasco Caves Regional Preserve (Smallwood and Bell 2022). The ground squirrels found by Noriko had been there for a long time, as by the time she detected them, their colony was surrounded by urban developments on all sides except for the project site. And yes, the ground squirrels were within ESA's study area and well within the survey buffer recommended by CDFW (2012).

As for vegetation height, it is not true that burrowing owls require only short-stature grassland. I have recorded burrowing owl nests located in vegetation taller than I am (Smallwood et al. 2013, and K. S. Smallwood unpubl. data through 2019), as well as under tree canopies and in tall grass (Smallwood and Morrison 2018). The vegetation at the project site is not too tall for burrowing owls.

Response A-24e Western side-blotched lizards and Great Basin fence lizards are species generalists and are expected to occur within the disturbed habitats present within the Project site and survey area; whereas, the coastal whiptail and coast horned lizard require specific habitat types, such as coastal sage scrub and chaparral, both of which do not occur onsite. Additionally, western side-blotched lizards and Great Basin fence lizards are not defined as special-status species (as described in Response to Comment A-8).

Reply: It is unclear what the response means by "species generalists." As for coastal whiptail, Noriko and I have found them in disturbed environments. The densest population of whiptails I ever encountered was on bare ground under a roadside next to a freeway – a highly disturbed site. As I replied earlier, pristine environments have been absent from California for decades (also see Allen 1989), and all that remain are environments in various levels of disturbance. The response is unclear about what degree of disturbance any of the species at issue can tolerate, but based on my experience, I posit that the project site could support coastal whiptail and possibly coast horned lizard. It is improper to determine that these species are absent without even looking for them.

Response A-24f The comment also states: "The IS/MND provides one over-arching reason for its decisions to omit all special-status plant species and 45 special-status species of wildlife from its analysis, which was the disturbed nature of the survey area and the absence of suitable habitat." While the disturbed nature of the survey area was a factor in determining species' occurrence, the main reason was the absence of suitable habitat. The majority of the special-status plants and animals including coastal whiptail and coast horned lizard require tree groves, woodland, riparian, scrub, or wetland habitat which are not present in the Project site or survey area.

Reply: The species at issue require sufficient open space to survive, including opportunities to move around the landscape. What the IS/MND does, and what the response repeats, is to pigeon-hole species into unrealistically narrow portions of the environment, which can then be said not to exist on the project site. No wildlife habitat

study would proceed on such a premise that each species will occur only in the narrow environments where the investigator expects them to occur. This is why use-and-availability studies designed to measure the habitat of a given species seek to detect or count the species among all of the categorized and mapped vegetation cover types that compose the study area. We allow the species to inform us of its habitat, rather than we decide for the species what is its habitat. It is the very rare species that only occurs in wetlands, or only occurs in riparian environments, or only in grasslands. The response claims a false degree of specialization of all of the species the IS/MND dismissed from the analysis of occurrence potential, and it offers no evidence in support of its claims.

Response A-24g The commenter mentions that the Crotch's bumble bee high quality habitat was not explained. In the Potential to Occur Table in Appendix C-3, the preferred habitat is explained as "open grassland and scrub habitats that support potential nectar sources such as plants within the Fabaceae, Apocynaceae, Asteraceae, Lamiaceae, and Boraginaceae families". The preferred habitat is open grassland with potential nectar sources, and the Project site lacks both the open grassland and most of the preferred nectar sources.

Reply: The response misuses the term "preferred" when characterizing Crotch's bumble bee selection of vegetation cover types. Those who perform use and availability analysis to measure habitat refrain from use of the term preferred because none of us can know which vegetation cover types any species truly prefers. What we measure is proportional use, which we then translate as relative degrees of selection of the vegetation cover type relative to its availability. Even with this approach, however, caution is warranted because the distribution of the animals under study might have been affected by some other factor such as sociality (Smallwood 2002).

The responder cannot know which vegetation cover types are sought out by Crotch's bumble bee. The CDFW (2023) survey guidelines for Crotch's bumble bee instruct survey personnel to "record all flowering plants including non-natives and invasives as foraging plants." This instruction would not be provided if CDFW thought that enough is known of which plants Crotch's bumble bee requires for forage.

Response A-24h The comment asserts that monarch migratory habitat is just as important as overwintering groves as identified by the Western Monarch Butterfly Conservation Plan. However, the Western Monarch Butterfly Conservation Plan also states that "In contrast to the eastern population, information is lacking on established migration routes for both spring and fall western migrants". It continues that "... fall migrants often followed riparian corridors ..." The Project site lacks a riparian corridor. Therefore, the Western Monarch Butterfly Conservation Plan does not support the commenter's opinion that the Project site has other resources for the monarch.

Reply: The response represents another two leaps of logic. The first is a repeat of the notion that uncertainty in a relationship predetermines absence of the species. The second is that because someone wrote somewhere that migratory monarchs tend to follow riparian corridors, and because the project site lacks riparian environments, therefore monarchs are not going to occur on the project site. Anyone can select a

passage from a document to support an argument. I will note that the response did not include an important phrase that preceded its quoted passage; the full quote should have read “Historical records of monarch collections in the western North America suggested fall migrants often followed riparian corridors.” Historical records are not the same as scientific sampling as part of a use and availability analysis, and the word “suggested” is suggestive of what the authors thought of the pattern’s reliability. Both Noriko and I have detected monarchs traveling across open fields nowhere near riparian environments. We recently saw one fly across an alfalfa field near Calexico. I recently saw and photographed multiple monarchs flying across a Bakersfield grassland that was in about the same condition as the grassland of the project site.

Response A-24i The comment also asserts that the Project site has foraging habitat for ferruginous hawk and the inactive nest on the tower could have potential for nesting peregrine falcons. Each of these points are discussed in the Potential to Occur Table in Appendix C-3. As discussed in Appendix C-3, the closest foraging habitat for the peregrine falcon is located over two miles northwest of the Project site.

Reply: The response does not address my comments regarding ferruginous hawk. As I commented, foraging opportunities over the non-breeding season are essential to the nesting success of winter migrants such as ferruginous hawk. Ferruginous hawk migrates from its breeding grounds to southern California for non-breeding season forage. If members of this species cannot find sufficient forage over the non-breeding season, they will not be capable of producing chicks in the more northern regions where they breed. The response ignores this relationship.

Regarding peregrine falcon, the habitat characterization in App. C-3 of the IS/MND is incorrect. Peregrine falcons do not require wetland environments for foraging. Just last year I recorded a peregrine falcon nest to CNDDB – a nest I found in north Bakersfield, far from any wetlands. I observed and photographed the peregrine falcons foraging on ground squirrels, western meadowlarks, and mourning doves on grasslands that looked similar in condition to the grassland of the project site. The response ignores my comment on peregrine falcons in my letter of 31 March 2024.

Response A-26 The comment asserts that Mitigation Measure BIO-1 is insufficient to reduce the Project impacts to less than significant. Please see Response to Comment A-16 regarding the adequacy of Mitigation Measure BIO-1.

Reply: Please see my reply to Response A-13.

PARTING REPLY

The responses to comments skipped my comments on recommended protocol-level detection surveys and mitigation measures. I provided recommendations on detection surveys for special-status species. I also provided recommendations for minimizing the effects of habitat loss, bird-window collision mortality, wildlife-automobile collision mortality, and cumulative impacts. The City does not address my recommendations.

Thank you for your attention,



Shawn Smallwood, Ph.D.

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Exhibit C



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April 24, 2024

Marjan Abubo
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Subject: Comments on the Lockwood III Apartments Project

Dear Mr. Abubo,

We have reviewed the March 2024 Initial Study and Mitigated Negative Declaration (“IS/MND”) for the Lockwood III Apartments (“Project”) located in the City of Oxnard (“City”). The Project proposes to construct 373,069-square-feet (“SF”) of residential space, including 234 residential units and 351 parking spaces, on the 5.17-acre site.

Our review concludes that the IS/MND fails to adequately evaluate the Project’s health risk impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project may be underestimated and inadequately addressed. An Environmental Impact Report (“EIR”) should be prepared to adequately assess and mitigate the potential health risk impacts that the project may have on the environment.

Diesel Particulate Matter Emissions Inadequately Evaluated

The IS/MND concludes that the Project would have a less-than-significant health risk impact without conducting a quantified construction or operational health risk analysis (“HRA”). Regarding the health risk impacts associated with the Project construction, the IS/MND states:

“The greatest potential for diesel particulate emissions would only occur during excavation/grading activities, which are scheduled for approximately 46 days. Other construction activities which are estimated to take approximately 2 years, would result in a reduced use of heavy-duty diesel construction equipment in comparison to excavation/grading activities. The Project would therefore not result in a long-term (i.e., 70 year) source of TAC emissions. No residual TAC emissions and corresponding individual cancer risks are anticipated

after construction. Because there is such a short-term exposure period (25 out of 840 months of a 70-year lifetime), further evaluation of construction TAC emissions is not warranted” (p. 36, 37).

As discussed, the IS/MND claims that since the Project is expected to have a short construction duration, the Project will result in a less-than-significant construction-related health risk impact. However, the IS/MND’s evaluation of the Project’s potential health risk impacts, as well as the subsequent less-than-significant impact conclusion, is unsubstantiated for three reasons.

First, by failing to prepare a quantified construction and operational HRA, the Project is inconsistent with CEQA’s requirement to make “a reasonable effort to substantively connect a project’s air quality impacts to likely health consequences.”¹ This poses a problem, as according to the IS/MND, construction of the Project would produce diesel particulate matter (“DPM”) emissions through the exhaust stacks of construction equipment over a duration of approximately 27 months (p. 5). Furthermore, according to the IS/MND, operation of the Project is expected to generate 1,175 daily vehicle trips, which would produce additional exhaust emissions and continue to expose nearby, existing sensitive receptors to DPM emissions (p. 101). However, the IS/MND and associated documents fail to evaluate the toxic air contaminants (“TAC”) emissions associated with Project construction and operation or indicate the concentrations at which such pollutants would trigger adverse health effects. Without making a reasonable effort to connect the Project’s TAC emissions to the potential health risks posed to nearby receptors, the IS/MND is inconsistent with CEQA’s requirement to correlate Project-generated emissions with potential adverse impacts on human health.

Second, the Office of Environmental Health Hazard Assessment (“OEHHA”), the organization responsible for providing guidance on conducting HRAs in California, as well as local air district guidelines² released its most recent *Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments* in February 2015.³ This guidance document describes the types of projects that warrant the preparation of an HRA. Specifically, OEHHA recommends that all short-term projects lasting at least 2 months assess cancer risks.⁴ Furthermore, according to OEHHA:

¹ “Sierra Club v. County of Fresno.” Supreme Court of California, December 2018, *available at*: <https://ceqaportal.org/decisions/1907/Sierra%20Club%20v.%20County%20of%20Fresno.pdf>.

² “Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act.” State of California Department of Justice, *available at*: <https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/warehouse-best-practices.pdf>, p. 6.

³ “Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act.” State of California Department of Justice, *available at*: <https://oag.ca.gov/sites/all/files/agweb/pdfs/environment/warehouse-best-practices.pdf>, p. 6.

⁴ “Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, *available at*: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 8-18.

“Exposure from projects lasting more than 6 months should be evaluated for the duration of the project. In all cases, for assessing risk to residential receptors, the exposure should be assumed to start in the third trimester to allow for the use of the ASFs (OEHHA, 2009).”⁵

As the Project’s anticipated construction duration exceeds the 2-month and 6-month requirements set forth by OEHHA, construction of the Project meets the threshold warranting a quantified HRA under OEHHA guidance and should be evaluated for the entire 27-month construction period. Furthermore, OEHHA recommends that an exposure duration of 30 years should be used to estimate the individual cancer risk at the maximally exposed individual resident (“MEIR”).⁶ While the IS/MND fails to provide the expected lifetime of the proposed Project, we can reasonably assume that the Project would operate for at least 30 years, if not more. Therefore, operation of the Project also exceeds the 2-month and 6-month requirements set forth by OEHHA and should be evaluated for the entire 30-year residential exposure duration, as indicated by OEHHA guidance. These recommendations reflect the most recent state health risk policies, and as such, an EIR should be prepared to include an analysis of health risk impacts posed to nearby sensitive receptors from Project-generated DPM emissions.

Third, by claiming a less-than-significant impact without conducting a quantified construction or operational HRA for nearby, existing sensitive receptors, the IS/MND fails to compare the Project’s excess cancer risk to the Ventura County Air Pollution Control District’s (“VCAPCD”) specific numeric threshold of 10 in one million.⁷ In accordance with the most relevant guidance, an assessment of the health risk posed to nearby, existing receptors as a result of Project construction and operation should be conducted.

Screening-Level Analysis Demonstrates Potentially Significant Health Risk Impact

In order to conduct our screening-level risk assessment we relied upon AERSCREEN, which is a screening level air quality dispersion model.⁸ The model replaced SCREEN3, and AERSCREEN is included in the OEHHA and the California Air Pollution Control Officers Associated (“CAPCOA”) guidance as the appropriate air dispersion model for Level 2 health risk screening assessments (“HRSAs”).^{9, 10} A Level 2 HRSA utilizes a limited amount of site-specific information to generate maximum reasonable downwind concentrations of air contaminants to which nearby sensitive receptors may be exposed. If an

⁵ “Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 8-18.

⁶ “Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 2-4.

⁷ “Ventura County Air Quality Assessment Guidelines.” Ventura County Air Pollution Control District (VCAPCD), October 2003, available at: <http://www.vcapcd.org/pubs/Planning/VCAQGuidelines.pdf>, p. 3-5.

⁸ “Air Quality Dispersion Modeling - Screening Models,” U.S. EPA, available at: <https://www.epa.gov/scram/air-quality-dispersion-modeling-screening-models>.

⁹ “Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>.

¹⁰ “Health Risk Assessments for Proposed Land Use Projects.” CAPCOA, July 2009, available at: http://www.valleyair.org/transportation/CAPCOA_HRA_LU_Guidelines_8-6-09.pdf.

unacceptable air quality hazard is determined to be possible using AERSCREEN, a more refined modeling approach should be conducted prior to approval of the Project.

We prepared a preliminary HRA of the Project's construction and operational health risk impact to residential sensitive receptors using the annual PM₁₀ exhaust estimates from the IS/MND's CalEEMod output files. Consistent with recommendations set forth by OEHHA, we assumed residential exposure begins during the third trimester stage of life.¹¹ The IS/MND's CalEEMod model indicates that construction activities will generate approximately 240 pounds of DPM over the 909-day construction period.¹² The AERSCREEN model relies on a continuous average emission rate to simulate maximum downward concentrations from point, area, and volume emission sources. To account for the variability in equipment usage and truck trips over Project construction, we calculated an average DPM emission rate by the following equation:

$$\text{Emission Rate} \left(\frac{\text{grams}}{\text{second}} \right) = \frac{239.7 \text{ lbs}}{909 \text{ days}} \times \frac{453.6 \text{ grams}}{\text{lbs}} \times \frac{1 \text{ day}}{24 \text{ hours}} \times \frac{1 \text{ hour}}{3,600 \text{ seconds}} = \mathbf{0.001385 \text{ g/s}}$$

Using this equation, we estimated a construction emission rate of 0.00139 grams per second ("g/s"). Subtracting the 909-day construction period from the total residential duration of 30 years, we assumed that after Project construction, the sensitive receptor would be exposed to the Project's operational DPM for an additional 27.51 years. The IS/MND's operational CalEEMod emissions indicate that operational activities will generate approximately 40 pounds of DPM per year throughout operation. Applying the same equation used to estimate the construction DPM rate, we estimated the following emission rate for Project operation:

$$\text{Emission Rate} \left(\frac{\text{grams}}{\text{second}} \right) = \frac{40 \text{ lbs}}{365 \text{ days}} \times \frac{453.6 \text{ grams}}{\text{lbs}} \times \frac{1 \text{ day}}{24 \text{ hours}} \times \frac{1 \text{ hour}}{3,600 \text{ seconds}} = \mathbf{0.0005753 \text{ g/s}}$$

Using this equation, we estimated an operational emission rate of 0.000575 g/s. Construction and operation were simulated as a 5.17-acre rectangular area source in AERSCREEN, with approximate dimensions of 205- by 102-meters. A release height of three meters was selected to represent the height of stacks of operational equipment and other heavy-duty vehicles, and an initial vertical dimension of one and a half meters was used to simulate instantaneous plume dispersion upon release. A rural meteorological setting was selected with model-default inputs for wind speed and direction distribution. The population of Oxnard was obtained from U.S. 2020 Census data.¹³

The AERSCREEN model generates maximum reasonable estimates of single-hour DPM concentrations from the Project Site. The United States Environmental Protection Agency ("U.S. EPA") suggests that the annualized average concentration of an air pollutant be estimated by multiplying the single-hour

¹¹ "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 8-18.

¹² See Attachment B for health risk calculations.

¹³ "Oxnard." U.S. Census Bureau, 2021, available at: <https://datacommons.org/place/geoid/0654652>.

concentration by 10% in screening procedures.¹⁴ According to the IS/MND, the nearest sensitive receptor is located 25 feet, or 7.62 meters, from the Project site. Additionally, the IS/MND states “since air emissions disperse rapidly in the environment and decrease with distance from the source, exposure associated with emissions from construction activities would be limited” (p. 35). Thus, the single-hour concentration estimated by AERSCREEN for Project construction is approximately 2.207 $\mu\text{g}/\text{m}^3$ DPM at approximately 100 meters downwind. Multiplying this single-hour concentration by 10%, we get an annualized average concentration of 0.2207 $\mu\text{g}/\text{m}^3$ for Project construction at the MEIR. For Project operation, the single-hour concentration estimated by AERSCREEN is 0.9167 $\mu\text{g}/\text{m}^3$ DPM at approximately 100 meters downwind. Multiplying this single-hour concentration by 10%, we get an annualized average concentration of 0.09167 $\mu\text{g}/\text{m}^3$ for Project operation at the MEIR.¹⁵

We calculated the excess cancer risk to the MEIR using applicable HRA methodologies prescribed by OEHHA, as recommended by VCAPCD.¹⁶ Specifically, guidance from OEHHA and the California Air Resources Board (“CARB”) recommends the use of a standard point estimate approach, including high-point estimate (i.e. 95th percentile) breathing rates and age sensitivity factors (“ASF”) in order to account for the increased sensitivity to carcinogens during early-in-life exposure and accurately assess risk for susceptible subpopulations such as children. The residential exposure parameters, such as the daily breathing rates (“BR/BW”), exposure duration (“ED”), ASFs, fraction of time at home (“FAH”), and exposure frequency (“EF”) utilized for the various age groups in our screening-level HRA are as follows:

¹⁴ “Screening Procedures for Estimating the Air Quality Impact of Stationary Sources Revised.” U.S. EPA, October 1992, available at: https://www.epa.gov/sites/default/files/2020-09/documents/epa-454r-92-019_ocr.pdf.

¹⁵ See Attachment C for AERSCREEN output files.

¹⁶ “Ventura County Air Quality Assessment Guidelines.” Ventura County Air Pollution Control District, October 2003, available at: <http://www.vcapcd.org/pubs/Planning/VCAQGuidelines.pdf>, p. 6-6 – 6-8.

Exposure Assumptions for Residential Individual Cancer Risk						
Age Group	Breathing Rate (L/kg-day) ¹⁷	Age Sensitivity Factor ¹⁸	Exposure Duration (years)	Fraction of Time at Home ¹⁹	Exposure Frequency (days/year) ²⁰	Exposure Time (hours/day)
3rd Trimester	361	10	0.25	0.85	350	24
Infant (0 - 2)	1090	10	2	0.85	350	24
Child (2 - 16)	572	3	14	0.72	350	24
Adult (16 - 30)	261	1	14	0.73	350	24

For the inhalation pathway, the procedure requires the incorporation of several discrete variates to effectively quantify dose for each age group. Once determined, contaminant dose is multiplied by the cancer potency factor (“CPF”) in units of inverse dose expressed in milligrams per kilogram per day (mg/kg/day⁻¹) to derive the cancer risk estimate. Therefore, to assess exposures, we utilized the following dose algorithm:

$$Dose_{AIR, per\ age\ group} = C_{air} \times EF \times \left[\frac{BR}{BW} \right] \times A \times CF$$

where:

Dose_{AIR} = dose by inhalation (mg/kg/day), per age group
C_{air} = concentration of contaminant in air (µg/m³)
EF = exposure frequency (number of days/365 days)
BR/BW = daily breathing rate normalized to body weight (L/kg/day)
A = inhalation absorption factor (default = 1)
CF = conversion factor (1x10⁻⁶, µg to mg, L to m³)

To calculate the overall cancer risk, we used the following equation for each appropriate age group:

$$Cancer\ Risk_{AIR} = Dose_{AIR} \times CPF \times ASF \times FAH \times \frac{ED}{AT}$$

where:

¹⁷ “Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>.

¹⁸ “Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 8-5 Table 8.3.

¹⁹ “Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 8-5, Table 8.4.

²⁰ “Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 5-24.

$Dose_{AIR}$ = dose by inhalation (mg/kg/day), per age group
 CPF = cancer potency factor, chemical-specific (mg/kg/day)⁻¹
 ASF = age sensitivity factor, per age group
 FAH = fraction of time at home, per age group (for residential receptors only)
 ED = exposure duration (years)
 AT = averaging time period over which exposure duration is averaged (always 70 years)

Consistent with the 909-day construction schedule, the annualized average concentration for construction was used for the entire third trimester of pregnancy (0.25 years), the entire infantile stage of life (0—2 years), and the first 0.24 years of the child stage of life (2—16). The annualized average concentration for operation was used for the remainder 30-year exposure period, which makes up for the latter 13.76 years of the child stage of life, as well as the entire adult (16—30 years) stage of life. The results of our calculations are shown in the table below.

The Maximally Exposed Individual at an Existing Residential Receptor				
Age Group	Emissions Source	Duration (years)	Concentration (ug/m3)	Cancer Risk
3rd Trimester	Construction	0.25	0.2207	2.55E-06
Infant (0 - 2)	Construction	2	0.2207	6.16E-05
	<i>Construction</i>	<i>0.24</i>	<i>0.2207</i>	<i>9.88E-07</i>
	<i>Operation</i>	<i>13.76</i>	<i>0.0917</i>	<i>2.35E-05</i>
Child (2 - 16)	Total	14		2.45E-05
Adult (16 - 30)	Operation	14	0.0917	3.68E-06
Lifetime		30		9.23E-05

As demonstrated in the table above, the excess cancer risks for the 3rd trimester of pregnancy, infants, children, and adults at the MEIR located approximately 100 meters away, over the course of Project construction and operation, are approximately 2.55, 61.6, 24.5, and 36.8 in one million, respectively. The excess cancer risk over the course of a residential lifetime (30 years) is approximately 92.3 in one million, which exceeds the VCAPCD threshold of 10 in one million and results in a potentially significant impact not previously addressed or identified by the IS/MND.

Our analysis represents a screening-level HRA, which is known to be conservative and tends to err on the side of health protection. The purpose of the screening-level HRA is to demonstrate the potential link between Project-generated emissions and adverse health risk impacts. According to the U.S. EPA:

“EPA’s Exposure Assessment Guidelines recommend completing exposure assessments iteratively using a tiered approach to ‘strike a balance between the costs of adding detail and refinement to an assessment and the benefits associated with that additional refinement’ (U.S. EPA, 1992).

In other words, an assessment using basic tools (e.g., simple exposure calculations, default values, rules of thumb, conservative assumptions) can be conducted as the first phase (or tier) of the overall assessment (i.e., a screening-level assessment).

The exposure assessor or risk manager can then determine whether the results of the screening-level assessment warrant further evaluation through refinements of the input data and exposure assumptions or by using more advanced models.”

As demonstrated above, screening-level analyses warrant further evaluation in a refined modeling approach. As our screening-level HRA demonstrates that construction and operation of the Project could result in a potentially significant health risk impact, an EIR should be prepared to include a refined health risk analysis which adequately and accurately evaluates health risk impacts associated with both Project construction and operation. If the refined analysis similarly concludes that the Project would result in a significant health risk impact, then mitigation measures should be incorporated, as described below in the “Feasible Mitigation Measures Available to Reduce Emissions” section.

Mitigation

Feasible Mitigation Measures Available to Reduce Emissions

Our analysis demonstrates that the Project would result in potentially significant health risk impacts that should be mitigated further. In an effort to reduce the Project’s emissions, we identified several mitigation measures that are applicable to the proposed Project. To reduce the Project’s emissions, we recommend consideration of SCAG’s 2020 RTP/SCS PEIR’s Air Quality Project Level Mitigation Measures (“PMM-AQ-1”), as described below:²¹

SCAG RTP/SCS 2020-2045
Air Quality Project Level Mitigation Measures – PMM-AQ-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the <i>State CEQA Guidelines</i>, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to violating air quality standards. Such measures may include the following or other comparable measures identified by the Lead Agency:
a) Minimize land disturbance.

²¹ “4.0 Mitigation Measures.” Connect SoCal Program Environmental Impact Report Addendum #1, September 2020, available at: https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocial_addendum_4_mitigationmeasures.pdf?1606004420, p. 4.0-2 – 4.0-10; 4.0-19 – 4.0-23; See also: “Certified Final Connect SoCal Program Environmental Impact Report.” Southern California Association of Governments (SCAG), May 2020, available at: <https://scag.ca.gov/peir>.

b) Suspend grading and earth moving when wind gusts exceed 25 miles per hour unless the soil is wet enough to prevent dust plumes.
c) Cover trucks when hauling dirt.
d) Stabilize the surface of dirt piles if not removed immediately.
e) Limit vehicular paths on unpaved surfaces and stabilize any temporary roads.
f) Minimize unnecessary vehicular and machinery activities.
g) Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
h) Revegetate disturbed land, including vehicular paths created during construction to avoid future off-road vehicular activities.
j) Require contractors to assemble a comprehensive inventory list (i.e., make, model, engine year, horsepower, emission rates) of all heavy-duty off-road (portable and mobile) equipment (50 horsepower and greater) that could be used an aggregate of 40 or more hours for the construction project. Prepare a plan for approval by the applicable air district demonstrating achievement of the applicable percent reduction for a CARB-approved fleet.
k) Ensure that all construction equipment is properly tuned and maintained.
l) Minimize idling time to 5 minutes—saves fuel and reduces emissions.
m) Provide an operational water truck on-site at all times. Use watering trucks to minimize dust; watering should be sufficient to confine dust plumes to the project work areas. Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
n) Utilize existing power sources (e.g., power poles) or clean fuel generators rather than temporary power generators.
o) Develop a traffic plan to minimize traffic flow interference from construction activities. The plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service. Schedule operations affecting traffic for off-peak hours. Minimize obstruction of through-traffic lanes. Provide a flag person to guide traffic properly and ensure safety at construction sites.
p) As appropriate require that portable engines and portable engine-driven equipment units used at the project work site, with the exception of on-road and off-road motor vehicles, obtain CARB Portable Equipment Registration with the state or a local district permit. Arrange appropriate consultations with the CARB or the District to determine registration and permitting requirements prior to equipment operation at the site.
q) Require projects within 500 feet of residences, hospitals, or schools to use Tier 4 equipment for all engines above 50 horsepower (hp) unless the individual project can demonstrate that Tier 4 engines would not be required to mitigate emissions below significance thresholds.
r) Projects located within the South Coast Air Basin should consider applying for South Coast AQMD “SOON” funds which provides funds to applicable fleets for the purchase of commercially available low-emission heavy-duty engines to achieve near-term reduction of NOx emissions from in-use off-road diesel vehicles.
s) Projects located within AB 617 communities should review the applicable Community Emissions Reduction Plan (CERP) for additional mitigation that can be applied to individual projects.
t) Where applicable, projects should provide information about air quality related programs to schools, including the Environmental Justice Community Partnerships (EJCP), Clean Air Ranger Education (CARE), and Why Air Quality Matters programs.
u) Projects should work with local cities and counties to install adequate signage that prohibits truck idling in certain locations (e.g., near schools and sensitive receptors).
y) Projects that will introduce sensitive receptors within 500 feet of freeways and other sources should consider installing high efficiency of enhanced filtration units, such as Minimum Efficiency Reporting Value (MERV) 13 or better. Installation of enhanced filtration units can be verified during occupancy inspection prior to the issuance of an occupancy permit.
z) Develop an ongoing monitoring, inspection, and maintenance program for the MERV filters.

aa) Consult the SCAG Environmental Justice Toolbox for potential measures to address impacts to low-income and/or minority communities.

bb) The following criteria related to diesel emissions shall be implemented on by individual project sponsors as appropriate and feasible:

- Diesel nonroad vehicles on site for more than 10 total days shall have either (1) engines that meet EPA on road emissions standards or (2) emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%
- Diesel generators on site for more than 10 total days shall be equipped with emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%.
- Nonroad diesel engines on site shall be Tier 2 or higher.
- Diesel nonroad construction equipment on site for more than 10 total days shall have either (1) engines meeting EPA Tier 4 nonroad emissions standards or (2) emission control technology verified by EPA or CARB for use with nonroad engines to reduce PM emissions by a minimum of 85% for engines for 50 hp and greater and by a minimum of 20% for engines less than 50 hp.
- Emission control technology shall be operated, maintained, and serviced as recommended by the emission control technology manufacturer.
- Diesel vehicles, construction equipment, and generators on site shall be fueled with ultra-low sulfur diesel fuel (ULSD) or a biodiesel blend approved by the original engine manufacturer with sulfur content of 15 ppm or less.
- The construction contractor shall maintain a list of all diesel vehicles, construction equipment, and generators to be used on site. The list shall include the following:
 - i. Contractor and subcontractor name and address, plus contact person responsible for the vehicles or equipment.
 - ii. Equipment type, equipment manufacturer, equipment serial number, engine manufacturer, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation.
 - iii. For the emission control technology installed: technology type, serial number, make, model, manufacturer, EPA/CARB verification number/level, and installation date and hour-meter reading on installation date.
- The contractor shall establish generator sites and truck-staging zones for vehicles waiting to load or unload material on site. Such zones shall be located where diesel emissions have the least impact on abutters, the general public, and especially sensitive receptors such as hospitals, schools, daycare facilities, elderly housing, and convalescent facilities.
- The contractor shall maintain a monthly report that, for each on road diesel vehicle, nonroad construction equipment, or generator onsite, includes:
 - i. Hour-meter readings on arrival on-site, the first and last day of every month, and on off-site date.
 - ii. Any problems with the equipment or emission controls.
 - iii. Certified copies of fuel deliveries for the time period that identify:
 - 1. Source of supply
 - 2. Quantity of fuel
 - 3. Quantity of fuel, including sulfur content (percent by weight)

cc) Project should exceed Title-24 Building Envelope Energy Efficiency Standards (California Building Standards Code). The following measures can be used to increase energy efficiency:

- Provide pedestrian network improvements, such as interconnected street network, narrower roadways and shorter block lengths, sidewalks, accessibility to transit and transit shelters, traffic calming measures, parks and public spaces, minimize pedestrian barriers.
- Provide traffic calming measures, such as:
 - i. Marked crosswalks
 - ii. Count-down signal timers
 - iii. Curb extensions
 - iv. Speed tables
 - iv. Raised crosswalks

- v. Raised intersections
- vi. Median islands
- vii. Tight corner radii
- viii. Roundabouts or mini-circles
- ix. On-street parking
- x. Chicanes/chokers
- Create urban non-motorized zones
- Provide bike parking in non-residential and multi-unit residential projects
- Dedicate land for bike trails
- Limit parking supply through:
 - i. Elimination (or reduction) of minimum parking requirements
 - ii. Creation of maximum parking requirements
 - iii. Provision of shared parking
- Require residential area parking permit.
- Provide ride-sharing programs
 - i. Designate a certain percentage of parking spacing for ride sharing vehicles
 - ii. Designating adequate passenger loading and unloading and waiting areas for ride-sharing vehicles
 - iii. Providing a web site or messaging board for coordinating rides
 - iv. Permanent transportation management association membership and finding requirement.

These measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently, reduce emissions released during Project construction and operation.

An EIR should be prepared to include all feasible mitigation measures, as well as include updated health risk analysis to ensure that the necessary mitigation measures are implemented to reduce emissions to maximum extent feasible. The EIR should also demonstrate a commitment to the implementation of these measures prior to Project approval, to ensure that the Project's significant emissions are reduced to the maximum extent possible.

Disclaimer

SWAPE has received limited discovery regarding this project. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

Sincerely,



Matt Hagemann, P.G., C.Hg.



Paul E. Rosenfeld, Ph.D.

Attachment A: Health Risk Calculations
Attachment B: SWAPE's AERSCREEN Output Files
Attachment C: Matt Hagemann CV
Attachment D: Paul Rosenfeld CV

Construction				Operation	
2025		Total		Emission Rate	
Annual Emissions (tons/year)	0.06	Total DPM (lbs)	239.7260274	Annual Emissions (tons/year)	0.02
Daily Emissions (lbs/day)	0.328767123	Total DPM (g)	108739.726	Daily Emissions (lbs/day)	0.109589041
Construction Duration (days)	306	Emission Rate (g/s)	0.001384556	Total DPM (lbs)	40
Total DPM (lbs)	100.6027397	Release Height (meters)	3	Emission Rate (g/s)	0.000575342
Total DPM (g)	45633.40274	Total Acreage	5.17	Release Height (meters)	3
Start Date	3/1/2025	Max Horizontal (meters)	204.56	Total Acreage	5.17
End Date	1/1/2026	Min Horizontal (meters)	102.28	Max Horizontal (meters)	204.56
Construction Days	306	Initial Vertical Dimension (meters)	1.5	Min Horizontal (meters)	102.28
2026		Setting	Oxnard	Initial Vertical Dimension (meters)	1.5
Annual Emissions (tons/year)	0.05	Population	200,415	Setting	Oxnard
Daily Emissions (lbs/day)	0.273972603	Start Date	3/1/2025	Population	200,415
Construction Duration (days)	365	End Date	8/27/2027		
Total DPM (lbs)	100	Total Construction Days	909		
Total DPM (g)	45360	Total Years of Construction	2.49		
Start Date	1/1/2026	Total Years of Operation	27.51		
End Date	1/1/2027				
Construction Days	365				
2027					
Annual Emissions (tons/year)	0.03				
Daily Emissions (lbs/day)	0.164383562				
Construction Duration (days)	238				
Total DPM (lbs)	39.12328767				
Total DPM (g)	17746.32329				
Start Date	1/1/2027				
End Date	8/27/2027				
Construction Days	238				

AERSCREEN 21112 / AERMOD 21112

04/23/24

10:52:13

TITLE: LockwoodIIIIApartments, Construction

 ***** AREA PARAMETERS *****

SOURCE EMISSION RATE:	0.138E-02 g/s	0.110E-01 lb/hr
AREA EMISSION RATE:	0.662E-07 g/(s-m2)	0.525E-06 lb/(hr-m2)
AREA HEIGHT:	3.00 meters	9.84 feet
AREA SOURCE LONG SIDE:	204.56 meters	671.13 feet
AREA SOURCE SHORT SIDE:	102.28 meters	335.56 feet
INITIAL VERTICAL DIMENSION:	1.50 meters	4.92 feet
RURAL OR URBAN:	URBAN	
POPULATION:	198586	
INITIAL PROBE DISTANCE =	5000. meters	16404. feet

 ***** BUILDING DOWNWASH PARAMETERS *****

BUILDING DOWNWASH NOT USED FOR NON-POINT SOURCES

 ***** FLOW SECTOR ANALYSIS *****
 25 meter receptor spacing: 1. meters - 5000. meters

MAXIMUM IMPACT RECEPTOR

Zo SECTOR	SURFACE ROUGHNESS	1-HR CONC (ug/m3)	RADIAL (deg)	DIST (m)	TEMPORAL PERIOD
1*	1.000	2.207	0	100.0	WIN

* = worst case diagonal

***** MAKEMET METEOROLOGY PARAMETERS *****

MIN/MAX TEMPERATURE: 250.0 / 310.0 (K)

MINIMUM WIND SPEED: 0.5 m/s

ANEMOMETER HEIGHT: 10.000 meters

SURFACE CHARACTERISTICS INPUT: AERMET SEASONAL TABLES

DOMINANT SURFACE PROFILE: Urban

DOMINANT CLIMATE TYPE: Average Moisture

DOMINANT SEASON: Winter

ALBEDO: 0.35

BOWEN RATIO: 1.50

ROUGHNESS LENGTH: 1.000 (meters)

SURFACE FRICTION VELOCITY (U*) NOT ADJUSTED

METEOROLOGY CONDITIONS USED TO PREDICT OVERALL MAXIMUM IMPACT

YR MO DY JDY HR

10 01 10 10 01

H0	U*	W*	DT/DZ	ZICNV	ZIMCH	M-O	LEN	Z0	BOWEN	ALBEDO	REF WS
-1.30	0.043	-9.000	0.020	-999.	21.	6.0	1.000	1.50	0.35	0.50	

HT	REF TA	HT
10.0	310.0	2.0

***** AERSCREEN AUTOMATED DISTANCES *****

OVERALL MAXIMUM CONCENTRATIONS BY DISTANCE

DIST (m)	MAXIMUM 1-HR CONC (ug/m3)	DIST (m)	MAXIMUM 1-HR CONC (ug/m3)
1.00	1.690	2525.00	0.2757E-01

25.00	1.847	2550.00	0.2720E-01
50.00	1.980	2575.00	0.2684E-01
75.00	2.091	2600.00	0.2648E-01
100.00	2.207	2625.00	0.2614E-01
125.00	1.711	2650.00	0.2580E-01
150.00	1.225	2675.00	0.2547E-01
175.00	0.9973	2700.00	0.2515E-01
200.00	0.8371	2725.00	0.2483E-01
225.00	0.7162	2750.00	0.2453E-01
250.00	0.6231	2775.00	0.2422E-01
275.00	0.5487	2800.00	0.2393E-01
300.00	0.4886	2825.00	0.2364E-01
325.00	0.4393	2850.00	0.2336E-01
350.00	0.3976	2875.00	0.2308E-01
375.00	0.3627	2900.00	0.2281E-01
400.00	0.3326	2925.00	0.2254E-01
425.00	0.3067	2950.00	0.2228E-01
450.00	0.2839	2975.00	0.2202E-01
475.00	0.2640	3000.00	0.2177E-01
500.00	0.2464	3025.00	0.2153E-01
525.00	0.2309	3050.00	0.2128E-01
550.00	0.2169	3075.00	0.2105E-01
575.00	0.2042	3100.00	0.2082E-01
600.00	0.1928	3125.00	0.2059E-01
625.00	0.1824	3150.00	0.2036E-01
650.00	0.1731	3174.99	0.2015E-01
675.00	0.1645	3200.00	0.1993E-01
700.00	0.1566	3225.00	0.1972E-01
725.00	0.1493	3250.00	0.1951E-01
750.00	0.1427	3275.00	0.1931E-01
775.00	0.1365	3300.00	0.1911E-01
800.00	0.1308	3325.00	0.1891E-01
825.00	0.1254	3350.00	0.1872E-01
850.00	0.1205	3375.00	0.1853E-01
875.00	0.1158	3400.00	0.1834E-01
900.00	0.1115	3425.00	0.1816E-01
925.00	0.1074	3450.00	0.1798E-01
950.00	0.1036	3475.00	0.1780E-01
975.00	0.1000	3500.00	0.1763E-01
1000.00	0.9662E-01	3525.00	0.1746E-01
1025.00	0.9343E-01	3550.00	0.1729E-01
1050.00	0.9042E-01	3575.00	0.1713E-01
1075.00	0.8758E-01	3600.00	0.1696E-01
1100.00	0.8489E-01	3625.00	0.1680E-01
1125.00	0.8235E-01	3650.00	0.1665E-01
1150.00	0.7994E-01	3675.00	0.1649E-01
1175.00	0.7764E-01	3700.00	0.1634E-01
1200.00	0.7547E-01	3725.00	0.1619E-01
1225.00	0.7338E-01	3750.00	0.1604E-01
1250.00	0.7140E-01	3775.00	0.1590E-01

1275.00	0.6950E-01	3800.00	0.1575E-01
1300.00	0.6770E-01	3825.00	0.1561E-01
1325.00	0.6597E-01	3850.00	0.1547E-01
1350.00	0.6430E-01	3875.00	0.1534E-01
1375.00	0.6271E-01	3900.00	0.1520E-01
1400.00	0.6119E-01	3925.00	0.1507E-01
1425.00	0.5973E-01	3950.00	0.1494E-01
1450.00	0.5833E-01	3975.00	0.1481E-01
1475.00	0.5699E-01	4000.00	0.1469E-01
1500.00	0.5570E-01	4025.00	0.1456E-01
1525.00	0.5446E-01	4050.00	0.1444E-01
1550.00	0.5327E-01	4075.00	0.1432E-01
1575.00	0.5212E-01	4100.00	0.1420E-01
1600.00	0.5102E-01	4125.00	0.1408E-01
1625.00	0.4995E-01	4150.00	0.1396E-01
1650.00	0.4893E-01	4175.00	0.1385E-01
1675.00	0.4794E-01	4200.00	0.1374E-01
1700.00	0.4698E-01	4225.00	0.1363E-01
1725.00	0.4606E-01	4250.00	0.1352E-01
1750.00	0.4517E-01	4275.00	0.1341E-01
1775.00	0.4430E-01	4300.00	0.1330E-01
1800.00	0.4347E-01	4325.00	0.1320E-01
1825.00	0.4266E-01	4350.00	0.1309E-01
1850.00	0.4188E-01	4375.00	0.1299E-01
1875.01	0.4112E-01	4400.00	0.1289E-01
1900.00	0.4070E-01	4425.00	0.1279E-01
1925.00	0.3997E-01	4450.00	0.1269E-01
1950.00	0.3927E-01	4475.00	0.1260E-01
1975.00	0.3859E-01	4500.00	0.1250E-01
2000.00	0.3793E-01	4525.00	0.1241E-01
2025.00	0.3729E-01	4550.00	0.1231E-01
2050.00	0.3667E-01	4575.00	0.1222E-01
2075.00	0.3607E-01	4600.00	0.1213E-01
2100.00	0.3548E-01	4625.00	0.1204E-01
2125.00	0.3491E-01	4650.00	0.1195E-01
2150.00	0.3436E-01	4675.00	0.1187E-01
2175.00	0.3382E-01	4700.00	0.1178E-01
2200.00	0.3329E-01	4725.00	0.1169E-01
2225.00	0.3278E-01	4750.00	0.1161E-01
2250.00	0.3228E-01	4775.00	0.1153E-01
2275.00	0.3180E-01	4800.00	0.1144E-01
2300.00	0.3132E-01	4825.00	0.1136E-01
2325.00	0.3086E-01	4850.00	0.1128E-01
2350.00	0.3042E-01	4875.00	0.1120E-01
2375.00	0.2998E-01	4900.00	0.1113E-01
2400.00	0.2955E-01	4925.00	0.1105E-01
2425.00	0.2913E-01	4950.00	0.1097E-01
2450.00	0.2873E-01	4975.00	0.1090E-01
2475.00	0.2833E-01	5000.00	0.1082E-01
2500.00	0.2794E-01		

 ***** AERSCREEN MAXIMUM IMPACT SUMMARY *****

3-hour, 8-hour, and 24-hour scaled
 concentrations are equal to the 1-hour concentration as referenced in
 SCREENING PROCEDURES FOR ESTIMATING THE AIR QUALITY
 IMPACT OF STATIONARY SOURCES, REVISED (Section 4.5.4)
 Report number EPA-454/R-92-019
http://www.epa.gov/scram001/guidance_permit.htm
 under Screening Guidance

CALCULATION PROCEDURE	MAXIMUM 1-HOUR CONC (ug/m3)	SCALED 3-HOUR CONC (ug/m3)	SCALED 8-HOUR CONC (ug/m3)	SCALED 24-HOUR CONC (ug/m3)	SCALED ANNUAL CONC (ug/m3)
FLAT TERRAIN	2.218	2.218	2.218	2.218	N/A
DISTANCE FROM SOURCE	103.00 meters				
IMPACT AT THE AMBIENT BOUNDARY	1.690	1.690	1.690	1.690	N/A
DISTANCE FROM SOURCE	1.00 meters				

TITLE: LockwoodIIIIApartments, Operational

 ***** AREA PARAMETERS *****

SOURCE EMISSION RATE:	0.575E-03 g/s	0.457E-02 lb/hr
AREA EMISSION RATE:	0.275E-07 g/(s-m2)	0.218E-06 lb/(hr-m2)
AREA HEIGHT:	3.00 meters	9.84 feet
AREA SOURCE LONG SIDE:	204.56 meters	671.13 feet
AREA SOURCE SHORT SIDE:	102.28 meters	335.56 feet
INITIAL VERTICAL DIMENSION:	1.50 meters	4.92 feet
RURAL OR URBAN:	URBAN	
POPULATION:	200415	
INITIAL PROBE DISTANCE =	5000. meters	16404. feet

 ***** BUILDING DOWNWASH PARAMETERS *****

BUILDING DOWNWASH NOT USED FOR NON-POINT SOURCES

 ***** FLOW SECTOR ANALYSIS *****
 25 meter receptor spacing: 1. meters - 5000. meters

MAXIMUM IMPACT RECEPTOR

Zo	SURFACE	1-HR CONC	RADIAL	DIST	TEMPORAL
SECTOR	ROUGHNESS	(ug/m3)	(deg)	(m)	PERIOD
1*	1.000	0.9167	0	100.0	WIN

* = worst case diagonal

***** MAKEMET METEOROLOGY PARAMETERS *****

MIN/MAX TEMPERATURE: 250.0 / 310.0 (K)

MINIMUM WIND SPEED: 0.5 m/s

ANEMOMETER HEIGHT: 10.000 meters

SURFACE CHARACTERISTICS INPUT: AERMET SEASONAL TABLES

DOMINANT SURFACE PROFILE: Urban

DOMINANT CLIMATE TYPE: Average Moisture

DOMINANT SEASON: Winter

ALBEDO: 0.35

BOWEN RATIO: 1.50

ROUGHNESS LENGTH: 1.000 (meters)

SURFACE FRICTION VELOCITY (U*) NOT ADJUSTED

METEOROLOGY CONDITIONS USED TO PREDICT OVERALL MAXIMUM IMPACT

YR MO DY JDY HR

10 01 10 10 01

H0	U*	W*	DT/DZ	ZICNV	ZIMCH	M-O	LEN	Z0	BOWEN	ALBEDO	REF WS
-1.30	0.043	-9.000	0.020	-999.	21.	6.0	1.000	1.50	0.35	0.50	

HT	REF TA	HT
10.0	310.0	2.0

***** AERSCREEN AUTOMATED DISTANCES *****

OVERALL MAXIMUM CONCENTRATIONS BY DISTANCE

DIST (m)	MAXIMUM 1-HR CONC (ug/m3)	DIST (m)	MAXIMUM 1-HR CONC (ug/m3)
1.00	0.7019	2525.00	0.1144E-01

25.00	0.7673	2550.00	0.1129E-01
50.00	0.8224	2575.00	0.1114E-01
75.00	0.8687	2600.00	0.1099E-01
100.00	0.9167	2625.00	0.1085E-01
125.00	0.7104	2650.00	0.1071E-01
150.00	0.5087	2675.00	0.1057E-01
175.00	0.4141	2700.00	0.1044E-01
200.00	0.3476	2725.00	0.1031E-01
225.00	0.2974	2750.00	0.1018E-01
250.00	0.2587	2775.00	0.1005E-01
275.00	0.2278	2800.00	0.9932E-02
300.00	0.2028	2825.00	0.9812E-02
325.00	0.1824	2850.00	0.9694E-02
350.00	0.1651	2875.00	0.9579E-02
375.00	0.1506	2900.00	0.9466E-02
400.00	0.1381	2925.00	0.9356E-02
425.00	0.1273	2950.00	0.9247E-02
450.00	0.1179	2975.00	0.9141E-02
475.00	0.1096	3000.00	0.9037E-02
500.00	0.1023	3025.00	0.8935E-02
525.00	0.9586E-01	3050.00	0.8835E-02
550.00	0.9003E-01	3075.00	0.8737E-02
575.00	0.8476E-01	3100.00	0.8640E-02
600.00	0.8002E-01	3125.00	0.8546E-02
625.00	0.7573E-01	3150.00	0.8453E-02
650.00	0.7185E-01	3174.99	0.8362E-02
675.00	0.6829E-01	3199.99	0.8273E-02
700.00	0.6500E-01	3225.00	0.8185E-02
725.00	0.6199E-01	3250.00	0.8099E-02
750.00	0.5922E-01	3275.00	0.8015E-02
775.00	0.5666E-01	3300.00	0.7932E-02
800.00	0.5428E-01	3325.00	0.7850E-02
825.00	0.5206E-01	3350.00	0.7770E-02
850.00	0.5000E-01	3375.00	0.7691E-02
875.00	0.4809E-01	3400.00	0.7614E-02
900.00	0.4629E-01	3425.00	0.7538E-02
925.00	0.4459E-01	3450.00	0.7464E-02
950.00	0.4300E-01	3475.00	0.7390E-02
975.00	0.4151E-01	3500.00	0.7318E-02
1000.00	0.4011E-01	3525.00	0.7247E-02
1025.00	0.3878E-01	3550.00	0.7177E-02
1050.00	0.3753E-01	3575.00	0.7109E-02
1075.00	0.3635E-01	3600.00	0.7041E-02
1100.00	0.3524E-01	3625.00	0.6975E-02
1125.00	0.3418E-01	3650.00	0.6910E-02
1150.00	0.3318E-01	3675.00	0.6845E-02
1175.00	0.3223E-01	3700.00	0.6782E-02
1200.00	0.3133E-01	3724.99	0.6720E-02
1225.00	0.3046E-01	3750.00	0.6659E-02
1250.00	0.2964E-01	3775.00	0.6599E-02

1275.00	0.2885E-01	3800.00	0.6539E-02
1300.00	0.2810E-01	3825.00	0.6481E-02
1325.00	0.2738E-01	3849.99	0.6423E-02
1350.00	0.2669E-01	3875.00	0.6367E-02
1375.00	0.2603E-01	3900.00	0.6311E-02
1400.00	0.2540E-01	3925.00	0.6256E-02
1425.00	0.2479E-01	3950.00	0.6202E-02
1450.00	0.2421E-01	3975.00	0.6149E-02
1475.00	0.2366E-01	4000.00	0.6096E-02
1500.00	0.2312E-01	4025.00	0.6044E-02
1525.00	0.2261E-01	4050.00	0.5993E-02
1550.00	0.2211E-01	4075.00	0.5943E-02
1575.00	0.2164E-01	4100.00	0.5894E-02
1600.00	0.2118E-01	4125.00	0.5845E-02
1625.00	0.2073E-01	4150.00	0.5797E-02
1650.00	0.2031E-01	4175.00	0.5749E-02
1675.00	0.1990E-01	4200.00	0.5702E-02
1700.00	0.1950E-01	4225.00	0.5656E-02
1725.00	0.1912E-01	4250.00	0.5611E-02
1750.00	0.1875E-01	4275.00	0.5566E-02
1775.00	0.1839E-01	4300.00	0.5522E-02
1800.00	0.1804E-01	4325.00	0.5478E-02
1825.00	0.1771E-01	4350.00	0.5435E-02
1850.00	0.1738E-01	4375.00	0.5393E-02
1875.01	0.1707E-01	4400.00	0.5351E-02
1900.00	0.1689E-01	4425.00	0.5309E-02
1925.00	0.1659E-01	4450.00	0.5269E-02
1950.00	0.1630E-01	4475.00	0.5228E-02
1975.00	0.1602E-01	4500.00	0.5189E-02
2000.00	0.1575E-01	4525.00	0.5150E-02
2025.00	0.1548E-01	4550.00	0.5111E-02
2050.00	0.1522E-01	4575.00	0.5073E-02
2075.00	0.1497E-01	4600.00	0.5035E-02
2100.00	0.1473E-01	4625.00	0.4998E-02
2125.00	0.1449E-01	4650.00	0.4961E-02
2150.00	0.1426E-01	4675.00	0.4925E-02
2175.00	0.1404E-01	4700.00	0.4889E-02
2200.00	0.1382E-01	4725.00	0.4854E-02
2225.00	0.1361E-01	4750.00	0.4819E-02
2250.00	0.1340E-01	4775.00	0.4784E-02
2275.00	0.1320E-01	4800.00	0.4750E-02
2300.00	0.1300E-01	4825.00	0.4717E-02
2325.00	0.1281E-01	4850.00	0.4683E-02
2350.00	0.1262E-01	4875.00	0.4651E-02
2375.00	0.1244E-01	4900.00	0.4618E-02
2400.00	0.1227E-01	4924.99	0.4586E-02
2425.00	0.1209E-01	4950.00	0.4555E-02
2450.00	0.1192E-01	4975.00	0.4523E-02
2475.00	0.1176E-01	5000.00	0.4492E-02
2500.00	0.1160E-01		

 ***** AERSCREEN MAXIMUM IMPACT SUMMARY *****

3-hour, 8-hour, and 24-hour scaled
 concentrations are equal to the 1-hour concentration as referenced in
 SCREENING PROCEDURES FOR ESTIMATING THE AIR QUALITY
 IMPACT OF STATIONARY SOURCES, REVISED (Section 4.5.4)
 Report number EPA-454/R-92-019
http://www.epa.gov/scram001/guidance_permit.htm
 under Screening Guidance

CALCULATION PROCEDURE	MAXIMUM 1-HOUR CONC (ug/m3)	SCALED 3-HOUR CONC (ug/m3)	SCALED 8-HOUR CONC (ug/m3)	SCALED 24-HOUR CONC (ug/m3)	SCALED ANNUAL CONC (ug/m3)
FLAT TERRAIN	0.9213	0.9213	0.9213	0.9213	N/A
DISTANCE FROM SOURCE	103.00 meters				
IMPACT AT THE AMBIENT BOUNDARY	0.7019	0.7019	0.7019	0.7019	N/A
DISTANCE FROM SOURCE	1.00 meters				



Technical Consultation, Data Analysis and
Litigation Support for the Environment

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Matthew F. Hagemann, P.G., C.Hg., QSD, QSP

**Geologic and Hydrogeologic Characterization
Investigation and Remediation Strategies
Litigation Support and Testifying Expert
Industrial Stormwater Compliance
CEQA Review**

Education:

M.S. Degree, Geology, California State University Los Angeles, Los Angeles, CA, 1984.

B.A. Degree, Geology, Humboldt State University, Arcata, CA, 1982.

Professional Certifications:

California Professional Geologist

California Certified Hydrogeologist

Qualified SWPPP Developer and Practitioner

Professional Experience:

Matt has 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Matt also served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring. For the past 15 years, as a founding partner with SWAPE, Matt has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality and greenhouse gas emissions.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2014, 2017;
- Senior Environmental Analyst, Komex H2O Science, Inc. (2000 -- 2003);

- Executive Director, Orange Coast Watch (2001 – 2004);
- Senior Science Policy Advisor and Hydrogeologist, U.S. Environmental Protection Agency (1989–1998);
- Hydrogeologist, National Park Service, Water Resources Division (1998 – 2000);
- Adjunct Faculty Member, San Francisco State University, Department of Geosciences (1993 – 1998);
- Instructor, College of Marin, Department of Science (1990 – 1995);
- Geologist, U.S. Forest Service (1986 – 1998); and
- Geologist, Dames & Moore (1984 – 1986).

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt’s responsibilities have included:

- Lead analyst and testifying expert in the review of over 300 environmental impact reports and negative declarations since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, greenhouse gas emissions, and geologic hazards. Make recommendations for additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce worker exposure to hazards from toxins and Valley Fever.
- Stormwater analysis, sampling and best management practice evaluation at more than 100 industrial facilities.
- Expert witness on numerous cases including, for example, perfluorooctanoic acid (PFOA) contamination of groundwater, MTBE litigation, air toxins at hazards at a school, CERCLA compliance in assessment and remediation, and industrial stormwater contamination.
- Technical assistance and litigation support for vapor intrusion concerns.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.

With Komex H2O Science Inc., Matt’s duties included the following:

- Senior author of a report on the extent of perchlorate contamination that was used in testimony by the former U.S. EPA Administrator and General Counsel.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of MTBE use, research, and regulation.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of perchlorate use, research, and regulation.
- Senior researcher in a study that estimates nationwide costs for MTBE remediation and drinking water treatment, results of which were published in newspapers nationwide and in testimony against provisions of an energy bill that would limit liability for oil companies.
- Research to support litigation to restore drinking water supplies that have been contaminated by MTBE in California and New York.

- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.
- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

Executive Director:

As Executive Director with Orange Coast Watch, Matt led efforts to restore water quality at Orange County beaches from multiple sources of contamination including urban runoff and the discharge of wastewater. In reporting to a Board of Directors that included representatives from leading Orange County universities and businesses, Matt prepared issue papers in the areas of treatment and disinfection of wastewater and control of the discharge of grease to sewer systems. Matt actively participated in the development of countywide water quality permits for the control of urban runoff and permits for the discharge of wastewater. Matt worked with other nonprofits to protect and restore water quality, including Surfrider, Natural Resources Defense Council and Orange County CoastKeeper as well as with business institutions including the Orange County Business Council.

Hydrogeology:

As a Senior Hydrogeologist with the U.S. Environmental Protection Agency, Matt led investigations to characterize and cleanup closing military bases, including Mare Island Naval Shipyard, Hunters Point Naval Shipyard, Treasure Island Naval Station, Alameda Naval Station, Moffett Field, Mather Army Airfield, and Sacramento Army Depot. Specific activities were as follows:

- Led efforts to model groundwater flow and contaminant transport, ensured adequacy of monitoring networks, and assessed cleanup alternatives for contaminated sediment, soil, and groundwater.
- Initiated a regional program for evaluation of groundwater sampling practices and laboratory analysis at military bases.
- Identified emerging issues, wrote technical guidance, and assisted in policy and regulation development through work on four national U.S. EPA workgroups, including the Superfund Groundwater Technical Forum and the Federal Facilities Forum.

At the request of the State of Hawaii, Matt developed a methodology to determine the vulnerability of groundwater to contamination on the islands of Maui and Oahu. He used analytical models and a GIS to show zones of vulnerability, and the results were adopted and published by the State of Hawaii and County of Maui.

As a hydrogeologist with the EPA Groundwater Protection Section, Matt worked with provisions of the Safe Drinking Water Act and NEPA to prevent drinking water contamination. Specific activities included the following:

- Received an EPA Bronze Medal for his contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. He prepared geologic reports, conducted

public hearings, and responded to public comments from residents who were very concerned about the impact of designation.

- Reviewed a number of Environmental Impact Statements for planned major developments, including large hazardous and solid waste disposal facilities, mine reclamation, and water transfer.

Matt served as a hydrogeologist with the RCRA Hazardous Waste program. Duties were as follows:

- Supervised the hydrogeologic investigation of hazardous waste sites to determine compliance with Subtitle C requirements.
- Reviewed and wrote "part B" permits for the disposal of hazardous waste.
- Conducted RCRA Corrective Action investigations of waste sites and led inspections that formed the basis for significant enforcement actions that were developed in close coordination with U.S. EPA legal counsel.
- Wrote contract specifications and supervised contractor's investigations of waste sites.

With the National Park Service, Matt directed service-wide investigations of contaminant sources to prevent degradation of water quality, including the following tasks:

- Applied pertinent laws and regulations including CERCLA, RCRA, NEPA, NRDA, and the Clean Water Act to control military, mining, and landfill contaminants.
- Conducted watershed-scale investigations of contaminants at parks, including Yellowstone and Olympic National Park.
- Identified high-levels of perchlorate in soil adjacent to a national park in New Mexico and advised park superintendent on appropriate response actions under CERCLA.
- Served as a Park Service representative on the Interagency Perchlorate Steering Committee, a national workgroup.
- Developed a program to conduct environmental compliance audits of all National Parks while serving on a national workgroup.
- Co-authored two papers on the potential for water contamination from the operation of personal watercraft and snowmobiles, these papers serving as the basis for the development of nation-wide policy on the use of these vehicles in National Parks.
- Contributed to the Federal Multi-Agency Source Water Agreement under the Clean Water Action Plan.

Policy:

Served senior management as the Senior Science Policy Advisor with the U.S. Environmental Protection Agency, Region 9.

Activities included the following:

- Advised the Regional Administrator and senior management on emerging issues such as the potential for the gasoline additive MTBE and ammonium perchlorate to contaminate drinking water supplies.
- Shaped EPA's national response to these threats by serving on workgroups and by contributing to guidance, including the Office of Research and Development publication, *Oxygenates in Water: Critical Information and Research Needs*.
- Improved the technical training of EPA's scientific and engineering staff.
- Earned an EPA Bronze Medal for representing the region's 300 scientists and engineers in negotiations with the Administrator and senior management to better integrate scientific

principles into the policy-making process.

- Established national protocol for the peer review of scientific documents.

Geology:

With the U.S. Forest Service, Matt led investigations to determine hillslope stability of areas proposed for timber harvest in the central Oregon Coast Range. Specific activities were as follows:

- Mapped geology in the field, and used aerial photographic interpretation and mathematical models to determine slope stability.
- Coordinated his research with community members who were concerned with natural resource protection.
- Characterized the geology of an aquifer that serves as the sole source of drinking water for the city of Medford, Oregon.

As a consultant with Dames and Moore, Matt led geologic investigations of two contaminated sites (later listed on the Superfund NPL) in the Portland, Oregon, area and a large hazardous waste site in eastern Oregon. Duties included the following:

- Supervised year-long effort for soil and groundwater sampling.
- Conducted aquifer tests.
- Investigated active faults beneath sites proposed for hazardous waste disposal.

Teaching:

From 1990 to 1998, Matt taught at least one course per semester at the community college and university levels:

- At San Francisco State University, held an adjunct faculty position and taught courses in environmental geology, oceanography (lab and lecture), hydrogeology, and groundwater contamination.
- Served as a committee member for graduate and undergraduate students.
- Taught courses in environmental geology and oceanography at the College of Marin.

Matt is currently a part time geology instructor at Golden West College in Huntington Beach, California where he taught from 2010 to 2014 and in 2017.

Invited Testimony, Reports, Papers and Presentations:

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Presentation to the Public Environmental Law Conference, Eugene, Oregon.

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Invited presentation to U.S. EPA Region 9, San Francisco, California.

Hagemann, M.F., 2005. Use of Electronic Databases in Environmental Regulation, Policy Making and Public Participation. Brownfields 2005, Denver, Colorado.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Nevada and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Las Vegas, NV (served on conference organizing committee).

Hagemann, M.F., 2004. Invited testimony to a California Senate committee hearing on air toxins at schools in Southern California, Los Angeles.

Brown, A., Farrow, J., Gray, A. and **Hagemann, M.**, 2004. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to the Ground Water and Environmental Law Conference, National Groundwater Association.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Arizona and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Phoenix, AZ (served on conference organizing committee).

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in the Southwestern U.S. Invited presentation to a special committee meeting of the National Academy of Sciences, Irvine, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a tribal EPA meeting, Pechanga, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a meeting of tribal representatives, Parker, AZ.

Hagemann, M.F., 2003. Impact of Perchlorate on the Colorado River and Associated Drinking Water Supplies. Invited presentation to the Inter-Tribal Meeting, Torres Martinez Tribe.

Hagemann, M.F., 2003. The Emergence of Perchlorate as a Widespread Drinking Water Contaminant. Invited presentation to the U.S. EPA Region 9.

Hagemann, M.F., 2003. A Deductive Approach to the Assessment of Perchlorate Contamination. Invited presentation to the California Assembly Natural Resources Committee.

Hagemann, M.F., 2003. Perchlorate: A Cold War Legacy in Drinking Water. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. From Tank to Tap: A Chronology of MTBE in Groundwater. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. A Chronology of MTBE in Groundwater and an Estimate of Costs to Address Impacts to Groundwater. Presentation to the annual meeting of the Society of Environmental Journalists.

Hagemann, M.F., 2002. An Estimate of the Cost to Address MTBE Contamination in Groundwater (and Who Will Pay). Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to a meeting of the U.S. EPA and State Underground Storage Tank Program managers.

Hagemann, M.F., 2001. From Tank to Tap: A Chronology of MTBE in Groundwater. Unpublished report.

Hagemann, M.F., 2001. Estimated Cleanup Cost for MTBE in Groundwater Used as Drinking Water. Unpublished report.

Hagemann, M.F., 2001. Estimated Costs to Address MTBE Releases from Leaking Underground Storage Tanks. Unpublished report.

Hagemann, M.F., and VanMouwerik, M., 1999. Potential Water Quality Concerns Related to Snowmobile Usage. Water Resources Division, National Park Service, Technical Report.

VanMouwerik, M. and **Hagemann, M.F.** 1999, Water Quality Concerns Related to Personal Watercraft Usage. Water Resources Division, National Park Service, Technical Report.

Hagemann, M.F., 1999, Is Dilution the Solution to Pollution in National Parks? The George Wright Society Biannual Meeting, Asheville, North Carolina.

Hagemann, M.F., 1997, The Potential for MTBE to Contaminate Groundwater. U.S. EPA Superfund Groundwater Technical Forum Annual Meeting, Las Vegas, Nevada.

Hagemann, M.F., and Gill, M., 1996, Impediments to Intrinsic Remediation, Moffett Field Naval Air Station, Conference on Intrinsic Remediation of Chlorinated Hydrocarbons, Salt Lake City.

Hagemann, M.F., Fukunaga, G.L., 1996, The Vulnerability of Groundwater to Anthropogenic Contaminants on the Island of Maui, Hawaii. Hawaii Water Works Association Annual Meeting, Maui, October 1996.

Hagemann, M. F., Fukunaga, G. L., 1996, Ranking Groundwater Vulnerability in Central Oahu, Hawaii. Proceedings, Geographic Information Systems in Environmental Resources Management, Air and Waste Management Association Publication VIP-61.

Hagemann, M.F., 1994. Groundwater Characterization and Cleanup at Closing Military Bases in California. Proceedings, California Groundwater Resources Association Meeting.

Hagemann, M.F. and Sabol, M.A., 1993. Role of the U.S. EPA in the High Plains States Groundwater Recharge Demonstration Program. Proceedings, Sixth Biennial Symposium on the Artificial Recharge of Groundwater.

Hagemann, M.F., 1993. U.S. EPA Policy on the Technical Impracticability of the Cleanup of DNAPL-contaminated Groundwater. California Groundwater Resources Association Meeting.

Hagemann, M.F., 1992. Dense Nonaqueous Phase Liquid Contamination of Groundwater: An Ounce of Prevention... Proceedings, Association of Engineering Geologists Annual Meeting, v. 35.

Other Experience:

Selected as subject matter expert for the California Professional Geologist licensing examinations, 2009-2011.



Technical Consultation, Data Analysis and
Litigation Support for the Environment

SOIL WATER AIR PROTECTION ENTERPRISE

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Paul Rosenfeld, Ph.D.

Principal Environmental Chemist

Chemical Fate and Transport & Air Dispersion Modeling

Risk Assessment & Remediation Specialist

Education

Ph.D. Soil Chemistry, University of Washington, 1999. Dissertation on volatile organic compound filtration.

M.S. Environmental Science, U.C. Berkeley, 1995. Thesis on organic waste economics.

B.A. Environmental Studies, U.C. Santa Barbara, 1991. Focus on wastewater treatment.

Professional Experience

Dr. Rosenfeld has over 25 years of experience conducting environmental investigations and risk assessments for evaluating impacts to human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risk, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, industrial, military and agricultural sources, unconventional oil drilling operations, and locomotive and construction engines. His project experience ranges from monitoring and modeling of pollution sources to evaluating impacts of pollution on workers at industrial facilities and residents in surrounding communities. Dr. Rosenfeld has also successfully modeled exposure to contaminants distributed by water systems and via vapor intrusion.

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particulate matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, creosote, perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants. Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at sites and has testified as an expert witness on numerous cases involving exposure to soil, water and air contaminants from industrial, railroad, agricultural, and military sources.

Professional History:

Soil Water Air Protection Enterprise (SWAPE); 2003 to present; Principal and Founding Partner
UCLA School of Public Health; 2007 to 2011; Lecturer (Assistant Researcher)
UCLA School of Public Health; 2003 to 2006; Adjunct Professor
UCLA Environmental Science and Engineering Program; 2002-2004; Doctoral Intern Coordinator
UCLA Institute of the Environment, 2001-2002; Research Associate
Komex H₂O Science, 2001 to 2003; Senior Remediation Scientist
National Groundwater Association, 2002-2004; Lecturer
San Diego State University, 1999-2001; Adjunct Professor
Anteon Corp., San Diego, 2000-2001; Remediation Project Manager
Ogden (now Amec), San Diego, 2000-2000; Remediation Project Manager
Bechtel, San Diego, California, 1999 – 2000; Risk Assessor
King County, Seattle, 1996 – 1999; Scientist
James River Corp., Washington, 1995-96; Scientist
Big Creek Lumber, Davenport, California, 1995; Scientist
Plumas Corp., California and USFS, Tahoe 1993-1995; Scientist
Peace Corps and World Wildlife Fund, St. Kitts, West Indies, 1991-1993; Scientist

Publications:

Rosenfeld P. E., Spaeth K., Hallman R., Bressler R., Smith, G., (2022) [Cancer Risk and Diesel Exhaust Exposure Among Railroad Workers](#). *Water Air Soil Pollution*. **233**, 171.

Remy, L.L., Clay T., Byers, V., **Rosenfeld P. E.** (2019) Hospital, Health, and Community Burden After Oil Refinery Fires, Richmond, California 2007 and 2012. *Environmental Health*. 18:48

Simons, R.A., Seo, Y. **Rosenfeld, P.**, (2015) Modeling the Effect of Refinery Emission On Residential Property Value. *Journal of Real Estate Research*. 27(3):321-342

Chen, J. A, Zapata A. R., Sutherland A. J., Molmen, D.R., Chow, B. S., Wu, L. E., **Rosenfeld, P. E.**, Hesse, R. C., (2012) Sulfur Dioxide and Volatile Organic Compound Exposure To A Community In Texas City Texas Evaluated Using Aermol and Empirical Data. *American Journal of Environmental Science*, 8(6), 622-632.

Rosenfeld, P.E. & Feng, L. (2011). *The Risks of Hazardous Waste*. Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2011). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Agrochemical Industry*, Amsterdam: Elsevier Publishing.

Gonzalez, J., Feng, L., Sutherland, A., Waller, C., Sok, H., Hesse, R., **Rosenfeld, P.** (2010). PCBs and Dioxins/Furans in Attic Dust Collected Near Former PCB Production and Secondary Copper Facilities in Sauget, IL. *Procedia Environmental Sciences*. 113–125.

Feng, L., Wu, C., Tam, L., Sutherland, A.J., Clark, J.J., **Rosenfeld, P.E.** (2010). Dioxin and Furan Blood Lipid and Attic Dust Concentrations in Populations Living Near Four Wood Treatment Facilities in the United States. *Journal of Environmental Health*. 73(6), 34-46.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2010). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Wood and Paper Industries*. Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2009). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Petroleum Industry*. Amsterdam: Elsevier Publishing.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P.** (2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. *WIT Transactions on Ecology and the Environment, Air Pollution*, 123 (17), 319-327.

Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). A Statistical Analysis Of Attic Dust And Blood Lipid Concentrations Of Tetrachloro-p-Dibenzodioxin (TCDD) Toxicity Equivalency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. *Organohalogen Compounds*, 70, 002252-002255.

Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. *Organohalogen Compounds*, 70, 000527-000530.

Hensley, A.R. A. Scott, J. J. J. Clark, **Rosenfeld, P.E.** (2007). Attic Dust and Human Blood Samples Collected near a Former Wood Treatment Facility. *Environmental Research*. 105, 194-197.

Rosenfeld, P.E., J. J. J. Clark, A. R. Hensley, M. Suffet. (2007). The Use of an Odor Wheel Classification for Evaluation of Human Health Risk Criteria for Compost Facilities. *Water Science & Technology* 55(5), 345-357.

Rosenfeld, P. E., M. Suffet. (2007). The Anatomy Of Odour Wheels For Odours Of Drinking Water, Wastewater, Compost And The Urban Environment. *Water Science & Technology* 55(5), 335-344.

Sullivan, P. J. Clark, J.J.J., Agardy, F. J., **Rosenfeld, P.E.** (2007). *Toxic Legacy, Synthetic Toxins in the Food, Water, and Air in American Cities*. Boston Massachusetts: Elsevier Publishing

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash. *Water Science and Technology*. 49(9),171-178.

Rosenfeld P. E., J.J. Clark, I.H. (Mel) Suffet (2004). The Value of An Odor-Quality-Wheel Classification Scheme For The Urban Environment. *Water Environment Federation's Technical Exhibition and Conference (WEFTEC) 2004*. New Orleans, October 2-6, 2004.

Rosenfeld, P.E., and Suffet, I.H. (2004). Understanding Odorants Associated With Compost, Biomass Facilities, and the Land Application of Biosolids. *Water Science and Technology*. 49(9), 193-199.

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash, *Water Science and Technology*, 49(9), 171-178.

Rosenfeld, P. E., Grey, M. A., Sellew, P. (2004). Measurement of Biosolids Odor and Odorant Emissions from Windrows, Static Pile and Biofilter. *Water Environment Research*. 76(4), 310-315.

Rosenfeld, P.E., Grey, M and Suffet, M. (2002). Compost Demonstration Project, Sacramento California Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Integrated Waste Management Board Public Affairs Office*, Publications Clearinghouse (MS-6), Sacramento, CA Publication #442-02-008.

Rosenfeld, P.E., and C.L. Henry. (2001). Characterization of odor emissions from three different biosolids. *Water Soil and Air Pollution*. 127(1-4), 173-191.

Rosenfeld, P.E., and Henry C. L., (2000). Wood ash control of odor emissions from biosolids application. *Journal of Environmental Quality*. 29, 1662-1668.

Rosenfeld, P.E., C.L. Henry and D. Bennett. (2001). Wastewater dewatering polymer affect on biosolids odor emissions and microbial activity. *Water Environment Research*. 73(4), 363-367.

Rosenfeld, P.E., and C.L. Henry. (2001). Activated Carbon and Wood Ash Sorption of Wastewater, Compost, and Biosolids Odorants. *Water Environment Research*, 73, 388-393.

Rosenfeld, P.E., and Henry C. L., (2001). High carbon wood ash effect on biosolids microbial activity and odor. *Water Environment Research*. 131(1-4), 247-262.

Chollack, T. and **P. Rosenfeld**. (1998). Compost Amendment Handbook For Landscaping. Prepared for and distributed by the City of Redmond, Washington State.

Rosenfeld, P. E. (1992). The Mount Liamuiga Crater Trail. *Heritage Magazine of St. Kitts*, 3(2).

Rosenfeld, P. E. (1993). High School Biogas Project to Prevent Deforestation On St. Kitts. *Biomass Users Network*, 7(1).

Rosenfeld, P. E. (1998). Characterization, Quantification, and Control of Odor Emissions From Biosolids Application To Forest Soil. Doctoral Thesis. University of Washington College of Forest Resources.

Rosenfeld, P. E. (1994). Potential Utilization of Small Diameter Trees on Sierra County Public Land. Masters thesis reprinted by the Sierra County Economic Council. Sierra County, California.

Rosenfeld, P. E. (1991). How to Build a Small Rural Anaerobic Digester & Uses Of Biogas In The First And Third World. Bachelors Thesis. University of California.

Presentations:

Rosenfeld, P.E., "The science for Perfluorinated Chemicals (PFAS): What makes remediation so hard?" Law Seminars International, (May 9-10, 2018) 800 Fifth Avenue, Suite 101 Seattle, WA.

Rosenfeld, P.E., Sutherland, A; Hesse, R.; Zapata, A. (October 3-6, 2013). Air dispersion modeling of volatile organic emissions from multiple natural gas wells in Decatur, TX. *44th Western Regional Meeting, American Chemical Society*. Lecture conducted from Santa Clara, CA.

Sok, H.L.; Waller, C.C.; Feng, L.; Gonzalez, J.; Sutherland, A.J.; Wisdom-Stack, T.; Sahai, R.K.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Atrazine: A Persistent Pesticide in Urban Drinking Water. *Urban Environmental Pollution*. Lecture conducted from Boston, MA.

Feng, L.; Gonzalez, J.; Sok, H.L.; Sutherland, A.J.; Waller, C.C.; Wisdom-Stack, T.; Sahai, R.K.; La, M.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Bringing Environmental Justice to East St. Louis, Illinois. *Urban Environmental Pollution*. Lecture conducted from Boston, MA.

Rosenfeld, P.E. (April 19-23, 2009). Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS) Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*, Lecture conducted from Tuscon, AZ.

Rosenfeld, P.E. (April 19-23, 2009). Cost to Filter Atrazine Contamination from Drinking Water in the United States" Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*. Lecture conducted from Tuscon, AZ.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P.** (20-22 July, 2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. Brebbia, C.A. and Popov, V., eds., *Air Pollution XVII: Proceedings of the Seventeenth International Conference on Modeling, Monitoring and Management of Air Pollution*. Lecture conducted from Tallinn, Estonia.

Rosenfeld, P. E. (October 15-18, 2007). Moss Point Community Exposure To Contaminants From A Releasing Facility. *The 23rd Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). The Repeated Trespass of Tritium-Contaminated Water Into A Surrounding Community Form Repeated Waste Spills From A Nuclear Power Plant. *The 23rd Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). Somerville Community Exposure To Contaminants From Wood Treatment Facility Emissions. *The 23rd Annual International Conferences on Soils Sediment and Water*. Lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld P. E. (March 2007). Production, Chemical Properties, Toxicology, & Treatment Case Studies of 1,2,3-Trichloropropane (TCP). *The Association for Environmental Health and Sciences (AEHS) Annual Meeting*. Lecture conducted from San Diego, CA.

Rosenfeld P. E. (March 2007). Blood and Attic Sampling for Dioxin/Furan, PAH, and Metal Exposure in Florala, Alabama. *The AEHS Annual Meeting*. Lecture conducted from San Diego, CA.

Hensley A.R., Scott, A., **Rosenfeld P.E.**, Clark, J.J.J. (August 21 – 25, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006*. Lecture conducted from Radisson SAS Scandinavia Hotel in Oslo Norway.

Hensley A.R., Scott, A., **Rosenfeld P.E.**, Clark, J.J.J. (November 4-8, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *APHA 134 Annual Meeting & Exposition*. Lecture conducted from Boston Massachusetts.

Paul Rosenfeld Ph.D. (October 24-25, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. Mealey's C8/PFOA. *Science, Risk & Litigation Conference*. Lecture conducted from The Rittenhouse Hotel, Philadelphia, PA.

Paul Rosenfeld Ph.D. (September 19, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, *Toxicology and Remediation PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel, Irvine California.

Paul Rosenfeld Ph.D. (September 19, 2005). Fate, Transport, Toxicity, And Persistence of 1,2,3-TCP. *PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel in Irvine, California.

Paul Rosenfeld Ph.D. (September 26-27, 2005). Fate, Transport and Persistence of PDBEs. *Mealey's Groundwater Conference*. Lecture conducted from Ritz Carlton Hotel, Marina Del Ray, California.

Paul Rosenfeld Ph.D. (June 7-8, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. *International Society of Environmental Forensics: Focus On Emerging Contaminants*. Lecture conducted from Sheraton Oceanfront Hotel, Virginia Beach, Virginia.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Fate Transport, Persistence and Toxicology of PFOA and Related Perfluorochemicals. *2005 National Groundwater Association Ground Water And Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, *Toxicology and Remediation*. *2005 National Groundwater Association Ground Water and Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. and Rob Hesse R.G. (May 5-6, 2004). Tert-butyl Alcohol Liability and Toxicology, A National Problem and Unquantified Liability. *National Groundwater Association. Environmental Law Conference*. Lecture conducted from Congress Plaza Hotel, Chicago Illinois.

Paul Rosenfeld, Ph.D. (March 2004). Perchlorate Toxicology. *Meeting of the American Groundwater Trust*. Lecture conducted from Phoenix Arizona.

Hagemann, M.F., **Paul Rosenfeld, Ph.D.** and Rob Hesse (2004). Perchlorate Contamination of the Colorado River. *Meeting of tribal representatives*. Lecture conducted from Parker, AZ.

Paul Rosenfeld, Ph.D. (April 7, 2004). A National Damage Assessment Model For PCE and Dry Cleaners. *Drycleaner Symposium. California Ground Water Association*. Lecture conducted from Radison Hotel, Sacramento, California.

Rosenfeld, P. E., Grey, M., (June 2003) Two stage biofilter for biosolids composting odor control. *Seventh International In Situ And On Site Bioremediation Symposium Battelle Conference Orlando, FL*.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. (February 20-21, 2003) Understanding Historical Use, Chemical Properties, Toxicity and Regulatory Guidance of 1,4 Dioxane. *National Groundwater Association. Southwest Focus Conference. Water Supply and Emerging Contaminants..* Lecture conducted from Hyatt Regency Phoenix Arizona.

Paul Rosenfeld, Ph.D. (February 6-7, 2003). Underground Storage Tank Litigation and Remediation. *California CUPA Forum*. Lecture conducted from Marriott Hotel, Anaheim California.

Paul Rosenfeld, Ph.D. (October 23, 2002) Underground Storage Tank Litigation and Remediation. *EPA Underground Storage Tank Roundtable*. Lecture conducted from Sacramento California.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Understanding Odor from Compost, *Wastewater and Industrial Processes. Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Using High Carbon Wood Ash to Control Compost Odor. *Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Grey, M. A. (September 22-24, 2002). Biocycle Composting For Coastal Sage Restoration. *Northwest Biosolids Management Association*. Lecture conducted from Vancouver Washington..

Rosenfeld, P.E. and Grey, M. A. (November 11-14, 2002). Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Soil Science Society Annual Conference*. Lecture conducted from Indianapolis, Maryland.

Rosenfeld, P.E. (September 16, 2000). Two stage biofilter for biosolids composting odor control. *Water Environment Federation*. Lecture conducted from Anaheim California.

Rosenfeld, P.E. (October 16, 2000). Wood ash and biofilter control of compost odor. *Biofest*. Lecture conducted from Ocean Shores, California.

Rosenfeld, P.E. (2000). Bioremediation Using Organic Soil Amendments. *California Resource Recovery Association*. Lecture conducted from Sacramento California.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. *Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings*. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., and C.L. Henry. (1999). An evaluation of ash incorporation with biosolids for odor reduction. *Soil Science Society of America*. Lecture conducted from Salt Lake City Utah.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Comparison of Microbial Activity and Odor Emissions from Three Different Biosolids Applied to Forest Soil. *Brown and Caldwell*. Lecture conducted from Seattle Washington.

Rosenfeld, P.E., C.L. Henry. (1998). Characterization, Quantification, and Control of Odor Emissions from Biosolids Application To Forest Soil. *Biofest*. Lecture conducted from Lake Chelan, Washington.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., C.L. Henry, R. B. Harrison, and R. Dills. (1997). Comparison of Odor Emissions From Three Different Biosolids Applied to Forest Soil. *Soil Science Society of America*. Lecture conducted from Anaheim California.

Teaching Experience:

UCLA Department of Environmental Health (Summer 2003 through 20010) Taught Environmental Health Science 100 to students, including undergrad, medical doctors, public health professionals and nurses. Course focused on the health effects of environmental contaminants.

National Ground Water Association, Successful Remediation Technologies. Custom Course in Sante Fe, New Mexico. May 21, 2002. Focused on fate and transport of fuel contaminants associated with underground storage tanks.

National Ground Water Association; Successful Remediation Technologies Course in Chicago Illinois. April 1, 2002. Focused on fate and transport of contaminants associated with Superfund and RCRA sites.

California Integrated Waste Management Board, April and May, 2001. Alternative Landfill Caps Seminar in San Diego, Ventura, and San Francisco. Focused on both prescriptive and innovative landfill cover design.

UCLA Department of Environmental Engineering, February 5, 2002. Seminar on Successful Remediation Technologies focusing on Groundwater Remediation.

University Of Washington, Soil Science Program, Teaching Assistant for several courses including: Soil Chemistry, Organic Soil Amendments, and Soil Stability.

U.C. Berkeley, Environmental Science Program Teaching Assistant for Environmental Science 10.

Academic Grants Awarded:

California Integrated Waste Management Board. \$41,000 grant awarded to UCLA Institute of the Environment. Goal: To investigate effect of high carbon wood ash on volatile organic emissions from compost. 2001.

Synagro Technologies, Corona California: \$10,000 grant awarded to San Diego State University. Goal: investigate effect of biosolids for restoration and remediation of degraded coastal sage soils. 2000.

King County, Department of Research and Technology, Washington State. \$100,000 grant awarded to University of Washington: Goal: To investigate odor emissions from biosolids application and the effect of polymers and ash on VOC emissions. 1998.

Northwest Biosolids Management Association, Washington State. \$20,000 grant awarded to investigate effect of polymers and ash on VOC emissions from biosolids. 1997.

James River Corporation, Oregon: \$10,000 grant was awarded to investigate the success of genetically engineered Poplar trees with resistance to round-up. 1996.

United State Forest Service, Tahoe National Forest: \$15,000 grant was awarded to investigating fire ecology of the Tahoe National Forest. 1995.

Kellogg Foundation, Washington D.C. \$500 grant was awarded to construct a large anaerobic digester on St. Kitts in West Indies. 1993

Deposition and/or Trial Testimony:

In the Superior Court of the State of California, County of San Bernardino
Billy Wildrick, Plaintiff vs. BNSF Railway Company
Case No. CIVDS1711810
Rosenfeld Deposition 10-17-2022

In the State Court of Bibb County, State of Georgia
Richard Hutcherson, Plaintiff vs Norfolk Southern Railway Company
Case No. 10-SCCV-092007
Rosenfeld Deposition 10-6-2022

In the Civil District Court of the Parish of Orleans, State of Louisiana
Millard Clark, Plaintiff vs. Dixie Carriers, Inc. et al.
Case No. 2020-03891
Rosenfeld Deposition 9-15-2022

In The Circuit Court of Livingston County, State of Missouri, Circuit Civil Division
Shirley Ralls, Plaintiff vs. Canadian Pacific Railway and Soo Line Railroad
Case No. 18-LV-CC0020
Rosenfeld Deposition 9-7-2022

In The Circuit Court of the 13th Judicial Circuit Court, Hillsborough County, Florida Civil Division
Jonny C. Daniels, Plaintiff vs. CSX Transportation Inc.
Case No. 20-CA-5502
Rosenfeld Deposition 9-1-2022

In The Circuit Court of St. Louis County, State of Missouri
Kieth Luke et. al. Plaintiff vs. Monsanto Company et. al.
Case No. 19SL-CC03191
Rosenfeld Deposition 8-25-2022

In The Circuit Court of the 13th Judicial Circuit Court, Hillsborough County, Florida Civil Division
Jeffery S. Lamotte, Plaintiff vs. CSX Transportation Inc.
Case No. NO. 20-CA-0049
Rosenfeld Deposition 8-22-2022

In State of Minnesota District Court, County of St. Louis Sixth Judicial District
Greg Bean, Plaintiff vs. Soo Line Railroad Company
Case No. 69-DU-CV-21-760
Rosenfeld Deposition 8-17-2022

In United States District Court Western District of Washington at Tacoma, Washington
John D. Fitzgerald Plaintiff vs. BNSF
Case No. 3:21-cv-05288-RJB
Rosenfeld Deposition 8-11-2022

In Circuit Court of the Sixth Judicial Circuit, Macon Illinois
Rocky Bennyhoff Plaintiff vs. Norfolk Southern
Case No. 20-L-56
Rosenfeld Deposition 8-3-2022

In Court of Common Pleas, Hamilton County Ohio
Joe Briggins Plaintiff vs. CSX
Case No. A2004464
Rosenfeld Deposition 6-17-2022

In the Superior Court of the State of California, County of Kern
George LaFazia vs. BNSF Railway Company.
Case No. BCV-19-103087
Rosenfeld Deposition 5-17-2022

In the Circuit Court of Cook County Illinois
Bobby Earles vs. Penn Central et. al.
Case No. 2020-L-000550
Rosenfeld Deposition 4-16-2022

In United States District Court Easter District of Florida
Albert Hartman Plaintiff vs. Illinois Central
Case No. 2:20-cv-1633
Rosenfeld Deposition 4-4-2022

In the Circuit Court of the 4th Judicial Circuit, in and For Duval County, Florida
Barbara Steele vs. CSX Transportation
Case No.16-219-Ca-008796
Rosenfeld Deposition 3-15-2022

In United States District Court Easter District of New York
Romano et al. vs. Northrup Grumman Corporation
Case No. 16-cv-5760
Rosenfeld Deposition 3-10-2022

In the Circuit Court of Cook County Illinois
Linda Benjamin vs. Illinois Central
Case No. No. 2019 L 007599
Rosenfeld Deposition 1-26-2022

In the Circuit Court of Cook County Illinois
Donald Smith vs. Illinois Central
Case No. No. 2019 L 003426
Rosenfeld Deposition 1-24-2022

In the Circuit Court of Cook County Illinois
Jan Holeman vs. BNSF
Case No. 2019 L 000675
Rosenfeld Deposition 1-18-2022

In the State Court of Bibb County State of Georgia
Dwayne B. Garrett vs. Norfolk Southern
Case No. 20-SCCV-091232
Rosenfeld Deposition 11-10-2021

In the Circuit Court of Cook County Illinois
Joseph Ruepke vs. BNSF
Case No. 2019 L 007730
Rosenfeld Deposition 11-5-2021

In the United States District Court For the District of Nebraska
Steven Gillett vs. BNSF
Case No. 4:20-cv-03120
Rosenfeld Deposition 10-28-2021

In the Montana Thirteenth District Court of Yellowstone County
James Eadus vs. Soo Line Railroad and BNSF
Case No. DV 19-1056
Rosenfeld Deposition 10-21-2021

In the Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al.cvs. Cerro Flow Products, Inc.
Case No. 0i9-L-2295
Rosenfeld Deposition 5-14-2021
Trial October 8-4-2021

In the Circuit Court of Cook County Illinois
Joseph Rafferty vs. Consolidated Rail Corporation and National Railroad Passenger Corporation d/b/a AMTRAK,
Case No. 18-L-6845
Rosenfeld Deposition 6-28-2021

In the United States District Court For the Northern District of Illinois
Theresa Romcoe vs. Northeast Illinois Regional Commuter Railroad Corporation d/b/a METRA Rail
Case No. 17-cv-8517
Rosenfeld Deposition 5-25-2021

In the Superior Court of the State of Arizona In and For the Cuntly of Maricopa
Mary Tryon et al. vs. The City of Pheonix v. Cox Cactus Farm, L.L.C., Utah Shelter Systems, Inc.
Case No. CV20127-094749
Rosenfeld Deposition 5-7-2021

In the United States District Court for the Eastern District of Texas Beaumont Division
Robinson, Jeremy et al vs. CNA Insurance Company et al.
Case No. 1:17-cv-000508
Rosenfeld Deposition 3-25-2021

In the Superior Court of the State of California, County of San Bernardino
Gary Garner, Personal Representative for the Estate of Melvin Garner vs. BNSF Railway Company.
Case No. 1720288
Rosenfeld Deposition 2-23-2021

In the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse
Benny M Rodriguez vs. Union Pacific Railroad, A Corporation, et al.
Case No. 18STCV01162
Rosenfeld Deposition 12-23-2020

In the Circuit Court of Jackson County, Missouri
Karen Cornwell, Plaintiff, vs. Marathon Petroleum, LP, Defendant.
Case No. 1716-CV10006
Rosenfeld Deposition 8-30-2019

In the United States District Court For The District of New Jersey
Duarte et al, Plaintiffs, vs. United States Metals Refining Company et. al. Defendant.
Case No. 2:17-cv-01624-ES-SCM
Rosenfeld Deposition 6-7-2019

In the United States District Court of Southern District of Texas Galveston Division
M/T Carla Maersk vs. Conti 168., Schiffahrts-GMBH & Co. Bulker KG MS “Conti Perdido” Defendant.
Case No. 3:15-CV-00106 consolidated with 3:15-CV-00237
Rosenfeld Deposition 5-9-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
Carole-Taddeo-Bates et al., vs. Ifran Khan et al., Defendants
Case No. BC615636
Rosenfeld Deposition 1-26-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
The San Gabriel Valley Council of Governments et al. vs El Adobe Apts. Inc. et al., Defendants
Case No. BC646857
Rosenfeld Deposition 10-6-2018; Trial 3-7-19

In United States District Court For The District of Colorado
Bells et al. Plaintiffs vs. The 3M Company et al., Defendants
Case No. 1:16-cv-02531-RBJ
Rosenfeld Deposition 3-15-2018 and 4-3-2018

In The District Court Of Regan County, Texas, 112th Judicial District
Phillip Bales et al., Plaintiff vs. Dow Agrosiences, LLC, et al., Defendants
Cause No. 1923
Rosenfeld Deposition 11-17-2017

In The Superior Court of the State of California In And For The County Of Contra Costa
Simons et al., Plaintiffs vs. Chevron Corporation, et al., Defendants
Cause No. C12-01481
Rosenfeld Deposition 11-20-2017

In The Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition 8-23-2017

In United States District Court For The Southern District of Mississippi
Guy Manuel vs. The BP Exploration et al., Defendants
Case No. 1:19-cv-00315-RHW
Rosenfeld Deposition 4-22-2020

In The Superior Court of the State of California, For The County of Los Angeles
Warrn Gilbert and Penny Gilbert, Plaintiff vs. BMW of North America LLC
Case No. LC102019 (c/w BC582154)
Rosenfeld Deposition 8-16-2017, Trail 8-28-2018

In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., Plaintiffs, vs. Meritor Inc., et al., Defendants
Case No. 4:16-cv-52-DMB-JVM
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Michael Davis and Julie Davis et al., Plaintiff vs. Cedar Grove Composting Inc., Defendants
Case No. 13-2-03987-5
Rosenfeld Deposition, February 2017
Trial March 2017

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Charles Spain., Plaintiff vs. Thermo Fisher Scientific, et al., Defendants
Case No. RG14711115
Rosenfeld Deposition September 2015

In The Iowa District Court In And For Poweshiek County
Russell D. Winburn, et al., Plaintiffs vs. Doug Hoksbergen, et al., Defendants
Case No. LALA002187
Rosenfeld Deposition August 2015

In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action No. 14-C-30000
Rosenfeld Deposition June 2015

In The Iowa District Court for Muscatine County
Laurie Freeman et. al. Plaintiffs vs. Grain Processing Corporation, Defendant
Case No. 4980
Rosenfeld Deposition May 2015

In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case No. CACE07030358 (26)
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In the County Court of Dallas County Texas
Lisa Parr et al, Plaintiff, vs. Aruba et al, Defendant.
Case No. cc-11-01650-E
Rosenfeld Deposition: March and September 2013
Rosenfeld Trial April 2014

In the Court of Common Pleas of Tuscarawas County Ohio
John Michael Abicht, et al., Plaintiffs, vs. Republic Services, Inc., et al., Defendants
Case No. 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)
Rosenfeld Deposition October 2012

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James K. Benefield, et al., Plaintiffs, vs. International Paper Company, Defendant.
Civil Action No. 2:09-cv-232-WHA-TFM
Rosenfeld Deposition July 2010, June 2011

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Jaeanette Moss Anthony, et al., Plaintiffs, vs. Drummond Company Inc., et al., Defendants
Civil Action No. CV 2008-2076
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In the United States District Court, Western District Lafayette Division
Ackle et al., Plaintiffs, vs. Citgo Petroleum Corporation, et al., Defendants.
Case No. 2:07CV1052
Rosenfeld Deposition July 2009

EXHIBIT D

Date: April 2, 2024

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From: Francis J. Offermann PE CIH

Subject: Indoor Air Quality: Lockwood III Apartments Project, Oxnard, CA.
(IEE File Reference: P-4789)

Pages: 18

Indoor Air Quality Impacts

Indoor air quality (IAQ) directly impacts the comfort and health of building occupants, and the achievement of acceptable IAQ in newly constructed and renovated buildings is a well-recognized design objective. For example, IAQ is addressed by major high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014). Indoor air quality in homes is particularly important because occupants, on average, spend approximately ninety percent of their time indoors with the majority of this time spent at home (EPA, 2011). Some segments of the population that are most susceptible to the effects of poor IAQ, such as the very young and the elderly, occupy their homes almost continuously. Additionally, an increasing number of adults are working from home at least some of the time during the workweek. Indoor air quality also is a serious concern for workers in hotels, offices and other business establishments.

The concentrations of many air pollutants often are elevated in homes and other buildings relative to outdoor air because many of the materials and products

used indoors contain and release a variety of pollutants to air (Hodgson et al., 2002; Offermann and Hodgson, 2011). With respect to indoor air contaminants for which inhalation is the primary route of exposure, the critical design and construction parameters are the provision of adequate ventilation and the reduction of indoor sources of the contaminants.

Indoor Formaldehyde Concentrations Impact. In the California New Home Study (CNHS) of 108 new homes in California (Offermann, 2009), 25 air contaminants were measured, and formaldehyde was identified as the indoor air contaminant with the highest cancer risk as determined by the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), No Significant Risk Levels (NSRL) for carcinogens. The NSRL is the daily intake level calculated to result in one excess case of cancer in an exposed population of 100,000 (i.e., ten in one million cancer risk) and for formaldehyde is 40 µg/day. The NSRL concentration of formaldehyde that represents a daily dose of 40 µg is 2 µg/m³, assuming a continuous 24-hour exposure, a total daily inhaled air volume of 20 m³, and 100% absorption by the respiratory system. All of the CNHS homes exceeded this NSRL concentration of 2 µg/m³. The median indoor formaldehyde concentration was 36 µg/m³, and ranged from 4.8 to 136 µg/m³, which corresponds to a median exceedance of the 2 µg/m³ NSRL concentration of 18 and a range of 2.3 to 68.

Therefore, the cancer risk of a resident living in a California home with the median indoor formaldehyde concentration of 36 µg/m³, is 180 per million as a result of formaldehyde alone. The CEQA significance threshold for airborne cancer risk is 10 per million, as established by the San Diego County Air Pollution Control District (SDAPCD, 2021).

Besides being a human carcinogen, formaldehyde is also a potent eye and respiratory irritant. In the CNHS, many homes exceeded the non-cancer reference exposure levels (RELs) prescribed by California Office of Environmental Health Hazard Assessment (OEHHA, 2017b). The percentage of homes exceeding the RELs ranged from 98% for the Chronic REL of 9 µg/m³ to 28% for the Acute REL of 55 µg/m³.

The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.

In January 2009, the California Air Resources Board (CARB) adopted an airborne toxics control measure (ATCM) to reduce formaldehyde emissions from composite wood products, including hardwood plywood, particleboard, medium density fiberboard, and also furniture and other finished products made with these wood products (California Air Resources Board 2009). While this formaldehyde ATCM has resulted in reduced emissions from composite wood products sold in California, they do not preclude that homes built with composite wood products meeting the CARB ATCM will have indoor formaldehyde concentrations below cancer and non-cancer exposure guidelines.

A follow up study to the California New Home Study (CNHS) was conducted in 2016-2018 (Singer et. al., 2019), and found that the median indoor formaldehyde in new homes built after 2009 with CARB Phase 2 Formaldehyde ATCM materials had lower indoor formaldehyde concentrations, with a median indoor concentrations of $22.4 \mu\text{g}/\text{m}^3$ (18.2 ppb) as compared to a median of $36 \mu\text{g}/\text{m}^3$ found in the 2007 CNHS. Unlike in the CNHS study where formaldehyde concentrations were measured with pumped DNPH samplers, the formaldehyde concentrations in the HENGH study were measured with passive samplers, which were estimated to under-measure the true indoor formaldehyde concentrations by approximately 7.5%. Applying this correction to the HENGH indoor formaldehyde concentrations results in a median indoor concentration of $24.1 \mu\text{g}/\text{m}^3$, which is 33% lower than the $36 \mu\text{g}/\text{m}^3$ found in the 2007 CNHS.

Thus, while new homes built after the 2009 CARB formaldehyde ATCM have a 33% lower median indoor formaldehyde concentration and cancer risk, the median lifetime cancer risk is still 120 per million for homes built with CARB compliant composite wood products. This median lifetime cancer risk is more than 12 times the OEHHA 10 in a million cancer risk threshold (OEHHA, 2017a).

With respect to the Lockwood III Apartments Project, Oxnard, CA, the buildings consist of residential spaces.

The residential occupants will potentially have continuous exposure (e.g. 24 hours per day, 52 weeks per year). These exposures are anticipated to result in significant cancer risks resulting from exposures to formaldehyde released by the building materials and furnishing commonly found in residential construction.

Because these residences will be constructed with CARB Phase 2 Formaldehyde ATCM materials, and be ventilated with the minimum code required amount of outdoor air, the indoor residential formaldehyde concentrations are likely similar to those concentrations observed in residences built with CARB Phase 2 Formaldehyde ATCM materials, which is a median of 24.1 $\mu\text{g}/\text{m}^3$ (Singer et. al., 2020)

Assuming that the residential occupants inhale 20 m^3 of air per day, the average 70-year lifetime formaldehyde daily dose is 482 $\mu\text{g}/\text{day}$ for continuous exposure in the residences. This exposure represents a cancer risk of 120 per million, which is more than 12 times the CEQA cancer risk of 10 per million. For occupants that do not have continuous exposure, the cancer risk will be proportionally less but still substantially over the CEQA cancer risk of 10 per million (e.g. for 12/hour/day occupancy, more than 6 times the CEQA cancer risk of 10 per million).

In addition, we note that the average outdoor air concentration of formaldehyde in California is 3 ppb, or 3.7 $\mu\text{g}/\text{m}^3$, (California Air Resources Board, 2004), and thus represents an average pre-existing background airborne cancer risk of 1.85 per million. Thus, the indoor air formaldehyde exposures describe above exacerbate this pre-existing risk resulting from outdoor air formaldehyde exposures.

Appendix A, Indoor Formaldehyde Concentrations and the CARB Formaldehyde ATCM, provides analyses that show utilization of CARB Phase 2 Formaldehyde ATCM materials will not ensure acceptable cancer risks with respect to formaldehyde emissions from composite wood products.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

The following describes a method that should be used, prior to construction in the environmental review under CEQA, for determining whether the indoor concentrations resulting from the formaldehyde emissions of specific building materials/furnishings selected exceed cancer and non-cancer guidelines. Such a design analyses can be used to identify those materials/furnishings prior to the completion of the City's CEQA review and project approval, that have formaldehyde emission rates that contribute to indoor concentrations that exceed cancer and non-cancer guidelines, so that alternative lower emitting materials/furnishings may be selected and/or higher minimum outdoor air ventilation rates can be increased to achieve acceptable indoor concentrations and incorporated as mitigation measures for this project.

Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment

This formaldehyde emissions assessment should be used in the environmental review under CEQA to assess the indoor formaldehyde concentrations from the proposed loading of building materials/furnishings, the area-specific formaldehyde emission rate data for building materials/furnishings, and the design minimum outdoor air ventilation rates. This assessment allows the applicant (and the City) to determine, before the conclusion of the environmental review process and the building materials/furnishings are specified, purchased, and installed, if the total chemical emissions will exceed cancer and non-cancer guidelines, and if so, allow for changes in the selection of specific

material/furnishings and/or the design minimum outdoor air ventilations rates such that cancer and non-cancer guidelines are not exceeded.

1.) Define Indoor Air Quality Zones. Divide the building into separate indoor air quality zones, (IAQ Zones). IAQ Zones are defined as areas of well-mixed air. Thus, each ventilation system with recirculating air is considered a single zone, and each room or group of rooms where air is not recirculated (e.g. 100% outdoor air) is considered a separate zone. For IAQ Zones with the same construction material/furnishings and design minimum outdoor air ventilation rates. (e.g. hotel rooms, apartments, condominiums, etc.) the formaldehyde emission rates need only be assessed for a single IAQ Zone of that type.

2.) Calculate Material/Furnishing Loading. For each IAQ Zone, determine the building material and furnishing loadings (e.g., m² of material/m² floor area, units of furnishings/m² floor area) from an inventory of all potential indoor formaldehyde sources, including flooring, ceiling tiles, furnishings, finishes, insulation, sealants, adhesives, and any products constructed with composite wood products containing urea-formaldehyde resins (e.g., plywood, medium density fiberboard, particleboard).

3.) Calculate the Formaldehyde Emission Rate. For each building material, calculate the formaldehyde emission rate (µg/h) from the product of the area-specific formaldehyde emission rate (µg/m²-h) and the area (m²) of material in the IAQ Zone, and from each furnishing (e.g. chairs, desks, etc.) from the unit-specific formaldehyde emission rate (µg/unit-h) and the number of units in the IAQ Zone.

NOTE: As a result of the high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014), most manufacturers of building materials furnishings sold in the United States conduct chemical emission rate tests using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers,” (CDPH, 2017), or other equivalent chemical emission rate testing methods. Most manufacturers of building furnishings sold in the United States conduct chemical emission rate tests using ANSI/BIFMA M7.1 Standard Test Method for

Determining VOC Emissions (BIFMA, 2018), or other equivalent chemical emission rate testing methods.

CDPH, BIFMA, and other chemical emission rate testing programs, typically certify that a material or furnishing does not create indoor chemical concentrations in excess of the maximum concentrations permitted by their certification. For instance, the CDPH emission rate testing requires that the measured emission rates when input into an office, school, or residential model do not exceed one-half of the OEHHA Chronic Exposure Guidelines (OEHHA, 2017b) for the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017). These certifications themselves do not provide the actual area-specific formaldehyde emission rate (i.e., $\mu\text{g}/\text{m}^2\text{-h}$) of the product, but rather provide data that the formaldehyde emission rates do not exceed the maximum rate allowed for the certification. Thus, for example, the data for a certification of a specific type of flooring may be used to calculate that the area-specific emission rate of formaldehyde is less than 31 $\mu\text{g}/\text{m}^2\text{-h}$, but not the actual measured specific emission rate, which may be 3, 18, or 30 $\mu\text{g}/\text{m}^2\text{-h}$. These area-specific emission rates determined from the product certifications of CDPH, BIFA, and other certification programs can be used as an initial estimate of the formaldehyde emission rate.

If the actual area-specific emission rates of a building material or furnishing is needed (i.e. the initial emission rates estimates from the product certifications are higher than desired), then that data can be acquired by requesting from the manufacturer the complete chemical emission rate test report. For instance if the complete CDPH emission test report is requested for a CDHP certified product, that report will provide the actual area-specific emission rates for not only the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017), but also all of the cancer and reproductive/developmental chemicals listed in the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), all of the toxic air contaminants (TACs) in the California Air Resources Board Toxic Air Contamination List (CARB, 2011), and the 10 chemicals with the greatest emission rates.

Alternatively, a sample of the building material or furnishing can be submitted to a chemical emission rate testing laboratory, such as Berkeley Analytical Laboratory (<https://berkeleyanalytical.com>), to measure the formaldehyde emission rate.

4.) Calculate the Total Formaldehyde Emission Rate. For each IAQ Zone, calculate the total formaldehyde emission rate (i.e. $\mu\text{g/h}$) from the individual formaldehyde emission rates from each of the building material/furnishings as determined in Step 3.

5.) Calculate the Indoor Formaldehyde Concentration. For each IAQ Zone, calculate the indoor formaldehyde concentration ($\mu\text{g/m}^3$) from Equation 1 by dividing the total formaldehyde emission rates (i.e. $\mu\text{g/h}$) as determined in Step 4, by the design minimum outdoor air ventilation rate (m^3/h) for the IAQ Zone.

(Equation 1)

where:

C_{in} = indoor formaldehyde concentration ($\mu\text{g/m}^3$)

E_{total} = total formaldehyde emission rate ($\mu\text{g/h}$) into the IAQ Zone.

Q_{oa} = design minimum outdoor air ventilation rate to the IAQ Zone (m^3/h)

The above Equation 1 is based upon mass balance theory, and is referenced in Section 3.10.2 “Calculation of Estimated Building Concentrations” of the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers”, (CDPH, 2017).

6.) Calculate the Indoor Exposure Cancer and Non-Cancer Health Risks. For each IAQ Zone, calculate the cancer and non-cancer health risks from the indoor formaldehyde concentrations determined in Step 5 and as described in the OEHHA Air Toxics Hot Spots Program Risk Assessment Guidelines; Guidance Manual for Preparation of Health Risk Assessments (OEHHA, 2015).

7.) Mitigate Indoor Formaldehyde Exposures of exceeding the CEQA Cancer and/or Non-Cancer Health Risks. In each IAQ Zone, provide mitigation for any formaldehyde exposure risk as determined in Step 6, that exceeds the CEQA cancer risk of 10 per

million or the CEQA non-cancer Hazard Quotient of 1.0.

Provide the source and/or ventilation mitigation required in all IAQ Zones to reduce the health risks of the chemical exposures below the CEQA cancer and non-cancer health risks.

Source mitigation for formaldehyde may include:

- 1.) reducing the amount materials and/or furnishings that emit formaldehyde
- 2.) substituting a different material with a lower area-specific emission rate of formaldehyde

Ventilation mitigation for formaldehyde emitted from building materials and/or furnishings may include:

- 1.) increasing the design minimum outdoor air ventilation rate to the IAQ Zone.

NOTE: Mitigating the formaldehyde emissions through use of less material/furnishings, or use of lower emitting materials/furnishings, is the preferred mitigation option, as mitigation with increased outdoor air ventilation increases initial and operating costs associated with the heating/cooling systems.

Further, we are not asking that the builder “speculate” on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers,” (CDPH, 2017), and use the procedure described earlier above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Impact. Another important finding of the CNHS, was that the outdoor air ventilation rates in the homes were very low. Outdoor air ventilation is a very

important factor influencing the indoor concentrations of air contaminants, as it is the primary removal mechanism of all indoor air generated contaminants. Lower outdoor air exchange rates cause indoor generated air contaminants to accumulate to higher indoor air concentrations. Many homeowners rarely open their windows or doors for ventilation as a result of their concerns for security/safety, noise, dust, and odor concerns (Price, 2007). In the CNHS field study, 32% of the homes did not use their windows during the 24-hour Test Day, and 15% of the homes did not use their windows during the entire preceding week. Most of the homes with no window usage were homes in the winter field session. Thus, a substantial percentage of homeowners never open their windows, especially in the winter season. The median 24-hour measurement was 0.26 air changes per hour (ach), with a range of 0.09 ach to 5.3 ach. A total of 67% of the homes had outdoor air exchange rates below the minimum California Building Code (2001) requirement of 0.35 ach. Thus, the relatively tight envelope construction, combined with the fact that many people never open their windows for ventilation, results in homes with low outdoor air exchange rates and higher indoor air contaminant concentrations.

The Lockwood III Apartments Project, Oxnard, CA is close to roads with moderate to high traffic (e.g., Lakewood Street, East Gonzalez Road, Ventura Freeway -101, etc.) and thus the Project site is a sound impacted site.

According to the Initial Study/Mitigated Negative Declaration- Lockwood III Apartments Project, Oxnard, CA (ESA, 2024), Appendix I, Table 10, the ambient noise levels with the Project range from 66.1 to 71.2 dBA CNEL.

However, these ambient noise levels were only measured during a single 24-hour period (August 1-2, 2022). In order to design the building for this Project such that interior noise levels are acceptable, an acoustic study with actual on-site measurements of the existing ambient noise levels and modeled future ambient noise levels needs to be conducted. The acoustic study of the existing ambient noise levels should be conducted over a one-week period. and report the dBA CNEL or Ldn. This study will allow for the selection of a building envelope and windows with a sufficient STC such that the indoor noise levels are acceptable. A mechanical supply of outdoor air ventilation to allow for a habitable interior

environment with closed windows and doors will also be required. Such a ventilation system would allow windows and doors to be kept closed at the occupant's discretion to control exterior noise within building interiors.

PM_{2.5} Outdoor Concentrations Impact. An additional impact of the nearby motor vehicle traffic associated with this project, are the outdoor concentrations of PM_{2.5}. Initial Study/Mitigated Negative Declaration- Lockwood III Apartments Project, Oxnard, CA (ESA, 2024), the Project is located in the South Coast Air Basin, which is a State and Federal non-attainment area for PM_{2.5}.

An air quality analysis should be conducted to determine the concentrations of PM_{2.5} in the outdoor and indoor air that people inhale each day. This air quality analysis needs to consider the cumulative impacts of the project related emissions, existing and projected future emissions from local PM_{2.5} sources (e.g. stationary sources, motor vehicles, and airport traffic) upon the outdoor air concentrations at the Project site. If the outdoor concentrations are determined to exceed the California and National annual average PM_{2.5} exceedance concentration of 12 µg/m³, or the National 24-hour average exceedance concentration of 35 µg/m³, then the buildings need to have a mechanical supply of outdoor air that has air filtration with sufficient removal efficiency, such that the indoor concentrations of outdoor PM_{2.5} particles is less than the California and National PM_{2.5} annual and 24-hour standards.

It is my experience that based on the projected high traffic noise levels, the annual average concentration of PM_{2.5} will exceed the California and National PM_{2.5} annual and 24-hour standards and warrant installation of high efficiency air filters (i.e. MERV 13 or higher) in all mechanically supplied outdoor air ventilation systems.

Indoor Air Quality Impact Mitigation Measures

The following are recommended mitigation measures to minimize the impacts upon indoor quality:

Indoor Formaldehyde Concentrations Mitigation. Use only composite wood materials (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins (CARB, 2009). CARB Phase 2 certified composite wood products, or ultra-low emitting formaldehyde (ULEF) resins, do not insure indoor formaldehyde concentrations that are below the CEQA cancer risk of 10 per million. Only composite wood products manufactured with CARB approved no-added formaldehyde (NAF) resins, such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

Alternatively, conduct the previously described Pre-Construction Building Material/Furnishing Chemical Emissions Assessment, to determine that the combination of formaldehyde emissions from building materials and furnishings do not create indoor formaldehyde concentrations that exceed the CEQA cancer and non-cancer health risks.

It is important to note that we are not asking that the builder “speculate” on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers”, (CDPH, 2017), and use the procedure described above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Mitigation. Provide each habitable room with a continuous mechanical supply of outdoor air that meets or exceeds the California 2016 Building Energy Efficiency Standards (California Energy Commission, 2015) requirements of the greater of 15 cfm/occupant or 0.15 cfm/ft² of floor area. Following installation of the system conduct testing and balancing to insure that required amount of outdoor air is entering each habitable room and provide a written report documenting the outdoor airflow rates. Do not use exhaust only mechanical outdoor air systems, use only balanced

outdoor air supply and exhaust systems or outdoor air supply only systems. Provide a manual for the occupants or maintenance personnel, that describes the purpose of the mechanical outdoor air system and the operation and maintenance requirements of the system.

PM_{2.5} Outdoor Air Concentration Mitigation. Install air filtration with sufficient PM_{2.5} removal efficiency (e.g. MERV 13 or higher) to filter the outdoor air entering the mechanical outdoor air supply systems, such that the indoor concentrations of outdoor PM_{2.5} particles are less than the California and National PM_{2.5} annual and 24-hour standards. Install the air filters in the system such that they are accessible for replacement by the occupants or maintenance personnel. Include in the mechanical outdoor air ventilation system manual instructions on how to replace the air filters and the estimated frequency of replacement.

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APPENDIX A

INDOOR FORMALDEHYDE CONCENTRATIONS AND THE CARB FORMALDEHYDE ATCM

With respect to formaldehyde emissions from composite wood products, the CARB ATCM regulations of formaldehyde emissions from composite wood products, do not assure healthful indoor air quality. The following is the stated purpose of the CARB ATCM regulation - *The purpose of this airborne toxic control measure is to “reduce formaldehyde emissions from composite wood products, and finished goods that contain composite wood products, that are sold, offered for sale, supplied, used, or manufactured for sale in California”*. In other words, the CARB ATCM regulations do not “assure healthful indoor air quality”, but rather “reduce formaldehyde emissions from composite wood products”.

Just how much protection do the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products? Definitely some, but certainly the regulations do not “*assure healthful indoor air quality*” when CARB Phase 2 products are utilized. As shown in the Chan 2019 study of new California homes, the median indoor formaldehyde concentration was of 22.4 $\mu\text{g}/\text{m}^3$ (18.2 ppb), which corresponds to a cancer risk of 112 per million for occupants with continuous exposure, which is more than 11 times the CEQA cancer risk of 10 per million.

Another way of looking at how much protection the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products is to calculate the maximum number of square feet of composite wood product that can be in a residence without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy.

For this calculation I utilized the floor area (2,272 ft^2), the ceiling height (8.5 ft), and the number of bedrooms (4) as defined in Appendix B (New Single-Family Residence Scenario) of the Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers, Version 1.1,

2017, California Department of Public Health, Richmond, CA.
<https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/EHLB/IAQ/Pages/VOC.aspx>.

For the outdoor air ventilation rate I used the 2019 Title 24 code required mechanical ventilation rate (ASHRAE 62.2) of 106 cfm (180 m³/h) calculated for this model residence. For the composite wood formaldehyde emission rates I used the CARB ATCM Phase 2 rates.

The calculated maximum number of square feet of composite wood product that can be in a residence, without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 15 ft² (0.7% of the floor area), or
Particle Board – 30 ft² (1.3% of the floor area), or
Hardwood Plywood – 54 ft² (2.4% of the floor area), or
Thin MDF – 46 ft² (2.0 % of the floor area).

For offices and hotels the calculated maximum amount of composite wood product (% of floor area) that can be used without exceeding the CEQA cancer risk of 10 per million for occupants, assuming 8 hours/day occupancy, and the California Mechanical Code minimum outdoor air ventilation rates are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 3.6 % (offices) and 4.6% (hotel rooms), or
Particle Board – 7.2 % (offices) and 9.4% (hotel rooms), or
Hardwood Plywood – 13 % (offices) and 17% (hotel rooms), or
Thin MDF – 11 % (offices) and 14 % (hotel rooms)

Clearly the CARB ATCM does not regulate the formaldehyde emissions from composite wood products such that the potentially large areas of these products, such as for flooring, baseboards, interior doors, window and door trims, and kitchen and bathroom cabinetry,

could be used without causing indoor formaldehyde concentrations that result in CEQA cancer risks that substantially exceed 10 per million for occupants with continuous occupancy.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

If CARB Phase 2 compliant or ULEF composite wood products are utilized in construction, then the resulting indoor formaldehyde concentrations should be determined in the design phase using the specific amounts of each type of composite wood product, the specific formaldehyde emission rates, and the volume and outdoor air ventilation rates of the indoor spaces, and all feasible mitigation measures employed to reduce this impact (e.g. use less formaldehyde containing composite wood products and/or incorporate mechanical systems capable of higher outdoor air ventilation rates). See the procedure described earlier (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Alternatively, and perhaps a simpler approach, is to use only composite wood products (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins.

EXHIBIT E

Date: July 30, 2024

To: Marjan Kris Abubo
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From: Francis J. Offermann PE CIH

Subject: Indoor Air Quality Rebuttal Comment: Lockwood III Project, Ventura, CA
(IEE File Reference: P-4789)

Pages: 26

The following are my rebuttal comments regarding the responses contained in the ESA, July, 2024 letter, Lockwood III Apartments - Response to Comments on Public Review Draft Initial Study/Mitigated Negative Declaration, to my April 2, 2024 Indoor Air Quality letter for Lockwood III Apartments Project, Oxnard, CA. (attached in Appendix A).

ESA Comment A-14.

The building conditions in the research paper are highly dissimilar to the Project. The Project is a five-story multi-family residential development that does not include any single-family detached structures. Furthermore, the buildings in the research paper consisted of homes built to comply with the 2008 version of the California Title 24 standards, whereas the Project would be built to the most current California Title 24 standards (2022). The 2019 version of the Title 24 standards included new ventilation requirements that improve indoor air quality protecting residents from air pollution originating from outdoor and indoor sources.

IEE Rebuttal A-14.

With respect to the ESA statement “The building conditions in the research paper are highly dissimilar to the Project.” the following is my rebuttal comment.

The Lockwood III Apartments Project, Oxnard, CA is residential construction (i.e., apartments), and as such the construction materials will not be dissimilar from those used in residential single-family construction. Absent our recommendations “to use only composite wood products (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins”, the Project construction will include composite wood products with formaldehyde resins, such as plywood, medium density fiberboard, and particle board, for construction of flooring, cabinets, doors, trims etc. As stated in my April 2, 2024 Indoor Air Quality letter for Lockwood III Apartments Project, Oxnard, CA. (attached in Appendix A), use of composite wood products that contain formaldehyde resins, including those that meet the CARB Phase II Composite Wood Product Regulations, will result in indoor formaldehyde concentrations with cancer risks that exceed the CEQA cancer risk of 10 per million.

With respect to the ESA statement “Furthermore, the buildings in the research paper consisted of homes built to comply with the 2008 version of the California Title 24 standards, whereas the Project would be built to the most current California Title 24 standards (2022). The 2019 version of the Title 24 standards included new ventilation requirements that improve indoor air quality protecting residents from air pollution originating from outdoor and indoor sources.”, the following is my rebuttal comment.

This comment is based upon the false conclusion that since the Project will be built according to the 2022 Title 24 code with outdoor air ventilation rates higher than the rates in the research paper, Ventilation and Indoor Air Quality in New California Homes with Gas Appliances and Mechanical Ventilation (Singer, 2020), the Project indoor formaldehyde concentrations and cancer risks will be less than those I calculated in my April 2, 2024 Indoor Air Quality letter.

Yes, the Project mechanical outdoor air ventilations rates that will be based on the 2019 (or even the 2022) California Mechanical Code will result in higher outdoor air exchange rates than those residences in the Singer study, which I used to calculate the indoor

formaldehyde concentrations for the Project. However the higher ventilation rates for the Project will not result in significantly lower indoor formaldehyde concentrations for the Project than those I calculated in my April 2, 2024 Indoor Air Quality letter for Lockwood III Apartments Project, Oxnard, CA. (attached in Appendix A). The reason for this is that while the Project outdoor air ventilation rates will be higher, the formaldehyde emission rates from composite wood products will increase with increasing outdoor air ventilation rates. Thus, the higher ventilation rates for the Project result in a formaldehyde cancer risk just 7% lower than that calculated in my April 2, 2024 Indoor Air Quality letter, and as described below.

For the Project residential apartments, the 2019 (and 2022) code required outdoor air ventilation rate is 5 cfm/occupant plus 0.06 cfm cfm/ft², which for a typical 1 or 2 bedroom apartment is 0.48 air changes per hour (ach). This ventilation rate is higher than the median outdoor air ventilation rates in the HENGH residential study of 0.33 ach.

While the outdoor air ventilation rates for the Project residential apartments is indeed higher than the outdoor air ventilation rates in the HENGH single family residential study, this does not result in correspondingly lower indoor formaldehyde concentrations, since formaldehyde emission rates from composite wood products increase with increasing outdoor air ventilation rates as the result of formaldehyde emissions from composite wood products being diffusion limited.

Figure 1 depicts the increase in formaldehyde emission rates as a function of the outdoor air exchange range rate, and clearly shows that the emission rates increase as the outdoor air exchange rate increases.

The three data points labeled CNHS - Brentwood are from a CNHS home (Offermann, 2009) where in a follow up study (Offermann, 2012) the formaldehyde emission rates were measured under three different mechanical outdoor air ventilations, 0.21, 0.37, and 0.64 air changes per hour (ach). The corresponding measured formaldehyde emission rates were observed to increase in accordance with mass transfer theory, 17 µg/m³-h, 25 µg/m³-h, and 31 µg/m³-h. These homes were constructed with composite wood products

manufactured prior to the CARB ATCM (CARB, 2009) which reduced formaldehyde emissions from composite wood products, including hardwood plywood, particleboard, medium density fiberboard, and also furniture and other finished products made with these wood products.

The 55 data points labeled HENGH are from the Singer 2020 residential study which was conducted in homes constructed with CARB ACTM Phase 2 composite wood products and with corrections to the measured indoor formaldehyde concentrations and the calculated outdoor air ventilation rates as described in the peer reviewed published paper in Indoor Air (Singer et. al., 2020). Specifically the corrections cited in the Singer (2020) publication of the HENGH study were related to the measurement of the indoor formaldehyde concentrations and the calculated outdoor air exchange rates.

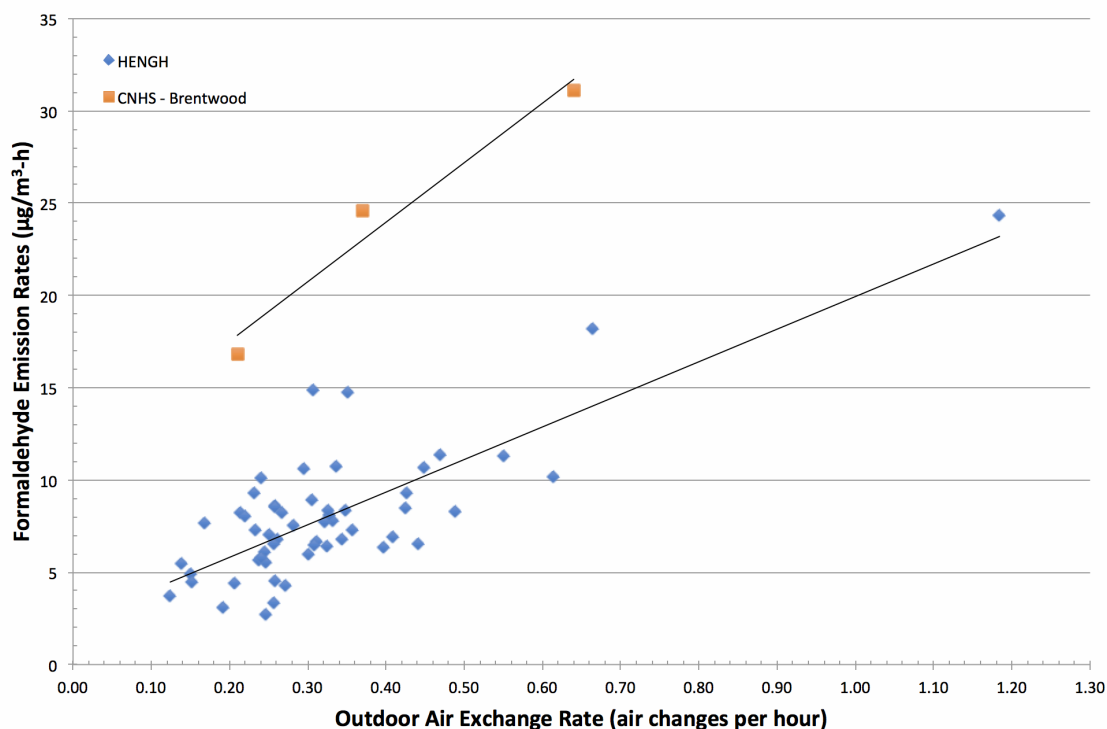


Figure 1. Formaldehyde emission rates as a function of outdoor air exchange rate.

The indoor formaldehyde concentrations in the HENGH study were measured with passive samplers, which were estimated to under-measure the true formaldehyde concentrations by approximately 7.5%. The outdoor air exchange rates in the HENGH

study were not measured and were calculated from the measured mechanical ventilation air flow rates and the calculated envelope air infiltration rate, which were estimated to under-measure the true outdoor air exchange rate by approximately 18%. The combined result is that the formaldehyde emission rates calculated in the HENGH study are estimated to be approximately 27% lower than the true formaldehyde emission rates. This correction has been applied to the HENGH emission rate in Figure 1. As can be seen in Figure 1, the formaldehyde emission rates in the HENGH study homes, which were constructed with CARB ATCM Phase 2 composite wood products, are lower than the emission rate in the CNHS-Brentwood home, which was not constructed with CARB ATCM Phase 2 composite wood products.

The following are my calculations for the indoor formaldehyde concentrations that will be experienced by the Project apartment occupants. We have assumed that the composite wood loading (ft² of composite wood per ft³ of indoor air) in the apartments is similar to that in the homes of the HENGH study.

From the HENGH formaldehyde emission rate data in Figure 1, we estimate that formaldehyde emission rates in the Project apartment spaces with an outdoor air exchange rate of 0.48 ach, is 10.75 µg/m³-h, and the resulting indoor formaldehyde concentration (emission rate divided by outdoor air exchange rate) is 22.4 µg/m³ (18.2 ppb).

While this calculated indoor formaldehyde concentration of 22.4 µg/m³ for the Project apartment spaces is lower than the 24.1 µg/m³ that I utilized in my April 2, 2024 comments, this concentration still results in an exposure for the apartment occupants that exceeds the CEQA cancer risk of 10 per million. While the code required outdoor air ventilation rates for Project apartments are higher than the residential ventilation rates in the HENGH study, the resulting cancer risk is reduced by less than 7%, from 120 per million to 112 per million, which exceeds the CEQA cancer risk of 10 per million.

With respect to the ESA statement “California’s regulation to limit formaldehyde emissions from composite wood products appears to have substantially lowered its emission rate and concentration in new homes.”, the following is my rebuttal comment.

Yes, the CARB Composite Wood Product (CWP) Regulation’s emission standards are set at low levels intended to protect public health, however this does not mean that these regulations result in indoor formaldehyde concentrations which meet the CEQA cancer risk of 10 per million.

In my April 2, 2024 Indoor Air Quality letter for Lockwood III Apartments Project, Oxnard, CA (attached in Appendix A), I explained in Appendix A of that letter that the CARB ATCM regulations do not “assure healthful indoor air quality”, but rather “reduce formaldehyde emissions from composite wood products”. Appendix A, Indoor Formaldehyde Concentrations and the CARB Formaldehyde ATCM, provides analyses that show utilization of CARB Phase 2 Formaldehyde ATCM materials will not ensure acceptable cancer risks with respect to formaldehyde emissions from composite wood products.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

With respect to the ESA statement “In addition, the commenter’s analysis is based on a series of inaccurate assumptions, including that the Project’s construction materials would not be compliant with the applicable regulations to reduce formaldehyde exposure; formaldehyde daily emissions from construction materials would be constant for over 70 years; residents would inhale 20 cubic meters of air per day; and residents would be at the

Project site for 24 hours/day, 7 days/week, 52 weeks/year for 70 years.”, the following is my rebuttal comment.

Yes, the formaldehyde emissions from composite wood products do decrease over time, but aside from a brief period when emissions decline rapidly from brand new composite wood products, the emissions of formaldehyde from composite wood products decline very slowly. The persistence of formaldehyde emission rates from laminated composite wood products is discussed in the 2016 paper Formaldehyde Emission Rates From Lumber Liquidators Laminate Flooring Manufactured in China (Offermann, 2016). In this paper, the reduction in the formaldehyde emission rates from composite wood products is modeled using a double exponential curve fit developed by Brown (2002). The fast decay time constant of 0.0014 h^{-1} represents a half-life of just 21 days and is believed to be associated with the release of residual free-formaldehyde from the manufacturing process. The slow decay time constant of 0.0000011 h^{-1} represents a half-life of 71.9 years and is believed to be the result of formaldehyde released by hydrolysis of the urea-formaldehyde resin in the composite woods caused by normal exposure to water vapor in the indoor air.

Thus, while the formaldehyde emission rates from composite wood products will reduce some over time, the emission rates at 45 years are only 17% less than the initial emission rates concentrations and still result in indoor cancer risks that still exceed 10 per million.

With respect to the ESA statement that my exposure assessment assumption that “residents would inhale 20 cubic meters of air per day; and residents would be at the Project site for 24 hours/day, 7 days/week, 52 weeks/year for 70 years.” is incorrect, the following is my rebuttal comment.

Regarding our assumption of a 70 year life time continuous exposure, Proposition 65 requires utilizing 70 years, which covers all occupants, including those that for medical reasons live indoors continuously their entire lives. Regarding our assumption of a $20 \text{ m}^3/\text{day}$ the daily inhalation volume of air, Proposition 65 requires utilizing daily inhalation rate of $20 \text{ m}^3/\text{day}$, which covers all occupants not just the “average” occupant

With respect to the ESA statement “Additionally, neither of the studies reported a cancer risk.”, the following is my rebuttal comment.

This statement is incorrect, one of the two studies, the California New Homes Study (CNHS), Ventilation and Indoor Air Quality in New Homes (Offermann, 2009), clearly states in Table 41 that 100% of the homes (n=105) exceeded the NSRL cancer risk for formaldehyde.

ESA Comment A-17.

Furthermore, per Section 16-420J Special Development Requirements (C) (3), of the Oxnard Code of Ordinances, MERV-14 filters would be required to be installed due to proximity to the US- 101 freeway. The City acknowledges this comment and as it does not raise a significant environmental issue regarding the adequacy of the information presented in the Public Review Draft IS/MND, no further response is required.

IEE Rebuttal Comment A-17.

With respect to the ESA statement that “MERV-14 filters would be required to be installed due to proximity to the US- 101 freeway.” the following is my rebuttal comment.

Yes, while MERV 14 filtration will be required for this project, a study of the outdoor air PM_{2.5} concentrations for this Project needs to be conducted to determine if MERV 14 air filters can provide the required air filtration such that the indoor concentrations of outdoor PM_{2.5} particles is less than the California and National PM_{2.5} annual and 24-hour standards, or if higher MERV rating filters are needed (e.g. , MERV 15 or 16). The Project is located in an area that the SCAQMD’s Multiple Air Toxics Exposure Study (“MATES V”) identifies having an existing cancer risk at the site of 464 per million due to the site’s elevated ambient air contaminant concentrations, which are due to the area’s high levels of vehicle traffic. Thus, a study of the ambient PM_{2.5} concentrations needs to be conducted, to determine what MERV rating the air filters need to have to provide acceptable indoor air concentrations of PM_{2.5}.

ESA Comment A-28.

With respect to the ESA Comment A-28, the comments are the same as those in Comment A-17, and my rebuttal comments are the same.

References

F. J. Offermann, “Formaldehyde Emission Rates From Lumber Liquidators Laminate Flooring Manufactured in China”, Indoor Air 2016, Belgium, Ghent, July, 2016.

APPENDIX A

IEE

INDOOR ENVIRONMENTAL ENGINEERING

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Subject: Indoor Air Quality: Lockwood III Apartments Project, Oxnard, CA.
(IEE File Reference: P-4789)

Pages: 18

Indoor Air Quality Impacts

Indoor air quality (IAQ) directly impacts the comfort and health of building occupants, and the achievement of acceptable IAQ in newly constructed and renovated buildings is a well-recognized design objective. For example, IAQ is addressed by major high-performance building rating systems and building codes (California Building Standards

Commission, 2014; USGBC, 2014). Indoor air quality in homes is particularly important because occupants, on average, spend approximately ninety percent of their time indoors with the majority of this time spent at home (EPA, 2011). Some segments of the population that are most susceptible to the effects of poor IAQ, such as the very young and the elderly, occupy their homes almost continuously. Additionally, an increasing number of adults are working from home at least some of the time during the workweek. Indoor air quality also is a serious concern for workers in hotels, offices and other business establishments.

The concentrations of many air pollutants often are elevated in homes and other buildings relative to outdoor air because many of the materials and products used indoors contain and release a variety of pollutants to air (Hodgson et al., 2002; Offermann and Hodgson, 2011). With respect to indoor air contaminants for which inhalation is the primary route of exposure, the critical design and construction parameters are the provision of adequate ventilation and the reduction of indoor sources of the contaminants.

Indoor Formaldehyde Concentrations Impact. In the California New Home Study (CNHS) of 108 new homes in California (Offermann, 2009), 25 air contaminants were measured, and formaldehyde was identified as the indoor air contaminant with the highest cancer risk as determined by the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), No Significant Risk Levels (NSRL) for carcinogens. The NSRL is the daily intake level calculated to result in one excess case of cancer in an exposed population of 100,000 (i.e., ten in one million cancer risk) and for formaldehyde is 40 $\mu\text{g}/\text{day}$. The NSRL concentration of formaldehyde that represents a daily dose of 40 μg is 2 $\mu\text{g}/\text{m}^3$, assuming a continuous 24-hour exposure, a total daily inhaled air volume of 20 m^3 , and 100% absorption by the respiratory system. All of the CNHS homes exceeded this NSRL concentration of 2 $\mu\text{g}/\text{m}^3$. The median indoor formaldehyde concentration was 36 $\mu\text{g}/\text{m}^3$, and ranged from 4.8 to 136 $\mu\text{g}/\text{m}^3$, which corresponds to a median exceedance of the 2 $\mu\text{g}/\text{m}^3$ NSRL concentration of 18 and a range of 2.3 to 68.

Therefore, the cancer risk of a resident living in a California home with the median indoor formaldehyde concentration of 36 $\mu\text{g}/\text{m}^3$, is 180 per million as a result of formaldehyde

alone. The CEQA significance threshold for airborne cancer risk is 10 per million, as established by the San Diego County Air Pollution Control District (SDAPCD, 2021).

Besides being a human carcinogen, formaldehyde is also a potent eye and respiratory irritant. In the CNHS, many homes exceeded the non-cancer reference exposure levels (RELs) prescribed by California Office of Environmental Health Hazard Assessment (OEHHA, 2017b). The percentage of homes exceeding the RELs ranged from 98% for the Chronic REL of 9 $\mu\text{g}/\text{m}^3$ to 28% for the Acute REL of 55 $\mu\text{g}/\text{m}^3$.

The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.

In January 2009, the California Air Resources Board (CARB) adopted an airborne toxics control measure (ATCM) to reduce formaldehyde emissions from composite wood products, including hardwood plywood, particleboard, medium density fiberboard, and also furniture and other finished products made with these wood products (California Air Resources Board 2009). While this formaldehyde ATCM has resulted in reduced emissions from composite wood products sold in California, they do not preclude that homes built with composite wood products meeting the CARB ATCM will have indoor formaldehyde concentrations below cancer and non-cancer exposure guidelines.

A follow up study to the California New Home Study (CNHS) was conducted in 2016-2018 (Singer et. al., 2019), and found that the median indoor formaldehyde in new homes built after 2009 with CARB Phase 2 Formaldehyde ATCM materials had lower indoor formaldehyde concentrations, with a median indoor concentrations of 22.4 $\mu\text{g}/\text{m}^3$ (18.2 ppb) as compared to a median of 36 $\mu\text{g}/\text{m}^3$ found in the 2007 CNHS. Unlike in the CNHS study where formaldehyde concentrations were measured with pumped DNPH samplers, the formaldehyde concentrations in the HENGH study were measured with passive samplers, which were estimated to under-measure the true indoor formaldehyde concentrations by approximately 7.5%. Applying this correction to the HENGH indoor

formaldehyde concentrations results in a median indoor concentration of 24.1 $\mu\text{g}/\text{m}^3$, which is 33% lower than the 36 $\mu\text{g}/\text{m}^3$ found in the 2007 CNHS.

Thus, while new homes built after the 2009 CARB formaldehyde ATCM have a 33% lower median indoor formaldehyde concentration and cancer risk, the median lifetime cancer risk is still 120 per million for homes built with CARB compliant composite wood products. This median lifetime cancer risk is more than 12 times the OEHHHA 10 in a million cancer risk threshold (OEHHHA, 2017a).

With respect to the Lockwood III Apartments Project, Oxnard, CA, the buildings consist of residential spaces.

The residential occupants will potentially have continuous exposure (e.g. 24 hours per day, 52 weeks per year). These exposures are anticipated to result in significant cancer risks resulting from exposures to formaldehyde released by the building materials and furnishing commonly found in residential construction.

Because these residences will be constructed with CARB Phase 2 Formaldehyde ATCM materials, and be ventilated with the minimum code required amount of outdoor air, the indoor residential formaldehyde concentrations are likely similar to those concentrations observed in residences built with CARB Phase 2 Formaldehyde ATCM materials, which is a median of 24.1 $\mu\text{g}/\text{m}^3$ (Singer et. al., 2020)

Assuming that the residential occupants inhale 20 m^3 of air per day, the average 70-year lifetime formaldehyde daily dose is 482 $\mu\text{g}/\text{day}$ for continuous exposure in the residences. This exposure represents a cancer risk of 120 per million, which is more than 12 times the CEQA cancer risk of 10 per million. For occupants that do not have continuous exposure, the cancer risk will be proportionally less but still substantially over the CEQA cancer risk of 10 per million (e.g. for 12/hour/day occupancy, more than 6 times the CEQA cancer risk of 10 per million).

In addition, we note that the average outdoor air concentration of formaldehyde in

California is 3 ppb, or 3.7 µg/m³, (California Air Resources Board, 2004), and thus represents an average pre-existing background airborne cancer risk of 1.85 per million. Thus, the indoor air formaldehyde exposures describe above exacerbate this pre-existing risk resulting from outdoor air formaldehyde exposures.

Appendix A, Indoor Formaldehyde Concentrations and the CARB Formaldehyde ATCM, provides analyses that show utilization of CARB Phase 2 Formaldehyde ATCM materials will not ensure acceptable cancer risks with respect to formaldehyde emissions from composite wood products.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

The following describes a method that should be used, prior to construction in the environmental review under CEQA, for determining whether the indoor concentrations resulting from the formaldehyde emissions of specific building materials/furnishings selected exceed cancer and non-cancer guidelines. Such a design analyses can be used to identify those materials/furnishings prior to the completion of the City's CEQA review and project approval, that have formaldehyde emission rates that contribute to indoor concentrations that exceed cancer and non-cancer guidelines, so that alternative lower emitting materials/furnishings may be selected and/or higher minimum outdoor air ventilation rates can be increased to achieve acceptable indoor concentrations and incorporated as mitigation measures for this project.

Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment

This formaldehyde emissions assessment should be used in the environmental review under CEQA to assess the indoor formaldehyde concentrations from the proposed loading of building materials/furnishings, the area-specific formaldehyde emission rate data for building materials/furnishings, and the design minimum outdoor air ventilation rates. This assessment allows the applicant (and the City) to determine, before the conclusion of the environmental review process and the building materials/furnishings are specified, purchased, and installed, if the total chemical emissions will exceed cancer and non-cancer guidelines, and if so, allow for changes in the selection of specific material/furnishings and/or the design minimum outdoor air ventilations rates such that cancer and non-cancer guidelines are not exceeded.

1.) Define Indoor Air Quality Zones. Divide the building into separate indoor air quality zones, (IAQ Zones). IAQ Zones are defined as areas of well-mixed air. Thus, each ventilation system with recirculating air is considered a single zone, and each room or group of rooms where air is not recirculated (e.g. 100% outdoor air) is considered a separate zone. For IAQ Zones with the same construction material/furnishings and design minimum outdoor air ventilation rates. (e.g. hotel rooms, apartments, condominiums, etc.) the formaldehyde emission rates need only be assessed for a single IAQ Zone of that type.

2.) Calculate Material/Furnishing Loading. For each IAQ Zone, determine the building material and furnishing loadings (e.g., m² of material/m² floor area, units of furnishings/m² floor area) from an inventory of all potential indoor formaldehyde sources, including flooring, ceiling tiles, furnishings, finishes, insulation, sealants, adhesives, and any products constructed with composite wood products containing urea-formaldehyde resins (e.g., plywood, medium density fiberboard, particleboard).

3.) Calculate the Formaldehyde Emission Rate. For each building material, calculate the formaldehyde emission rate (µg/h) from the product of the area-specific formaldehyde emission rate (µg/m²-h) and the area (m²) of material in the IAQ Zone, and from each furnishing (e.g. chairs, desks, etc.) from the unit-specific formaldehyde emission rate (µg/unit-h) and the number of units in the IAQ Zone.

NOTE: As a result of the high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014), most manufacturers of building materials furnishings sold in the United States conduct chemical emission rate tests using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers,” (CDPH, 2017), or other equivalent chemical emission rate testing methods. Most manufacturers of building furnishings sold in the United States conduct chemical emission rate tests using ANSI/BIFMA M7.1 Standard Test Method for Determining VOC Emissions (BIFMA, 2018), or other equivalent chemical emission rate testing methods.

CDPH, BIFMA, and other chemical emission rate testing programs, typically certify that a material or furnishing does not create indoor chemical concentrations in excess of the maximum concentrations permitted by their certification. For instance, the CDPH emission rate testing requires that the measured emission rates when input into an office, school, or residential model do not exceed one-half of the OEHHA Chronic Exposure Guidelines (OEHHA, 2017b) for the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017). These certifications themselves do not provide the actual area-specific formaldehyde emission rate (i.e., $\mu\text{g}/\text{m}^2\text{-h}$) of the product, but rather provide data that the formaldehyde emission rates do not exceed the maximum rate allowed for the certification. Thus, for example, the data for a certification of a specific type of flooring may be used to calculate that the area-specific emission rate of formaldehyde is less than $31 \mu\text{g}/\text{m}^2\text{-h}$, but not the actual measured specific emission rate, which may be 3, 18, or $30 \mu\text{g}/\text{m}^2\text{-h}$. These area-specific emission rates determined from the product certifications of CDPH, BIFA, and other certification programs can be used as an initial estimate of the formaldehyde emission rate.

If the actual area-specific emission rates of a building material or furnishing is needed (i.e. the initial emission rates estimates from the product certifications are higher than desired), then that data can be acquired by requesting from the manufacturer the complete chemical emission rate test report. For instance if the complete CDPH emission test report is requested for a CDHP certified product, that report will provide the actual area-specific emission rates for not only the 35 specific VOCs, including formaldehyde, listed

in Table 4-1 of the CDPH test method (CDPH, 2017), but also all of the cancer and reproductive/developmental chemicals listed in the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), all of the toxic air contaminants (TACs) in the California Air Resources Board Toxic Air Contamination List (CARB, 2011), and the 10 chemicals with the greatest emission rates.

Alternatively, a sample of the building material or furnishing can be submitted to a chemical emission rate testing laboratory, such as Berkeley Analytical Laboratory (<https://berkeleyanalytical.com>), to measure the formaldehyde emission rate.

4.) Calculate the Total Formaldehyde Emission Rate. For each IAQ Zone, calculate the total formaldehyde emission rate (i.e. $\mu\text{g/h}$) from the individual formaldehyde emission rates from each of the building material/furnishings as determined in Step 3.

5.) Calculate the Indoor Formaldehyde Concentration. For each IAQ Zone, calculate the indoor formaldehyde concentration ($\mu\text{g/m}^3$) from Equation 1 by dividing the total formaldehyde emission rates (i.e. $\mu\text{g/h}$) as determined in Step 4, by the design minimum outdoor air ventilation rate (m^3/h) for the IAQ Zone.

(Equation 1)

where:

C_{in} = indoor formaldehyde concentration ($\mu\text{g/m}^3$)

E_{total} = total formaldehyde emission rate ($\mu\text{g/h}$) into the IAQ Zone.

Q_{oa} = design minimum outdoor air ventilation rate to the IAQ Zone (m^3/h)

The above Equation 1 is based upon mass balance theory, and is referenced in Section 3.10.2 “Calculation of Estimated Building Concentrations” of the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers”, (CDPH, 2017).

6.) Calculate the Indoor Exposure Cancer and Non-Cancer Health Risks. For each IAQ Zone, calculate the cancer and non-cancer health risks from the indoor formaldehyde concentrations determined in Step 5 and as described in the OEHHA Air Toxics Hot Spots

Program Risk Assessment Guidelines; Guidance Manual for Preparation of Health Risk Assessments (OEHHA, 2015).

7.) Mitigate Indoor Formaldehyde Exposures of exceeding the CEQA Cancer and/or Non-Cancer Health Risks. In each IAQ Zone, provide mitigation for any formaldehyde exposure risk as determined in Step 6, that exceeds the CEQA cancer risk of 10 per million or the CEQA non-cancer Hazard Quotient of 1.0.

Provide the source and/or ventilation mitigation required in all IAQ Zones to reduce the health risks of the chemical exposures below the CEQA cancer and non-cancer health risks.

Source mitigation for formaldehyde may include:

- 1.) reducing the amount materials and/or furnishings that emit formaldehyde
- 2.) substituting a different material with a lower area-specific emission rate of formaldehyde

Ventilation mitigation for formaldehyde emitted from building materials and/or furnishings may include:

- 1.) increasing the design minimum outdoor air ventilation rate to the IAQ Zone.

NOTE: Mitigating the formaldehyde emissions through use of less material/furnishings, or use of lower emitting materials/furnishings, is the preferred mitigation option, as mitigation with increased outdoor air ventilation increases initial and operating costs associated with the heating/cooling systems.

Further, we are not asking that the builder “speculate” on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers,” (CDPH, 2017), and use the procedure described earlier above (i.e. Pre-

Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Impact. Another important finding of the CNHS, was that the outdoor air ventilation rates in the homes were very low. Outdoor air ventilation is a very important factor influencing the indoor concentrations of air contaminants, as it is the primary removal mechanism of all indoor air generated contaminants. Lower outdoor air exchange rates cause indoor generated air contaminants to accumulate to higher indoor air concentrations. Many homeowners rarely open their windows or doors for ventilation as a result of their concerns for security/safety, noise, dust, and odor concerns (Price, 2007). In the CNHS field study, 32% of the homes did not use their windows during the 24-hour Test Day, and 15% of the homes did not use their windows during the entire preceding week. Most of the homes with no window usage were homes in the winter field session. Thus, a substantial percentage of homeowners never open their windows, especially in the winter season. The median 24-hour measurement was 0.26 air changes per hour (ach), with a range of 0.09 ach to 5.3 ach. A total of 67% of the homes had outdoor air exchange rates below the minimum California Building Code (2001) requirement of 0.35 ach. Thus, the relatively tight envelope construction, combined with the fact that many people never open their windows for ventilation, results in homes with low outdoor air exchange rates and higher indoor air contaminant concentrations.

The Lockwood III Apartments Project, Oxnard, CA is close to roads with moderate to high traffic (e.g., Lakewood Street, East Gonzalez Road, Ventura Freeway -101, etc.) and thus the Project site is a sound impacted site.

According to the Initial Study/Mitigated Negative Declaration- Lockwood III Apartments Project, Oxnard, CA (ESA, 2024), Appendix I, Table 10, the ambient noise levels with the Project range from 66.1 to 71.2 dBA CNEL.

However, these ambient noise levels were only measured during a single 24-hour period (August 1-2, 2022). In order to design the building for this Project such that interior noise

levels are acceptable, an acoustic study with actual on-site measurements of the existing ambient noise levels and modeled future ambient noise levels needs to be conducted. The acoustic study of the existing ambient noise levels should be conducted over a one-week period, and report the dBA CNEL or Ldn. This study will allow for the selection of a building envelope and windows with a sufficient STC such that the indoor noise levels are acceptable. A mechanical supply of outdoor air ventilation to allow for a habitable interior environment with closed windows and doors will also be required. Such a ventilation system would allow windows and doors to be kept closed at the occupant's discretion to control exterior noise within building interiors.

PM_{2.5} Outdoor Concentrations Impact. An additional impact of the nearby motor vehicle traffic associated with this project, are the outdoor concentrations of PM_{2.5}. Initial Study/Mitigated Negative Declaration- Lockwood III Apartments Project, Oxnard, CA (ESA, 2024), the Project is located in the South Coast Air Basin, which is a State and Federal non-attainment area for PM_{2.5}.

An air quality analyses should be conducted to determine the concentrations of PM_{2.5} in the outdoor and indoor air that people inhale each day. This air quality analyses needs to consider the cumulative impacts of the project related emissions, existing and projected future emissions from local PM_{2.5} sources (e.g. stationary sources, motor vehicles, and airport traffic) upon the outdoor air concentrations at the Project site. If the outdoor concentrations are determined to exceed the California and National annual average PM_{2.5} exceedence concentration of 12 µg/m³, or the National 24-hour average exceedence concentration of 35 µg/m³, then the buildings need to have a mechanical supply of outdoor air that has air filtration with sufficient removal efficiency, such that the indoor concentrations of outdoor PM_{2.5} particles is less than the California and National PM_{2.5} annual and 24-hour standards.



It is my experience that based on the projected high traffic noise levels, the annual average concentration of PM_{2.5} will exceed the California and National PM_{2.5} annual and 24-hour standards and warrant installation of high efficiency air filters (i.e. MERV 13 or higher) in all mechanically supplied outdoor air ventilation systems.

Indoor Air Quality Impact Mitigation Measures

The following are recommended mitigation measures to minimize the impacts upon indoor quality:

Indoor Formaldehyde Concentrations Mitigation. Use only composite wood materials (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins (CARB, 2009). CARB Phase 2 certified composite wood products, or ultra-low emitting formaldehyde (ULEF) resins, do not insure indoor formaldehyde concentrations that are below the CEQA cancer risk of 10 per million. Only composite wood products manufactured with CARB approved no-added formaldehyde (NAF) resins, such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

Alternatively, conduct the previously described Pre-Construction Building Material/Furnishing Chemical Emissions Assessment, to determine that the combination of formaldehyde emissions from building materials and furnishings do not create indoor formaldehyde concentrations that exceed the CEQA cancer and non-cancer health risks.

It is important to note that we are not asking that the builder “speculate” on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers”, (CDPH, 2017), and use the procedure described above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Mitigation. Provide each habitable room with a continuous mechanical supply of outdoor air that meets or exceeds the California 2016 Building Energy Efficiency Standards (California Energy Commission, 2015) requirements of the greater of 15 cfm/occupant or 0.15 cfm/ft² of floor area. Following installation of the system conduct testing and balancing to insure that required amount of outdoor air is entering each habitable room and provide a written report documenting the outdoor airflow rates. Do not use exhaust only mechanical outdoor air systems, use only balanced outdoor air supply and exhaust systems or outdoor air supply only systems. Provide a manual for the occupants or maintenance personnel, that describes the purpose of the mechanical outdoor air system and the operation and maintenance requirements of the system.

PM_{2.5} Outdoor Air Concentration Mitigation. Install air filtration with sufficient PM_{2.5} removal efficiency (e.g. MERV 13 or higher) to filter the outdoor air entering the mechanical outdoor air supply systems, such that the indoor concentrations of outdoor PM_{2.5} particles are less than the California and National PM_{2.5} annual and 24-hour standards. Install the air filters in the system such that they are accessible for replacement by the occupants or maintenance personnel. Include in the mechanical outdoor air ventilation system manual instructions on how to replace the air filters and the estimated frequency of replacement.

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APPENDIX A

INDOOR FORMALDEHYDE CONCENTRATIONS AND THE CARB FORMALDEHYDE ATCM

With respect to formaldehyde emissions from composite wood products, the CARB ATCM regulations of formaldehyde emissions from composite wood products, do not assure healthful indoor air quality. The following is the stated purpose of the CARB ATCM regulation - *The purpose of this airborne toxic control measure is to “reduce formaldehyde emissions from composite wood products, and finished goods that contain composite wood products, that are sold, offered for sale, supplied, used, or manufactured for sale in California”*. In other words, the CARB ATCM regulations do not “assure healthful indoor air quality”, but rather “reduce formaldehyde emissions from composite wood products”.

Just how much protection do the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products? Definitely some, but certainly the regulations do not “*assure healthful indoor air quality*” when CARB Phase 2 products are utilized. As shown in the Chan 2019 study of new California homes, the median indoor formaldehyde concentration was of 22.4 $\mu\text{g}/\text{m}^3$ (18.2 ppb), which corresponds to a cancer risk of 112 per million for occupants with continuous exposure, which is more than 11 times the CEQA cancer risk of 10 per million.

Another way of looking at how much protection the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products is to calculate the maximum number of square feet of composite wood product that can be in a residence without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy.

For this calculation I utilized the floor area (2,272 ft^2), the ceiling height (8.5 ft), and the number of bedrooms (4) as defined in Appendix B (New Single-Family Residence Scenario) of the Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers, Version 1.1,

2017, California Department of Public Health, Richmond, CA.
<https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/EHLB/IAQ/Pages/VOC.aspx>.

For the outdoor air ventilation rate I used the 2019 Title 24 code required mechanical ventilation rate (ASHRAE 62.2) of 106 cfm (180 m³/h) calculated for this model residence. For the composite wood formaldehyde emission rates I used the CARB ATCM Phase 2 rates.

The calculated maximum number of square feet of composite wood product that can be in a residence, without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 15 ft² (0.7% of the floor area), or
Particle Board – 30 ft² (1.3% of the floor area), or
Hardwood Plywood – 54 ft² (2.4% of the floor area), or
Thin MDF – 46 ft² (2.0 % of the floor area).

For offices and hotels the calculated maximum amount of composite wood product (% of floor area) that can be used without exceeding the CEQA cancer risk of 10 per million for occupants, assuming 8 hours/day occupancy, and the California Mechanical Code minimum outdoor air ventilation rates are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 3.6 % (offices) and 4.6% (hotel rooms), or
Particle Board – 7.2 % (offices) and 9.4% (hotel rooms), or
Hardwood Plywood – 13 % (offices) and 17% (hotel rooms), or
Thin MDF – 11 % (offices) and 14 % (hotel rooms)

Clearly the CARB ATCM does not regulate the formaldehyde emissions from composite wood products such that the potentially large areas of these products, such as for flooring, baseboards, interior doors, window and door trims, and kitchen and bathroom cabinetry,

could be used without causing indoor formaldehyde concentrations that result in CEQA cancer risks that substantially exceed 10 per million for occupants with continuous occupancy.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

If CARB Phase 2 compliant or ULEF composite wood products are utilized in construction, then the resulting indoor formaldehyde concentrations should be determined in the design phase using the specific amounts of each type of composite wood product, the specific formaldehyde emission rates, and the volume and outdoor air ventilation rates of the indoor spaces, and all feasible mitigation measures employed to reduce this impact (e.g. use less formaldehyde containing composite wood products and/or incorporate mechanical systems capable of higher outdoor air ventilation rates). See the procedure described earlier (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Alternatively, and perhaps a simpler approach, is to use only composite wood products (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins.

EXHIBIT F



WI #24-002.07

April 8th, 2023

Ms. Marjan Kris Abubo
Lozeau | Drury LLP
1939 Harrison Street, Suite 150
Oakland, CA 94612

**SUBJECT: Lockwood III Apartments
Oxnard, California
Review and Comment on Noise Study**

Dear Mr. Abubo,

Per your request, Wilson Ihrig has reviewed the information and noise impact analysis in the Initial Study/Mitigated Negative Declaration (IS/MND) for the Lockwood III apartments, with an emphasis on the Appendix I, the Noise Study, developed by Meridian Consultants and dated September 2023. The Proposed Project is construction of a 5-story approximately 234-unit multi-family residential building on undeveloped land in the City of Oxnard. The project is surrounded by sensitive uses, including the California Lutheran University Satellite Campus at 2201 Outlet Center Drive, as well as medical office buildings at 1900, 1901, and 2024 Outlet Center Drive

Wilson Ihrig, Acoustical Consultants, has practiced exclusively in the field of acoustics since 1966. During our 57 years of operation, we have prepared hundreds of noise studies for Environmental Impact Reports and Statements. We have one of the largest technical laboratories in the acoustical consulting industry. We also utilize industry-standard acoustical programs such as Roadway Construction Noise Model (RCNM), SoundPLAN, and CADNA. In short, we are well qualified to prepare environmental noise studies and review studies prepared by others.

Adverse Effects of Noise¹

Although the health effects of noise are not taken as seriously in the United States as they are in other countries, they are real and, in many parts of the country, pervasive.

Noise-Induced Hearing Loss. If a person is repeatedly exposed to loud noises, he or she may experience noise-induced hearing impairment or loss. In the United States, both the Occupational Health and Safety Administration (OSHA) and the National Institute for Occupational Safety and

¹ More information on these and other adverse effects of noise may be found in *Guidelines for Community Noise*, eds B Berglund, T Lindvall, and D Schwela, World Health Organization, Geneva, Switzerland, 1999. (<https://www.who.int/docstore/peh/noise/Comnoise-1.pdf>)

Health (NIOSH) promote standards and regulations to protect the hearing of people exposed to high levels of industrial noise.

Speech Interference. Another common problem associated with noise is speech interference. In addition to the obvious issues that may arise from misunderstandings, speech interference also leads to problems with concentration fatigue, irritation, decreased working capacity, and automatic stress reactions. For complete speech intelligibility, the sound level of the speech should be 15 to 18 dBA higher than the background noise. Typical indoor speech levels are 45 to 50 dBA at 1 meter, so any noise above 30 dBA begins to interfere with speech intelligibility. The common reaction to higher background noise levels is to raise one's voice. If this is required persistently for long periods of time, stress reactions and irritation will likely result.

Sleep Disturbance. Noise can disturb sleep by making it more difficult to fall asleep, by waking someone after they are asleep, or by altering their sleep stage, e.g., reducing the amount of rapid eye movement (REM) sleep. Noise exposure for people who are sleeping has also been linked to increased blood pressure, increased heart rate, increase in body movements, and other physiological effects. Not surprisingly, people whose sleep is disturbed by noise often experience secondary effects such as increased fatigue, depressed mood, and decreased work performance.

Cardiovascular and Physiological Effects. Human's bodily reactions to noise are rooted in the "fight or flight" response that evolved when many noises signaled imminent danger. These include increased blood pressure, elevated heart rate, and vasoconstriction. Prolonged exposure to acute noises can result in permanent effects such as hypertension and heart disease.

Impaired Cognitive Performance. Studies have established that noise exposure impairs people's abilities to perform complex tasks (tasks that require attention to detail or analytical processes) and it makes reading, paying attention, solving problems, and memorizing more difficult. This is why there are standards for classroom background noise levels and why offices and libraries are designed to provide quiet work environments.

Construction Noise Threshold is Misinterpreted

The Noise Memo in Appendix I errs by using the Federal Transit Administration (FTA) detailed assessment methodology with the contradictory and less stringent general assessment threshold. Appendix I states on page 11 that "a construction-related noise level threshold is adopted from the FTA Construction Noise Handbook for General Assessment Construction Noise Criteria" and that "The construction noise criteria threshold for residential uses is 90 dBA (Leq-1hour) during the daytime." This is correctly cited from the manual.

Additionally, on Page 15, the Noise Appendix states that in order to "calculate construction noise levels, hourly activity or utilization factors ... are estimated based on the temporal characteristics of other previous and current construction projects." These values are then given as an input in Table 6, which affects the construction noise source level used in the model (and thus the final modeled construction noise level).

However, it should be noted that the FTA advises assuming a usage factor of 1 when using a general assessment in the Transit Noise and Vibration Impact Assessment Manual.² The same document notes that usage factors are only utilized in the detailed assessment. Included usage factors in a general assessment underestimates noise by as much as 7 decibels for pieces of equipment that are used in the analysis, such as cranes. This difference is baked into the different criteria. The general assessment will almost always have higher levels than the detailed assessment since there is no usage factor adjustment, and thus has a higher criterion of 90 dBA. The detailed assessment is the inverse; typically lower modeled construction noise levels with a lower criterion of 80 dBA. The document's approach of using FTA general assessment criteria while incorporating usage factors significantly underestimates the potential impact of construction noise, especially since the modeled noise for the Site Preparation and Grading phases are 7 dBA over the 80 dBA threshold. This error should be fixed in an updated EIR, with more attention paid to consistency different construction noise modeling methodologies and thresholds.

On-Site Operational Noise Analysis is Incomplete

The Noise Analysis does not study impacts generated by noise produced by this project on nearby receivers. As such, it's possible the rooftop mechanical equipment, among other things, would raise nearby ambient levels over impact thresholds. This is especially a concern at night since HVAC systems can run at any hour.

There are no calculations nor any evidence provided that demonstrates mechanical equipment used in the Project will not be potentially significant at nearby sensitive receivers. Typical noise levels associated with mechanical equipment can be placed in a noise model with distance attenuation and project geometry to determine if there is an impact that would require mitigation. To confirm a less than significant impact, the Project Applicant should demonstrate in an Environmental Impact Report that the level generated by these sources is below reasonable significance thresholds.

The Potential for Building Damage Caused by Construction Vibration is Not Studied

Table 8 presents modeled construction vibration annoyance levels along with associated thresholds for applicable sensitive receivers. The FTA guidance manual states on Page 182 that "Buildings founded on the soil near the construction site [can] respond to these [construction] vibrations with ... slight damage at the highest [vibration] levels." As such, it is imperative that all nearby sensitive receivers are analyzed for construction vibration damage to nearby structures, as such levels are within the realm of possibility. This should be included in an Environmental Impact Report.

Off-Site Operational Noise Analysis is Incomplete

Table 9 in the Noise Analysis presents Existing Plus Project Noise Levels with and without the project traffic and compares this difference to significance thresholds. However, the analysis only considers Rice Avenue, Gonzales Road, and Rose Avenue. This means that potential traffic noise increases on Lockwood Ave and Outlet Center Drive are not considered.

This is particularly egregious for Lockwood Street, which is the main access road in and out of the site. Current traffic levels are presumably low, and even slight increases may double traffic, which

² https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf page 177

could increase noise levels by 3 dBA³. As such, there is a potential for significant impacts, and the issue should be studied in an Environmental Impact Report.

Conclusion

The IS/MND includes several errors, including an improper interpretation of construction noise guidelines, and little to no analysis on rooftop mechanical noise, construction vibration damage to buildings, and off-site noise on Lockwood Ave and Outlet Center Drive. These error and omissions should be corrected in a revised IS/MND or in an Environmental Impact Report.

Please feel free to contact me with any questions on this information.

Very truly yours,
WILSON IHRIG

A handwritten signature in blue ink, appearing to read "John Meighan", is written over a horizontal line.

John Meighan
Associate

lockwood 3 apartments mnd - comments on noise analysis - j meighan.docx

³Since 3dBA represents a doubling of sound energy <https://www.nps.gov/subjects/sound/mapfaq.htm>

EXHIBIT G



WI #24-002.17

July 30th, 2024

Marjan R. Abubo, Esquire
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**SUBJECT: Lockwood III Apartments
Response to Comments on Initial Study/Mitigated Negative Declaration
(IS/MND)**

Below is our response to comments on the letter we sent on April 8th 2024 regarding the Lockwood III Apartments Residential Project, based on the document “Lockwood III Apartments: Response to Comments on Public Review Draft Initial Study/Mitigated Negative Declaration” by ESA dated July 2024.

Response to A-19 and A-38

On page 3-170, the response to comments states that “A general noise assessment is suitable and appropriate given the current stage of planning and evaluation for this Project.” This is appropriate and was not questioned by our comments. This is even stated in our original letter where we say on page 2 that the criteria is properly cited from the manual.

Our issue is that the calculation is incorrect, based on the methodology from the cited Federal Transit Administration’s Transit Noise and Vibration Impact Assessment Manual¹ (FTA). Table 1 shows a summary of different FTA methodologies and assumptions used in each calculation.

Table 1: Summary of FTA Construction Noise Methodologies and Procedures.

Difference Between Methods	Detailed FTA Methodology	General FTA Methodology
Threshold	80 dBA	90 dBA
Usage Factors	Includes RCNM Usage Factors	All Usage Factors = 1
Receiver Location	Closest Distance from Project Site to Receiver	Center of Project Site to Receiver

The MND uses the 90 dBA threshold (second paragraph of page 11 of the MND Noise Appendix), with usage factors (last paragraph of page 15 of the MND Noise Appendix). If Usage Factors are present in the calculation, the more appropriate threshold is 80 dBA. This is explained in more detail in pages

¹ https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf

177-179 of the FTA manual. As discussed in our previous letter, the current methodology used by the MND erroneously underestimates noise by as much as 7 dBA.

The response goes on to say that “construction noise levels provided in the Noise Study and Public Review Draft IS/MND do not include any reduction related to standard noise control strategies” and as such “in the event the more stringent threshold of 80 dBA was utilized, construction noise levels would fall below this level with implementation of regulatory compliance and best management practices.” However, this claim is unsupported. The purpose of the CEQA process is to show that thresholds are met, not to provide indeterminate strategies for avoiding threshold exceedances.

The response claims that there are “muffler systems that can reduce construction noise levels by 10 dBA or more” without providing evidence. In fact, source levels used in the MND are already accounting for mufflers. On page 16 of the Noise Appendix, the MND states “Typical noise levels for each type of construction equipment were obtained from the FHWA Roadway Construction Noise Model.” The source of this data is from contemporary equipment that is already equipped with mufflers, as the bulk of sound data in this model was obtained during the 1990s and 2000s during the Central Artery Tunnel project in Boston. By the 1990s, virtually all construction equipment was fitted with mufflers, so the reference sound levels already account for the noise reduction they provide. Therefore, the assumption that adding mufflers can provide a 10 dB reduction to estimated noise levels is unsubstantiated and unrealistic, creating an underestimation of construction noise levels that may lead to unstudied and unmitigated significant noise impacts.

Finally, the response states that “modifications such as dampening of metal surfaces or the redesign of a particular piece of equipment can achieve a noise reduction of up to 5 dBA.” This is without any discussion of what a ‘redesign’ of a particular piece of equipment entails, as well as why and how it could be implemented on this project.

Response to Comment A-20 and A-39

In response to concerns from both our firm and other parties, the MND was amended to add a section involving HVAC noise. The new analysis states that “the noise levels generated by these equipment types would not be substantially greater than those generated by the current HVAC equipment serving the existing buildings in the Project vicinity.” This is probably true, but it fails to represent or introduce a worst-case scenario. Even if levels were exactly the same as nearby buildings, that does not preclude a potential impact. When a second identical noise source is added to a continuously running first source, sound levels increase by 3 dB². 3 dBA is used as the traffic noise significance threshold in the MND. The MND’s approach of saying that the noise is already present and similar noise is therefore insignificant, is an insufficient approach, since adding an additional single source could present a situation where noise levels exceed significance thresholds.

Additionally, the response says, “because the noise levels generated by the HVAC equipment serving the Proposed Project would be designed to not exceed the ambient noise levels allowable by the City of Oxnard Municipal Code, a substantial permanent increase in noise levels would not occur at the nearby sensitive receptor.” The analysis includes no discussion of how realistic this could be. The result is circular – the source levels would always be low enough using this method to ensure there is no impact, regardless of how unrealistic the source levels may be. Typical noise levels associated

² <https://msp.ucsd.edu/techniques/v0.08/book-html/node6.html>

with mechanical equipment can be placed in a noise model with distance attenuation and project geometry/topography to determine if there is an impact that would require mitigation. To confirm a less than significant impact, the MND should demonstrate that the level generated by these sources is below appropriate significance thresholds.

Response to Comment A-40

This comment states that the MND “did analyze structural vibration impacts” since “human annoyance vibrational impacts were less than significant” and “human annoyance thresholds are lower than the structural damage thresholds.” It was determined that “structural vibrational impacts would also be less than significant, and an analysis is not warranted.” This is true and was not stated in the MND. This response is accepted.

However, it is worth noting that the MND may show an unreported significant impact. The chosen criteria for California Lutheran University is 90 VdB, which is appropriate for Workshops (Noise Appendix, Table 3). However, a university may be best categorized as an office, which has an 84 VdB threshold. The university environment involves learning and studying in a quiet, daytime setting. It is not as sensitive as places where people sleep, but is more sensitive than a workshop, where people are generally more active and where there are more noise and vibration sources from within the environment itself. Table 8 shows the predicted vibration level is 87 VdB, which is over the 84 VdB office threshold. This would count as an impact and should be studied in an Environmental Impact Report.

Response to Comment A-41

Rose Avenue, Gonzalez Street, and Rice Avenue are all major roads that lead into the area of the proposed development. These are heavily trafficked roads, where the analysis correctly states the influence of traffic from one new development would not meaningfully impact traffic noise levels on these streets. The Response then asserts that although “traffic was not measured along Lockwood Drive itself, traffic that uses Lockwood Drive was captured at the intersections analyzed in the Public Review Draft IS/MND” and thus the MND “thoroughly covered all the roadways that lead to the Project site.”

However, none of them have direct access into the proposed development, like Lockwood Avenue and Outlet Center Drive do. These two smaller roads have a fraction of the overall existing traffic in comparison to the larger roads of Rose, Rice or Gonzalez. But they have the same amount of new traffic as the larger roads. The relative increase on these two smaller roads would therefore be higher than on the larger roads with higher existing traffic, since both have the same set amount of increased traffic. The response does not meaningfully address this issue, and we believe a traffic noise study should have been conducted on Lockwood Avenue and Outlet Center Drive.

Conclusion

We believe that there is a good chance that the project may create significant noise and vibration impacts, which are unaddressed by the MND and the associated response. Let us know if you have any questions.

Very truly yours, WILSON IHRIG

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April 12, 2024

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**Re: Comment on the Mitigated Negative Declaration
Lockwood III Apartments Project (Record No. Record No. 24-01)**

Dear Mr. Pearson and Honorable Members of the Planning Commission:

I am writing on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”) and its members living and working in and around the City of Oxnard (“City”). This letter is with regard to the Initial Study and Mitigated Negative Declaration (“IS/MND”) prepared for the Lockwood III Apartments Project (Record No. 24-01), which proposes development of a 225,348 square foot multifamily development building (“Project”).

After careful review of the IS/MND and its accompanying documents prepared by Environmental Science Associates (“ESA”), SAFER believes that the IS/MND is improper under the California Environmental Quality Act, and that an environmental impact report (“EIR”) is required. As explained in more detail below, there is a fair argument that the Project may have adverse environmental impacts related to biological resources, air quality, and noise.

Furthermore, the MND’s proposed mitigated measures inadequately address the Project’s environmental impacts, and as such conflict with the air quality policies pursuant to the Ventura County Air Pollution Control District. SAFER’s review of the MND was assisted by expert biologist Dr. Shawn Smallwood, indoor air quality expert Francis Offermann, CIH, and the expert acoustical consulting firm Wilson Ihrig. Our expert comments and CVs are attached as Exhibits A, B, and C, respectively.

SAFER requests that the City not proceed with certifying the MND and to instead prepare an EIR to ensure that potentially significant adverse impacts of this Project are fully disclosed, analyzed, and mitigated.

PROJECT DESCRIPTION

The Project is located at 2151 Lockwood Street, in Oxnard, California. The Applicant, SVM Development LLC, Inc., proposes the construction of a new multifamily residential development comprised of 234 dwelling units located within buildings up to five-stories, all situated atop a two-level subterranean parking garage with 351 parking spaces.

The Project gross floor area measures 225,348 square feet and the Project site sits on approximately 5.17 acres, with sensitive receptors surrounding the site. The total residential space would be 201,115 SF; covered balconies, patios, parking and walkways would comprise 75,250 SF; corridors would comprise 40,497 SF; balconies 22,610 SF; utility space 16,710 SF; and community space 13,609 SF. The remaining SF would be comprised of corridor and vertical circulation (2,668 SF) and non-conditioned building (592 SF).

LEGAL STANDARD

As the California Supreme Court has held “[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR.” (*Communities for a Better Env’t v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319-320 [citing *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 88; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491, 504–505].) “Significant environmental effect” is defined very broadly as “a substantial or potentially substantial adverse change in the environment.” (Pub. Res. Code § 21068; *see also* 14 CCR § 15382.)

The EIR is the very heart of CEQA. *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214 (*Bakersfield Citizens*); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927. The EIR is an “environmental ‘alarm bell’ whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return.” *Bakersfield Citizens*, 124 Cal.App.4th at 1220. The EIR also functions as a “document of accountability,” intended to “demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.” *Laurel Heights Improvements Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 392. The EIR process “protects not only the environment but also informed self-government.” *Pocket Protectors*, 124 Cal.App.4th at 927.

Where an initial study shows that the project may have a significant effect on the environment, a mitigated negative declaration may be appropriate. However, a mitigated negative declaration is proper *only* if the project revisions would avoid or mitigate the potentially significant effects identified in the initial study “to a point where clearly no significant effect on the environment would occur, and...there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.” PRC §§ 21064.5 and 21080(c)(2); *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 331. In that context, “may” means a reasonable possibility of a significant

effect on the environment. PRC §§ 21082.2(a), 21100, 21151(a); *Pocket Protectors*, 124 Cal.App.4th at 927; *League for Protection of Oakland's etc. Historic Res. v. City of Oakland* (1997) 52 Cal.App.4th 896, 904–05.

Under the “fair argument” standard, an EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency’s decision. 14 CCR § 15064(f)(1); *Pocket Protectors*, 124 Cal.App.4th at 931; *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-51; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602. The “fair argument” standard creates a “low threshold” favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. *Pocket Protectors*, 124 Cal.App.4th at 928. The “fair argument” standard is virtually the opposite of the typical deferential standard accorded to agencies. As a leading CEQA treatise explains:

This ‘fair argument’ standard is very different from the standard normally followed by public agencies in making administrative determinations. Ordinarily, public agencies weigh the evidence in the record before them and reach a decision based on a preponderance of the evidence. [Citations]. The fair argument standard, by contrast, prevents the lead agency from weighing competing evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact. The lead agency’s decision is thus largely legal rather than factual; it does not resolve conflicts in the evidence but determines only whether substantial evidence exists in the record to support the prescribed fair argument.

Kostka & Zishcke, *Practice Under CEQA*, §6.29, pp. 273–74.

The Courts have explained that “it is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency’s determination. Review is de novo, with a *preference for resolving doubts in favor of environmental review*.” *Pocket Protectors*, 124 Cal.App.4th at 928 (emphasis in original).

DISCUSSION

I. There is Substantial Evidence of a Fair Argument that the Project Will Have Significant Biological Resources Impacts.

An EIR is required because substantial evidence in the record indicates a fair argument that the Project will have significant biological impacts. Specifically, expert wildlife biologist Dr. Shawn Smallwood, Ph.D. reviewed the Project and MND document and concluded that the Project site has value as a habitat for special status species and that the Project will have significant impacts on biological resources. Dr. Smallwood’s comments are supported by a site visit by wildlife biologist Noriko Smallwood (“Ms. Smallwood”). (Ex. A, p. 1.) Ms. Smallwood is an expert wildlife ecologist with a focus on urban ecology, avian ecology, and habitat conservation. Ms. Smallwood visited the site for approximately 3.5 hours on March 28, 2024,

starting at 7:26 am. (*Id.*) She walked the site's perimeter, using binoculars to scan and a camera to capture wildlife. (*Id.*) Dr. Smallwood's comments and CVs are attached Exhibit A.

For the following reasons set forth below, the City should not certify the MND and must instead prepare and circulate an EIR for the Project.

A. The IS/MND Fails to Adequately Describe the Project's Environmental Setting.

The City inadequately characterized the existing environmental setting and the site's ability to provide habitat for special-status species. Every CEQA document must start from a "baseline" assumption. The CEQA "baseline" is the set of environmental conditions against which to compare a project's anticipated impacts. *Communities for a Better Env't. v. So. Coast Air Qual. Mgmt. Dist.* (2010) 48 Cal. 4th 310, 321. Section 15125(a) of the CEQA Guidelines (14 C.C.R., § 15125(a)) states in pertinent part that a lead agency's environmental review under CEQA:

"...must include a description of the physical environmental conditions in the vicinity of the project, *as they exist at the time [environmental analysis] is commenced*, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant." (Emphasis added.)

(See, *Save Our Peninsula Committee v. County of Monterey* (2001) 87 Cal.App.4th 99, 124-125.) As the court of appeal has explained, "the impacts of the project must be measured against the 'real conditions on the ground,'" and not against hypothetical permitted levels. (*Save Our Peninsula, supra*, 87 Cal.App.4th 99, 121-123.)

The field survey prepared by ESA, which was used to inform the environmental setting, is deficient. The reconnaissance survey concluded that a mere three species were detected at the Project site. However, as Dr. Smallwood notes, ESA failed to include the methodological details that shaped the survey findings, information that is essential "to characterize the environmental setting as a basis for opining on, or predicting, potential project impacts to biological resources." (Ex. A, p. 15.) Of the three species detected by ESA, Ms. Smallwood detected one during her site visit, but the rest of ESA's findings and subsequent conclusion starkly differs from Ms. Smallwood's site visit and findings. (*Id.*) As Dr. Smallwood explains, it remains unclear as to why and how ESA's survey omitted wildlife that were so abundant when Ms. Smallwood visited the Project site (*Id.*) The clear disparities between what ESA's and Ms. Smallwood's surveys as well as the unclear method in which ESA's survey was performed and documented require additional review.

Furthermore, Ms. Smallwood observed 25 species of vertebrate wildlife at and/or near the Project site, three of which were special-status species. (Ex. A, p. 3, Table 1.) These species include the Western gull (*Larus occidentalis*), which is classified as "Birds of Conservation

Concern.”¹ (*Id.*) Birds of Conservation Concern include “migratory nongame birds that without additional conservation action are likely to become candidates for listing under the Endangered Species Act (ESA) of 1973.”² Ms. Smallwood also observed the American kestrel (*Falco sparverius*) actively hunting on-site as well as Red-tailed hawk flying nearby. Both species are considered Birds of Prey, which are a valuable resource to the State of California, and are therefore protected under state law.³ (*Id.*) “Special Status Species” is a universal term used in the scientific community for species that are considered sufficiently rare that they require special consideration and/or protection and should be, or have been, listed as rare, threatened or endangered by the Federal and/or State governments.”⁴

In addition, Dr. Smallwood opines that ESA’s survey may not have been performed thoroughly. While ESA instituted a 200-foot buffer surrounding the Project site, it failed to report on the California ground squirrels, which “is especially significant because burrowing owls rely on ground squirrels and their burrows, and the occurrence of ground squirrels greatly increases the likelihood of use of the site by burrowing owls.” (*Id.*) These observations undermine ESA’s survey credibility because the survey’s failure to identify suitable habitat for burrowing owls is incorrect. Therefore, the ESA survey underestimates the Project site’s suitability for habitat, especially for burrowing owls.

The desktop survey performed by ESA also is misleading, making the resulting MND document inaccurate. In omitting all special-status plant and wildlife species from its analysis, the MND explains that the disturbed conditions of the Project site mean that there is no suitable habitat on it. That is an incorrect conclusion to reach. Dr. Smallwood explains that even though most places in the state is disturbed to some degree, “no explanation is provided of why disturbance at the project site prevents all of these species whereas disturbance elsewhere does not prevent the occurrences of the same species.” (Ex. A, 17.) In fact, “[o]f the seven species the IS/MND determines to have low occurrence potential, two have been documented within 1.5 miles of the project site and three have been documented within 1.5 and 4 miles of the site. The documented proximities of these species do not comport with the IS/MND’s determinations.” (*Id.*)

As further explained by Dr. Smallwood, the MND makes numerous incorrect assertions based on the same logic that the Project site’s disturbed nature prevents any habitat from being deemed suitable. Given the abundance of wildlife detected on the Project site, the MND is deficient in explaining why habitat for special-status species is not available on the site whereas both common and special-status species have been observed utilizing the Project site as habitat. Unfortunately, ESA’s lack of detail in preparing the survey does not answer the logical gaps in the MND.

¹ See, US Fish & Wildlife Service (“USFW”), Birds of Conservation Concern 2021, pp. 18-19 <https://www.fws.gov/sites/default/files/documents/birds-of-conservation-concern-2021.pdf>.

² *Id.*, p. 4.

³ See, Fish and Game Code, Sections 3503, 3503.5, 3505 and 3513, and California Code of Regulation, Title 14, Sections 251.1, 652 and 783-786.6

⁴ Sacramento County, Planning and Environmental Review, “Special Status Species,” https://planning.saccounty.net/InterestedCitizens/Pages/ER_SpecialStatusSpecies.

Dr. Smallwood recommends preparing additional, and more detailed, surveys in order to better capture the existing environmental setting and site conditions for both wildlife and plant species. He also adds that there needs to be a clearer explanation as to why the MND reaches its conclusions regarding wildlife habitat for special-status species whereas the site conditions observed in the March 28, 2024 site visit by Ms. Smallwood underline the critical importance of the Project site for both common and special-status wildlife species alike. Dr. Smallwood thus explains that the City must prepare additional surveys to obtain a true inventory of the wildlife at the Project site.

Clearly, the IS/MND fails to accurately describe the Project's environmental setting. A new CEQA document is therefore required.

B. The Project Will Have Significant Adverse Impacts on Wildlife.

An EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency's decision. (CEQA Guidelines § 15064(f)(1); *Stanislaus Audubon v. Stanislaus* (1995) 33 Cal.App.4th 144, 150-151 (1995)). Dr. Smallwood's findings related to habitat loss, wildlife movement, collisions from windows and traffic, as well as impacts from domesticated animals underline the importance of preparing an EIR.

a. Habitat Loss.

Dr. Smallwood concludes that the Project will have adverse impacts on special status species through direct loss of habitat. (Ex. A, 24.) For example, Dr. Smallwood's analysis of the Project site's productive capacity finds that the Project would deny the ability to host 26 bird nests and close to a hundred birds every season. (Ex. A. p. 17.) This is especially concerning since at least four special-status species have been observed utilizing or flying over the Project site. In conjunction, then, the Project will result in the loss of foraging area for special status species. (*Id.*, 25.).

b. Wildlife Movement.

Dr. Smallwood additionally points out that the Project will adversely impacts wildlife movement. He concludes that volant wildlife use the site as a stopover area. The project would cut wildlife off from one of the last remaining stopovers and staging opportunities in the project area, forcing volant wildlife to travel even farther between remaining stopover sites.” (Ex. A. p. 17.) Dr. Smallwood points out that the nearby Rubio Wash is a feature likely to be followed by wildlife, which increases the importance of the Project site to wildlife. (*Id.*)

c. Collisions and Traffic.

The IS/MND fails to analyze the Project's impacts due to bird-window collisions. Dr. Smallwood concludes that the extensive use of glass in the 5-story buildings will lead to

increased bird-window collisions, and that the Project does not adequately consider the impacts that the height of the building would have on birds, during both the day and at night. (Ex.A, 26-27.) He notes that there are “96 special status species of birds with potential to use the site’s atmosphere.” (*Id.*) While MND does not adequately detail to what extent glass windows will be used for the Project, Dr. Smallwood predicts that many of these birds are likely to experience window collisions. (*Id.*) As such, Dr. Smallwood calculates that the Project will cause 292 bird deaths due to window collisions each year, with a significant amount of these birds being protected under the Migratory Bird Treaty Act. (*Id.*, 29.)

Furthermore, the IS/MND fails to analyze the Project’s impacts related to wildlife traffic fatalities. Dr. Smallwood calculates that the Project will generate 22,242,187.5 annual vehicle miles travelled. (*Id.* p. 31). He predicts that this will result in 2,008 wildlife fatalities per year. (*Id.*).

d. Impacts from Domestic Animals.

Domesticated animals like cats and dogs will be introduced to the Project site and will pose a potentially significant impact on wildlife species. In particular, the Project proposed to integrate infrastructures such as a dog run on the Project site, thereby encouraging dogs on and around the Project site, but does not analyze how the introduction of dogs may adversely impact wildlife that interact on the Project site. Furthermore, it is well documented that domesticated animals such as dogs carry parasites and other diseases that may likely “spill-over to wildlife of the immediate area or downstream to marine mammals at the coast. A fair argument can be made for the need to prepare an EIR to appropriately analyze the potential impacts to wildlife caused by the dog park.” (*Id.*, 32.)

Dr. Smallwood proposes numerous mitigation measures that could vastly reduce the above impacts, such as avoiding construction during nesting season, applying bird-safe window treatments, landscaping measures and many others. These mitigation measures should be analyzed in an EIR and implemented if feasible. Since there is substantial evidence of a fair argument that the Project will have adverse biological impacts, an EIR is required to analyze and mitigate those impacts.

II. The MND Fails to Adequately Address the Project’s Cumulative Impacts on Biological Resources.

An EIR must be prepared to discuss significant cumulative impacts. Dr. Smallwood found the MND’s discussion of cumulative impacts to wildlife to be flawed. (Ex. A, p. 27.) CEQA Guidelines section 15130(a). This requirement flows from CEQA section 21083, which requires a finding that a project may have a significant effect on the environment if “the possible effects of a project are individually limited but cumulatively considerable. . . . ‘Cumulatively considerable’ means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” “Cumulative impacts” are defined as “two or more individual effects which, when considered together, are considerable or which compound or

increase other environmental impacts.” CEQA Guidelines section 15355(a). “[I]ndividual effects may be changes resulting from a single project or a number of separate projects.” CEQA Guidelines section 15355(a).

“The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.” *Communities for a Better Environment v. Cal. Resources Agency* (“CBE v. CRA”), (2002) 103 Cal.App.4th 98, 117. A legally adequate cumulative impacts analysis views a particular project over time and in conjunction with other related past, present, and reasonably foreseeable probable future projects whose impacts might compound or interrelate with those of the project at hand. “Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.” CEQA Guidelines § 15355(b). As the court stated in *CBE v. CRA*, 103 Cal. App. 4th at 114:

Cumulative impact analysis is necessary because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.
(Citations omitted).

In *Kings County Farm Bureau v. City of Hanford*, 221 Cal.App.3d at 718, the court concluded that an EIR inadequately considered an air pollution (ozone) cumulative impact. The court said: “The [] EIR concludes the project’s contributions to ozone levels in the area would be immeasurable and, therefore, insignificant because the [cogeneration] plant would emit relatively minor amounts of [ozone] precursors compared to the total volume of [ozone] precursors emitted in Kings County. The EIR’s analysis uses the magnitude of the current ozone problem in the air basin in order to trivialize the project’s impact.” The court concluded: “The relevant question to be addressed in the EIR is not the relative amount of precursors emitted by the project when compared with preexisting emissions, but whether any additional amount of precursor emissions should be considered significant in light of the serious nature of the ozone problems in this air basin.”⁵ The *Kings County* case was reaffirmed in *CBE v. CRA*, 103 Cal.App.4th at 116, where the court rejected cases with a narrower construction of “cumulative impacts.”

⁵ *Los Angeles Unified v. City of Los Angeles*, 58 Cal.App.4th at 1024-1026 found an EIR inadequate for concluding that a project’s additional increase in noise level of another 2.8 to 3.3 dBA was insignificant given that the existing noise level of 72 dBA already exceeded the regulatory recommended maximum of 70 dBA. The court concluded that this “ratio theory” trivialized the project’s noise impact by focusing on individual inputs rather than their collective significance. The relevant issue was not the relative amount of traffic noise resulting from the project when compared to existing traffic noise, but whether any additional amount of traffic noise should be considered significant given the nature of the existing traffic noise problem.

Similarly, in *Friends of Eel River v. Sonoma County Water Agency*, (2003) 108 Cal. App. 4th 859, the court recently held that the EIR for a project that would divert water from the Eel River had to consider the cumulative impacts of the project together with other past, present and reasonably foreseeable future projects that also divert water from the same river system. The court held that the EIR even had to disclose and analyze projects that were merely proposed, but not yet approved. The court stated, CEQA requires “the Agency to consider ‘past, present, and probable future projects producing related or cumulative impacts’ (Guidelines, § 15130, subd. (b)(1)(A).) The Agency must interpret this requirement in such a way as to ‘afford the fullest possible protection of the environment.’” *Id.*, at 867, 869. The court held that the failure of the EIR to analyze the impacts of the project together with other proposed projects rendered the document invalid. “The absence of this analysis makes the EIR an inadequate informational document.” (*Id.*, at 872.)

The court in *Citizens to Preserve Ojai v. Bd. of Supervisors*, 176 Cal.App.3d 421 (1985), held that an EIR prepared to consider the expansion and modification of an oil refinery was inadequate because it failed to consider the cumulative air quality impacts of other oil refining and extraction activities combined with the project. The court held that the EIR’s use of an Air District Air Emissions Inventory did not constitute an adequate cumulative impacts analysis. The court ordered the agency to prepare a new EIR analyzing the combined impacts of the proposed refinery expansion together with the other oil extraction projects.

Here, the MND falsely assumes that cumulative impacts would be less than significant under the false understanding that a given impact is a residual effect of incomplete mitigation of project-specific impacts. (Ex. A, p. 32.) Furthermore, the MND implies that implementation of Mitigation Measure BIO-1 will resolve such residual impacts. However, not only is that incorrect, as explained in more detail below, but such conclusion runs counter to CEQA’s cumulative impacts assessment. As Dr. Smallwood’s own research has highlighted, “[e]ven should project-level mitigation be implemented as proposed in the IS/MND, development projects are causing cumulative impacts in California.” (*Id.*) Dr. Smallwood has explained the wildlife impacts associated with the Project, but the MND fails to provide an adequate analysis and how such cumulative impacts can be mitigated. Thus, the MND’s conclusion that the cumulative impacts would be less than significant is unfounded and should be revised.

III. There is Substantial Evidence of a Fair Argument that the Project Will Have Significant Health Risks from Indoor Air Quality Emissions.

The Project cannot proceed with an MND because there is substantial evidence of a fair argument that the Project will result in adverse air quality impacts. Certified Industrial Hygienist, Francis Offermann, PE, CIH, conducted a review of the Project and relevant documents regarding the Project’s indoor air emissions. (Indoor Environmental Engineering Comments (April 2, 2024)). Mr. Offermann concludes that it is likely that the Project will expose residents of the Project to significant impacts related to indoor air quality, and in particular, emissions of the cancer-causing chemical formaldehyde. Mr. Offermann is one of the world’s leading experts on indoor air quality and has published extensively on the topic. As discussed below and in Mr.

Offermann's comments, the Project's emissions of formaldehyde to the air will result in very significant cancer risks to future residents of the Project's residential units. Mr. Offermann's expert comments and CV are attached as Exhibit B.

Formaldehyde is a known human carcinogen and is listed by the State as a toxic air contaminant ("TAC"). The South Coast Air Quality Management District ("SCAQMD") has established a significance threshold of health risks for carcinogenic TACs of 10 in one million. (Ex. B, p. 3.) Mr. Offermann explains that many composite wood products used in building materials and furnishings commonly found in offices, warehouses, residences, hotels, and commercial spaces contain formaldehyde-based glues which off-gas formaldehyde over a long period of time. He states, "The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims." (*Id.*, pp. 2-3.) Notably, the MND includes some discussion of impacts or health risks, but no required mitigations for significant emissions of formaldehyde to air from the Project.

Mr. Offermann states that there is a fair argument that future residents will be exposed to a cancer risk from formaldehyde of approximately 120 per million, even assuming all materials are compliant with the California Air Resources Board's ("CARB") formaldehyde airborne toxics control measure. (Ex. B, pp. 3-4.) This is more than 12 times SCAQMD's CEQA significance threshold of 10 per million.

Mr. Offermann also notes that the high cancer risk that may be posed by the Project's indoor air emissions likely will be exacerbated by the additional cancer risk that exists as a result of the Project's location near roadways with moderate to high traffic (i.e. Lakewood Street, East Gonzalez Road, and the Ventura Freeway (HWY 101), etc.) and the high levels of PM2.5 already present in the ambient air. (Ex. B, p. 10.) No analysis has been conducted of the significant cumulative health impacts that will result to future residents of the Project, meaning that the City cannot conclude with substantial evidence that the Project will not result in significant air quality impacts.

Mr. Offermann concludes that these significant environmental impacts should be analyzed in an EIR, and mitigation measures should be imposed to reduce the risk of formaldehyde exposure. (Ex. B, p. 5.) Mr. Offermann identifies mitigation measures that are available to reduce these significant health risks, including the installation of air filters and a requirement that the applicant use only composite wood materials (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins or ultra-low emitting formaldehyde (ULEF) resins in the buildings' interiors. (*Id.*, pp. 12-13.)

The City has a duty to investigate issues relating to a project's potential environmental impacts, especially those issues raised by an expert's comments. (See, *Cty. Sanitation Dist. No. 2 v. Cty. of Kern*, (2005) 127 Cal.App.4th 1544, 1597-98 ["under CEQA, the lead agency bears a burden to investigate potential environmental impacts"].) In addition to assessing the Project's

potential health impacts to residents, Mr. Offermann identifies the investigatory path that the City should be following in developing an EIR to more precisely evaluate the Projects' future formaldehyde emissions and establishing mitigation measures that reduce the cancer risk below the SCAQMD level. (Ex. B, pp. 6-10.) Such an analysis would be similar in form to the air quality modeling and traffic modeling typically conducted as part of a CEQA review.

While the MND includes some analysis of indoor air quality impacts and associated toxic air contaminants, it ultimately concludes that the Project will have less than significant air quality impacts. (MND, p. 31.) This conclusion is contrasted by the MND's Air Quality analysis, which finds that "[i]nstallation of MERV filters with a minimum rating of 14 would reduce cancer risk impacts to levels below the significance threshold. Thus, the cancer and chronic risk for residential receptors due would not be considered significant for all residential receptors at the Project site with installation of MERV filters with a minimum rating of 14." (Air Quality, Health Risk Assessment, Greenhouse Gas, Energy Analysis, p. 2.) While this may not seem to be in conflict with the MND's analysis, the Air Quality analysis implicitly requires the installation of filters, a mitigation measure, in order to reach its finding of no significance. As such, the Air Quality analysis supports Mr. Offermann's findings, and, as explained in detail below, more adequate enforcement mechanisms must be in place in order to ensure that the proposed mitigation measure is implemented.

The failure to adequately address the Project's formaldehyde emissions is contrary to the California Supreme Court's decision in *California Building Industry Ass'n v. Bay Area Air Quality Mgmt. Dist.* (2015) 62 Cal.4th 369, 386 ("CBIA"). At issue in *CBIA* was whether the Air District could enact CEQA guidelines that advised lead agencies that they must analyze the impacts of adjacent environmental conditions on a project. The Supreme Court held that CEQA does not generally require lead agencies to consider the environment's effects on a project. (*CBIA*, 62 Cal.4th at 800-801.) However, to the extent a project may exacerbate existing adverse environmental conditions at or near a project site, those would still have to be considered pursuant to CEQA. (*Id.* at 801 ["CEQA calls upon an agency to evaluate existing conditions in order to assess whether a project could exacerbate hazards that are already present"].) In so holding, the Court expressly held that CEQA's statutory language required lead agencies to disclose and analyze "impacts on a project's users or residents that arise from the project's effects on the environment." (*Id.* at 800 [emph. added].)

The carcinogenic formaldehyde emissions identified by Mr. Offermann are not an existing environmental condition. Those emissions to the air will be from the Project. Residents and commercial employees will be users of the Project. Currently, there is presumably little if any formaldehyde emissions at the site. Once the project is built, emissions will begin at levels that pose significant health risks. Rather than excusing the City from addressing the impacts of carcinogens emitted into the indoor air from the project, the Supreme Court in *CBIA* expressly finds that this type of effect by the project on the environment and a "project's users and residents" must be addressed in the CEQA process.

The Supreme Court's reasoning is well-grounded in CEQA's statutory language. CEQA expressly includes a project's effects on human beings as an effect on the environment that must

be addressed in an environmental review. “Section 21083(b)(3)’s express language, for example, requires a finding of a ‘significant effect on the environment’ (§ 21083(b)) whenever the ‘environmental effects of a project will cause substantial adverse effects on human beings, directly or indirectly.’” (*CBLA*, 62 Cal.4th at 800 [emph. in original].) Likewise, “the Legislature has made clear—in declarations accompanying CEQA’s enactment—that public health and safety are of great importance in the statutory scheme.” (*Id.*, citing e.g., §§ 21000, subds. (b), (c), (d), (g), 21001, subds. (b), (d).) It goes without saying that the future residents of the Project are human beings and the health and safety of those residents and workers is as important to CEQA’s safeguards as nearby residents currently living near the project site.

Because Mr. Offermann’s expert review is substantial evidence of a fair argument of a significant environmental impact to future users of the Project, an EIR must be prepared to disclose and mitigate those impacts.

IV. The MND’s Proposed Mitigation Measures are Unenforceable and Ineffective.

CEQA requires that policies and mitigation measures be enforceable and effective. (CEQA Guidelines, § 15126.4(a)(1) & (2).) Policies that have no standards cannot be enforced. Mitigation measures must be effective. In *Sundstrom v County of Mendocino* (1988) 202 Cal.App.3d 296, 308-309, mitigation calling for a permit for sludge disposal was improperly deferred because there was no evidence of feasibility: “the record discloses that the applicant presented no plans for sludge disposal and that no solution was readily available.” (*Id.* at 308.)

a. Biological Resources.

The Project’s only proposed mitigation measures for biological resources will certainly not reduce Project-related impacts to a level below significance. Mitigation Measure BIO-1 only discusses the preparation of a preconstruction survey. First, the mitigation measure incorrectly relies on an outdated breeding season because the California Department of Fish and Wildlife (“CDFW”) now recognizes the breeding season to be between February 1 to September 15. The MND skips a couple weeks as a result. Secondly, Dr. Smallwood explains that a preconstruction survey is not an adequate substitute for a detection survey, which this Project needs. The measure is therefore ineffective at reducing impacts below significance.

Additionally, as described in the MND, performance of the preconstruction survey means that the measure’s protections will not extend to future breeding seasons and would likely lead to the permanent destruction of the site’s productive capacity for burrowing owls. (Ex. A, 34.) Also, Dr. Smallwood’s comments above prove that the site is being used by many species in addition to just burrowing owls. This mitigation measure does nothing to protect the other species that have already been identified on the Project site, including special-status species. As such, this mitigation measure is inadequate because it also does nothing to mitigate the impacts to the identified special-status species.

The mitigation measure also allows unfettered control for a biologist to make critical determinations. In particular, the language of this mitigation measure “allows a single individual

(qualified biologist) to make a subjective decision, outside the public's view, to determine and adjust the buffer area for any given species. This measure lacks objective criteria and is unenforceable." (Ex. A, p. 34.) As a result of the absence of objective enforcement mechanisms, this mitigation measure is insufficient and cannot be relied on to adequately bring the potentially significant impacts to a level below significance.

An EIR is required to analyze the feasibility, enforceability, and effectiveness of such proposed mitigation measure. Dr. Smallwood also suggests multiple mitigation measures related to protecting wildlife from traffic, controlling pests, funding wildlife rehabilitation facilities, and applying native landscaping on the Project site, among others. (Ex. A, p. 36.)

b. Air Quality Impacts.

The MND fails to mandate mitigation measures related to indoor air quality. A public agency may not rely on mitigation measures of uncertain efficacy or feasibility. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727 (finding groundwater purchase agreement inadequate mitigation measure because no record evidence existed that replacement water was available).) Mitigation measures must be fully enforceable through permit conditions, agreements or other legally binding instruments. (14 CCR § 15126.4(a)(2).)

The Air Quality analysis and related technical documents of the MND address the indoor air quality impacts associated with exposure to formaldehyde. Specifically, the MND explains that high efficiency minimum efficiency reporting value (MERV) filters of MERV 14 or greater will be installed throughout the Project, thereby bringing the cancer risk at the maximum exposed receptor to 5.18 in one million. (MND, p. 37.) However, there are a few issues related to this evaluation.

While filters are proposed to be installed for the Project, there is no guarantee that such feature will actually take place. As explained above, Mr. Offermann's findings constitute substantial evidence of a fair argument of the Project's adverse environmental impacts. As such, the installation of filters as mitigation measures should not be read as a suggestion, but rather a mandate to reduce impacts below significance. While the MND document explains that installation will occur in compliance with local ordinances, there is no binding guarantee that such mitigation measure will be enforced. (MND, p. 37.) This is apparent from the fact that the Air Quality analysis does not identify any air quality-related mitigation measures to be included for the Project.

If the proposed mitigation measure of installing high-quality MERV filters must be included as a mitigation measure in an amended MND and must be enforceable to ensure that cancer risk impacts are assuredly brought down to a level below significance.

V. The Project Conflicts and is Inconsistent With Ventura County Air Pollution Control District Policy.

Where a local or regional policy of general applicability, such as an ordinance, is adopted to avoid or mitigate environmental effects, a conflict with that policy in itself indicates a potentially significant impact on the environment. (*Pocket Protectors v. Sacramento* (2005) 124 Cal.App.4th 903.) Indeed, any inconsistencies between a proposed project and applicable plans must be discussed in an EIR. (14 CCR § 15125(d); *City of Long Beach v. Los Angeles Unif. School Dist.* (2009) 176 Cal. App. 4th 889, 918; *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal. App. 4th 859, 874 (EIR inadequate when Lead Agency failed to identify relationship of project to relevant local plans).)

A Project's inconsistencies with local plans and policies constitute significant impacts under CEQA. (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 783-4, 32 Cal.Rptr.3d 177; see also, *County of El Dorado v. Dept. of Transp.* (2005) 133 Cal.App.4th 1376 (fact that a project may be consistent with a plan, such as an air plan, does not necessarily mean that it does not have significant impacts).) *Californians for Alternatives to Toxics v. Department of Food and Agriculture* (2005) 136 Cal.App.4th 1, 17 (“[c]ompliance with the law is not enough to support a finding of no significant impact under the CEQA.”). The recent *Georgetown Preservation Society v. County of El Dorado* (2018) 30 Cal.App.5th 358 echoes *Pocket Protectors*. These both apply the fair argument standard to a potential inconsistency with a plan adopted for environmental protection. *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099 says an EIR needs to analyze any topic for which a fair argument of significant impact is raised.

As applied here, an EIR is warranted because of the Project's conflict with the Ventura County Air Pollution Control District (“VCAPCD”) policy. According to the MND, VCAPCD cancer risk threshold is 10 in one million. To reduce cancer below significance, the MND implies the installation of MERV filters. (MND, p. 37.) As explained above, however, installation of the filters is not a binding measure, thereby failing to guarantee that cancer risk will fall below significance thresholds pursuant to VCAPCD. Because there is no guarantee of filter installation, cancer risk would not be reduced to a level in compliance with VCAPCD's threshold, thereby being in direct conflict with VCAPCD.

Since the project is inconsistent with a VCAPCD policy intended to protect human health and the environment, this is evidence of a fair argument that that the project may have significant

adverse environmental impacts. As such, approval of the Project under the IS/MND is improper, and the City must instead prepare and analyze Project impacts under an EIR.

VI. There is Substantial Evidence of a Fair Argument that the Project Will Have Significant Noise Impacts that were Inadequately Addressed.

CEQA prohibits the use of an MND where there is substantial evidence of a fair argument of environmental impacts. SAFER's independent experts at Wilson Ihrig reviewed the Project and related documents, including the Noise Study, and concluded that the MND's noise report is unsubstantiated and there exists potentially significant noise impacts. Wilson Ihrig is an expert and renowned firm within the field of noise and vibration consulting. For this reason, an MND is improper and the City should instead prepare an EIR. Wilson Ihrig's comments and CV are attached as Exhibit C.

The MND's Noise Study potentially underestimates the Project's noise impacts because it erroneously utilizes a less stringent threshold assessment. In particular, the Noise Study relies on a threshold adopted from the FTA Construction Noise Handbook, but "the FTA advises assuming a usage factor of 1 when using a general assessment", which this Project's Noise Study does. Reviewing the Noise Study's assessment, Wilson Ihrig underlines that such approach "significantly underestimates the potential impact of construction noise, especially since the modeled noise for the Site Preparation and Grading phases are 7 dBA over the 80 dBA threshold." (*Id.*) In fact, Wilson Ihrig predicts that the Noise Study's general assessment underestimates the noise impacts by seven decibels across the board. (*Id.*) The MND's Noise Study, therefore, fails to capture the true extent of the Project's noise impacts, and must instead review and assess these issues in an EIR.

a. The MND Fails to Accurately Analyze the Project's Noise Impacts.

The MND additionally fails to sufficiently review or completely omits critical analyses related to the Project's noise impacts. For example, the Noise Study fails to evaluate the Project's construction-related vibration impacts on off-site sensitive receptors. Wilson Ihrig underlines that the FTA guidance relied on for the Noise Study explains that "[b]uildings founded on the soil near the construction site [can] respond to these [construction] vibrations with ... slight damage at the highest [vibration] levels." (FTA Guidance, p. 182.) While the MND acknowledges the presence of multiple sensitive receptors near the Project site, including medical buildings, senior living facilities, and a university campus, there is a reasonable possibility that the Project's construction vibration may adversely affect such buildings. (MND, pp. 88-89.) Yet, the MND fails to do so. The omission of construction vibration effects on sensitive receptors under-analyzes the Project's impacts, and Wilson Ihrig asserts that it should be studied in an EIR. (Ex. C, p. 3.)

Furthermore, the MND's analysis of operational noise impacts is incomplete. For example, operational noise impacts from rooftop mechanical equipment would increase ambient

levels beyond significance thresholds. (Ex. C, p. 3.) However, Wilson Ihrig explains that “[t]here are no calculations nor any evidence provided that demonstrates mechanical equipment used in the Project will not be potentially significant at nearby sensitive receivers.” (*Id.*)

The MND fails to adequately analyze the Project’s impacts from off-site operations. While the Noise Study assesses the Project’s noise impacts along some streets and roads, it does not evaluate the potential traffic noise increase along Lockwood Avenue and Outlet Center Drive (Ex. C, p. 3.) Wilson Ihrig explains that “[t]his is particularly egregious for Lockwood Street, which is the main access road in and out of the [Project] site. Current traffic levels are presumably low,” and the potential of doubling traffic also means the increase of noise levels. (*Id.*) Wilson Ihrig asserts that such noise levels must be assessed in an EIR and ensure that the Project’s noise levels during operation would not exceed significance thresholds and that no mitigation measures must be implemented. (*Id.*)

CONCLUSION

SAFER has submitted substantial evidence of a fair argument that the Project will have adverse environmental effects, and the MND prepared for the Project does not adequately analyze or mitigated the potentially significant environmental impacts stemming from the Project. For the foregoing reasons, SAFER requests that the City decline to certify the MND and to instead prepare an Environmental Impact Report (“EIR”) to analyze and mitigate the Project’s significant adverse environmental impacts. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mafjan R. Abubo', is written over a horizontal line.

Mafjan R. Abubo
LOZEAU DRURY LLP

Exhibit A

Shawn Smallwood, PhD
3108 Finch Street
Davis, CA 95616

Attn: Joe Pearson II
City of Oxnard Community Development Department
Planning Division
214 South C Street
Oxnard, California 93030

31 March 2024

RE: Lockwood III Apartments IS/MND

Dear Mr. Pearson,

I write to comment on potential impacts to biological resources that could result from the proposed Lockwood III Apartments Project, which I understand would add a five-story, 67.5-foot-tall, 373,069-square-foot residential building with 234 residential units and a 1,247 square-foot dog run among other amenities on 5.17 acres on Lockwood Street. I comment on the characterization of the existing environmental setting and on analyses of impacts to biological resources in the IS/MND (City of Oxnard 2024).

My qualifications for preparing expert comments are the following. I hold a Ph.D. degree in Ecology from University of California at Davis, where I also worked as a post-graduate researcher in the Department of Agronomy and Range Sciences. My research has been on animal density and distribution, habitat selection, wildlife interactions with the anthroposphere, and conservation of rare and endangered species. I authored many papers on these and other topics. I served as Chair of the Conservation Affairs Committee for The Wildlife Society – Western Section. I am a member of The Wildlife Society and Raptor Research Foundation, and I've lectured part-time at California State University, Sacramento. I was Associate Editor of wildlife biology's premier scientific journal, The Journal of Wildlife Management, as well as of Biological Conservation, and I was on the Editorial Board of Environmental Management. I have performed wildlife surveys in California for thirty-seven years. My CV is attached.

SITE VISIT

On my behalf, Noriko Smallwood, a wildlife biologist with a Master's Degree from California State University Los Angeles, visited the site of the proposed project for 3.63 hours from 07:26 to 11:04 hours on 28 March 2024. She walked the site's perimeter, stopping to scan for wildlife with use of binoculars. Noriko recorded all species of vertebrate wildlife she detected, including those whose members flew over the site or were seen nearby, off the site. Animals of uncertain species identity were either omitted or, if possible, recorded to the Genus or higher taxonomic level.

Conditions were cloudy to sunny with 3 mph north wind and temperatures of 51-61° F. The site was covered in annual grass with a few native shrubs and bordered by ornamental trees (Photos 1-3).



Photos 1-3. Views of the project site, 28 March 2024. Photos by Noriko Smallwood.

Noriko detected 25 species of vertebrate wildlife at or adjacent to the project site, including three species with special status (Table 1). Noriko saw American kestrel hunting on site (Photos 4 and 5), bushtit (Photos 6 and 16), western gull and barn swallow (Photos 7 and 8), white-crowned sparrow (Photos 9 and 10), yellow-rumped warbler (Photos 11 and 12), Cassin's kingbird and American crow (Photos, 13, 14, and 17), European starling (Photos 15 and 20), common raven (Photo 18), house sparrow

(Photo 19), house finch and rock pigeon (Photos 21 and 22), Botta's pocket gopher (Photo 23), Great Basin fence lizard and western side-blotched lizard (Photos 24 and 25), among the other species listed in Table 1.

Noriko Smallwood certifies that the foregoing and following survey results are true and accurately reported.

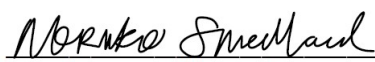

Noriko Smallwood

Table 1. Species of wildlife Noriko observed during 3.63 hours of survey on 28 March 2024.

Common name	Species name	Status ¹	Notes
Great Basin fence lizard	<i>Sceloporus occidentalis longipes</i>		Many, displays to each other
Western side-blotched lizard	<i>Uta stansburiana elegans</i>		
Mallard	<i>Anas platyrhynchos</i>		Flew over
Rock pigeon	<i>Columba livia</i>	Non-native	
Eurasian collared-dove	<i>Streptopelia decaocto</i>	Non-native	Flew over
Mourning dove	<i>Zenaida macroura</i>		Flew over
Anna's hummingbird	<i>Calypte anna</i>		Flew over, calling
Western gull	<i>Larus occidentalis</i>	BCC	Many flew over, perched nearby
Red-tailed hawk	<i>Buteo jamaicensis</i>	BOP	Two soaring nearby
American kestrel	<i>Falco sparverius</i>	BOP	Caught two lizards on site
Cassin's kingbird	<i>Tyrannus vociferans</i>		Displayed to each other
American crow	<i>Corvus brachyrhynchos</i>		
Common raven	<i>Corvus corax</i>		
Barn swallow	<i>Hirundo rustica</i>		Flew over, foraged nearby
Bushtit	<i>Psaltirparus minimus</i>		Gathered nest material
Northern mockingbird	<i>Mimus polyglottos</i>		Just off site
European starling	<i>Sturnus vulgaris</i>	Non-native	Gathered nest material, nesting in tower on site
House sparrow	<i>Passer domesticus</i>	Non-native	Just off site
House finch	<i>Haemorphous mexicanus</i>		
Lesser goldfinch	<i>Spinus psaltria</i>		
White-crowned sparrow	<i>Zonotrichia leucophrys</i>		Many, foraged
California towhee	<i>Melospiza crissalis</i>		Just off site
Yellow-rumped warbler	<i>Setophaga coronata</i>		Foraged
California ground squirrel	<i>Otospermophilus beecheyi</i>		Calling from adjacent site
Botta's pocket gopher	<i>Thomomys bottae</i>		Many burrows

¹ BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, and BOP = Birds of Prey (California Fish and Game Code 3503.5).



Photos 4 and 5. American kestrel flying with two separate lizards that it caught on site, 28 March 2024. Photos by Noriko Smallwood.



Photo 6. Bushtit on the project site, 28 March 2024. Photo by Noriko Smallwood.



Photos 7 and 8. Western gull (left), and barn swallow (right) flying over the project site, 28 March 2024. Photos by Noriko Smallwood.



Photos 9 and 10. White-crowned sparrows on the project site, 28 March 2024. Photos by Noriko Smallwood.



Photos 11 and 12. Yellow-rumped warblers on the project site, 28 March 2024. Photos by Noriko Smallwood.



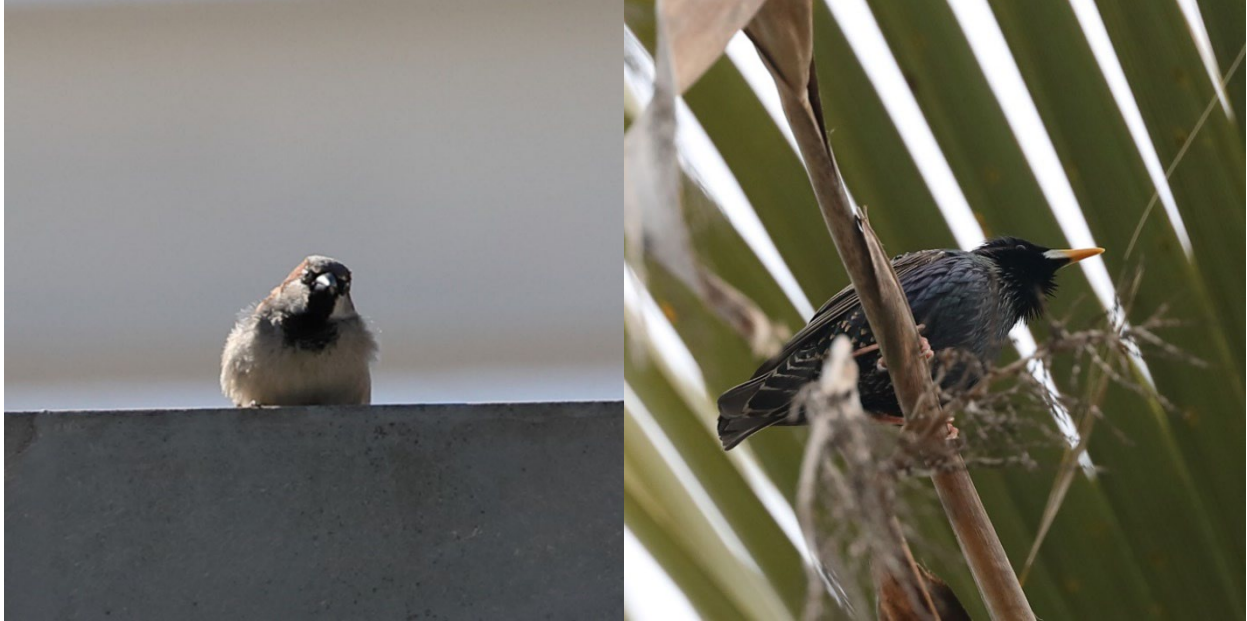
Photos 13 and 14. Cassin's kingbirds displaying to each other (left) and an American crow sitting on its nest just off site (left), 28 March 2024. Photos by Noriko Smallwood.



Photos 15 and 16. European starling with nest material (left), and bushtit with nest material (right) on the project site, 28 March 2024. Photos by Noriko Smallwood.



Photos 17 and 18. American crow (left), and common raven (right) on the project site, 28 March 2024. Photos by Noriko Smallwood.



Photos 19 and 20. House sparrow adjacent to the project site (left), and European starling on the project site (right), 28 March 2024. Photos by Noriko Smallwood.



Photos 21 and 22. House finch (left), and rock pigeon (right) on the project site, 28 March 2024. Photos by Noriko Smallwood.



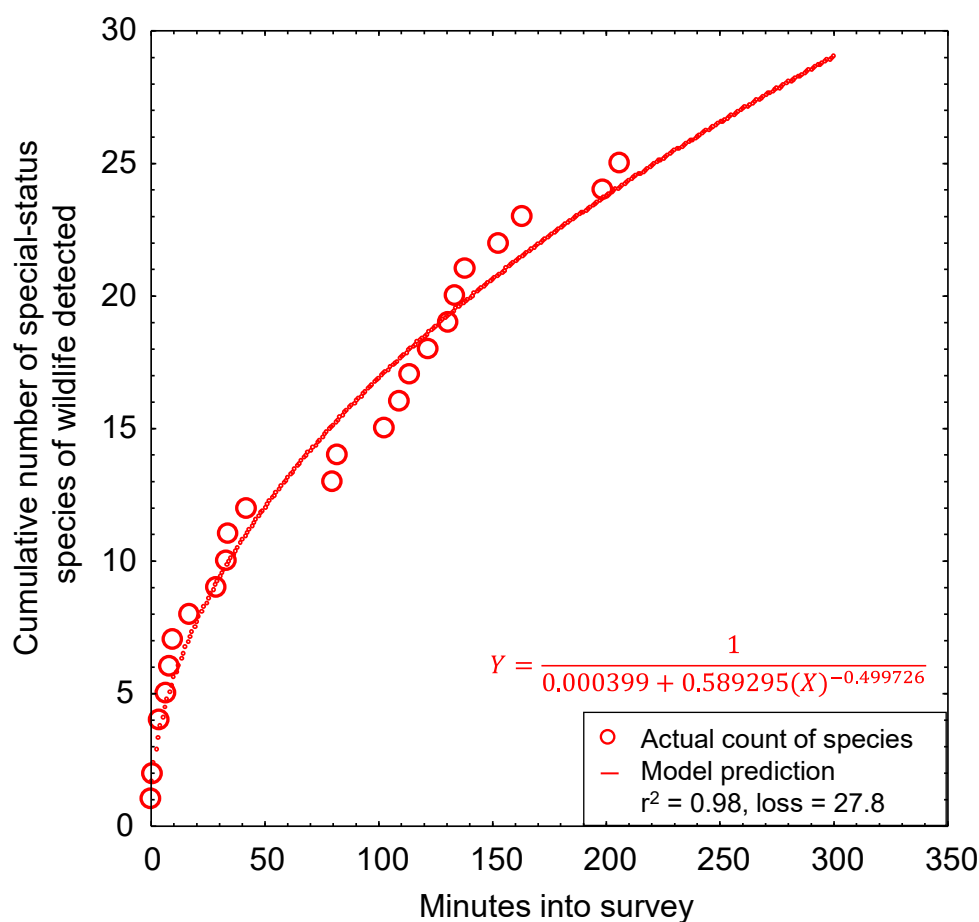
Photo 23. Botta's pocket gopher across the street from the project site, 28 March 2024. Photo by Noriko Smallwood.



Photos 24 and 25. Great Basin fence lizard (left) and western side-blotched lizard (bottom) on the project site, 28 March 2024. Photos by Noriko Smallwood.

I fit a nonlinear regression model to Noriko's cumulative number of vertebrate species detected with time into her 28 March 2024 survey to predict the number of species that she would have detected with a longer survey or perhaps with additional biologists available to assist her. The model is a logistic growth model which reaches an asymptote that corresponds with the maximum number of vertebrate wildlife species that could have been detected during the survey. In this case, the model predicts many more species of vertebrate wildlife were available to be detected on the morning of March 28th (Figure 1). Unfortunately, I do not know the identities of the undetected species, but the pattern in her data indicates more species could have been detected after more survey time at the site. Importantly, however, the species that Noriko did and did not detect on 28 March 2024 composed only a fraction of the species that would occur at the project site over the period of a year or longer. This is because many species are seasonal in their occurrences.

Figure 1. Actual and predicted relationships between the number of vertebrate wildlife species detected and the elapsed survey time based on Noriko's visual-scan survey on 28 March 2024. Note that the relationship would differ if the survey was based on another method or during another season.



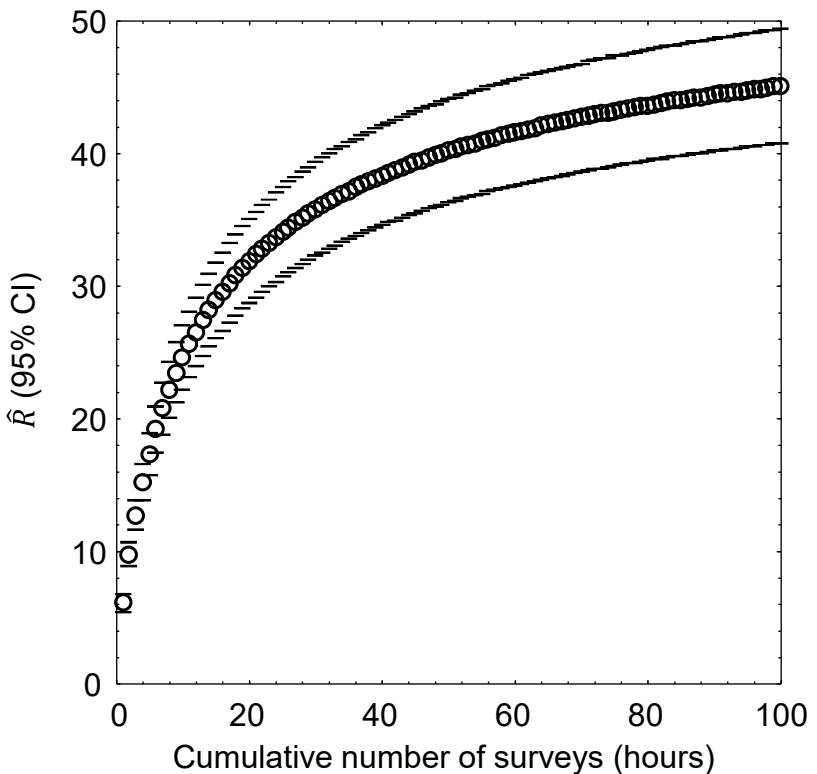
At least a year's worth of surveys would be needed to more accurately report the number of vertebrate species that occur at the project site, but I only have Noriko's one survey. However, by use of an analytical bridge, a modeling effort applied to a large, robust data set from a research site can predict the number of vertebrate wildlife species that likely make use of the site over the longer term. As part of my research, I completed a much larger survey effort across 167 km² of annual grasslands of the Altamont Pass Wind

Resource Area, where from 2015 through 2019 I performed 721 1-hour visual-scan surveys, or 721 hours of surveys, at 46 stations. I used binoculars and otherwise the methods were the same as the methods I and other consulting biologists use for surveys at proposed project sites. At each of the 46 survey stations, I tallied new species detected with each sequential survey at that station, and then related the cumulative species detected to the hours (number of surveys, as each survey lasted 1 hour) used to accumulate my counts of species detected. I used combined quadratic and simplex methods of estimation in Statistica to estimate least-squares, best-fit nonlinear models of the number of cumulative species detected regressed on hours of survey (number of surveys) at the station: $\hat{R} = \frac{1}{1/a + b \times (\text{Hours})^c}$, where $\hat{R}$ represented cumulative species richness detected. The coefficients of determination, r^2 , of the models ranged 0.88 to 1.00, with a mean of 0.97 (95% CI: 0.96, 0.98); or in other words, the models were excellent fits to the data.

I projected the predictions of each model to thousands of hours to find predicted asymptotes of wildlife species richness. The mean model-predicted asymptote of species richness was 57 after 11,857 hours of visual-scan surveys among the 46 stations of my research site. I also averaged model predictions of species richness at each incremental increase of number of surveys, i.e., number of hours (Figure 2). On average I would have detected 14.3 species over my first 3.63 hours of surveys at my research site in the Altamont Pass (3.63 hours to match the 3.63 hours Noriko surveyed at the project site), which composed 25% of the predicted total number of species I would detect with a much larger survey effort at the research site. Given the example illustrated in Figure 2, the 25 species Noriko detected after her 3.63 hours of survey at the project site likely represented 25% of the species to be detected after many more visual-scan surveys over another year or longer. With many more repeat surveys through the year, Noriko would likely detect $25/0.25 = 100$ species of vertebrate wildlife at the site. Assuming Noriko's ratio of special-status to non-special-status species was to hold through the detections of all 100 predicted species, then continued surveys would eventually detect 12 special-status species of vertebrate wildlife.

Because my prediction of 100 species of vertebrate wildlife, including 12 special-status species of vertebrate wildlife, is derived from daytime visual-scan surveys, and would detect few nocturnal mammals such as bats, the true number of species composing the wildlife community of the site must be larger. Noriko's reconnaissance survey should serve only as a starting point toward characterization of the site's wildlife community, but it certainly cannot alone inform of the inventory of species that use the site. More surveys are needed than her survey to inventory use of the project site by wildlife. Nevertheless, the large number of species I predict at the project site is indicative of a much more species-rich wildlife community than characterized in the IS/MND (see below), and warrants a serious survey effort.

Figure 2. Mean (95% CI) predicted wildlife species richness, $\hat{R}$, as a nonlinear function of hour-long survey increments across 46 visual-scan survey stations across the Altamont Pass Wind Resource Area, Alameda and Contra Costa Counties, 2015–2019. Note that the location of the study is largely irrelevant to the utility of the graph to the interpretation of survey outcomes at the project site. It is the pattern in the data that is relevant, because the pattern is typical of the pattern seen elsewhere.



EXISTING ENVIRONMENTAL SETTING

The first step in analysis of potential project impacts to biological resources is to accurately characterize the existing environmental setting, including the biological species that use the site, their relative abundances, how they use the site, key ecological relationships, and known and ongoing threats to those species with special status. A reasonably accurate characterization of the environmental setting can provide the basis for determining whether the site holds habitat value to wildlife, as well as a baseline against which to analyze potential project impacts. For these reasons, characterization of the environmental setting, including the project site's regional setting, is one of CEQA's essential analytical steps. Methods to achieve this first step typically include (1) surveys of the site for biological resources, and (2) reviews of literature, databases and local experts for documented occurrences of special-status species. In the case of the proposed project, these needed steps have been inadequate.

Environmental Setting informed by Field Surveys

To CEQA's primary objective to disclose potential environmental impacts of a proposed project, the analysis should be informed of which biological species are known to occur at the proposed project site, which special-status species are likely to occur, as well as the limitations of the survey effort directed to the site. Analysts need this information to characterize the environmental setting as a basis for opining on, or predicting, potential project impacts to biological resources.

On 8 August 2023, ESA deployed a biologist to perform a reconnaissance survey “to characterize existing conditions and determine the potential for sensitive biological resources [later said to be special-status species of plants and wildlife] to occur within the Project site or in a 200-foot buffer area.” According to the IS/MND, “land cover types were characterized and delineated,” as well. Unfortunately, the IS/MND does not report important methodological details that the reader needs to assess the meaning of the survey results. The IS/MND neglects to report when the survey started and how long the survey lasted. As far as I know, the survey could have started at the worst time of day for detecting wildlife, e.g., at 14:00 hours, and it could have lasted a mere 15 minutes. Also unreported is how ESA’s biologist assessed the project site’s potential for supporting various special-status species.

The only quantifiable outcome of ESA’s survey was the number of wildlife species detected. ESA’s biologist saw three species of vertebrate wildlife: American crow, California gull and black phoebe. Two of these species were not detected by Noriko Smallwood, who surveyed the site on 28 March 2024 on my behalf. However, ESA’s biologist did not detect 24 of the 25 species that Noriko detected. In only 3.63 hours of survey, Noriko detected more than eight times the number of species that ESA’s biologist detected. Whereas there are nearly always differences in which species are detected between surveys at a given site, Noriko and I do not experience anywhere near this magnitude of difference when we repeat our own surveys at a given site. The reconnaissance survey completed by ESA is inadequate, and it has been used to inaccurately characterize the existing environmental setting of the project site. Many more than three species of vertebrate wildlife exist at the project site.

ESA documented little of the breeding activity that Noriko saw and photographed (see Table 1 and Photos 13 to 16 and 24). Given the body sizes and ubiquity of some of the species, it is difficult to understand how they could have been missed by ESA. Noriko saw many western gulls at the site. Western gulls are large birds. How did ESA not see the western gulls? Red-tailed hawks are large birds. Cassin’s kingbirds and mourning doves are highly noticeable. Botta’s pocket gophers leave evidence of their presence all over the place, and Noriko even photo-captured at least one gopher looking about from one of its burrows (Photo 23). According to Noriko, lizards were abundant at the site, and sufficiently abundant that she witnessed one or more American kestrels capture at least two of them (see Photos 4 and 5). How did ESA miss all of these species?

Whereas ESA reportedly surveyed a 200-foot buffer around the project site, it missed the California ground squirrels just to the south side of Lockwood Street. The occurrence of the squirrels is especially significant because burrowing owls rely on ground squirrels and their burrows, and the occurrence of ground squirrels greatly increases the likelihood of use of the site by burrowing owls. According to ESA, “Suitable habitat for this species [Burrowing owl] was not detected. The vegetation was dense and tall and the small mammal burrows detected were not the appropriate size or morphology for this species.” That ESA failed to detect burrowing owl is of no surprise to me, considering that ESA detected 12% of the species Noriko did, but ESA’s determination of the site’s unsuitability to burrowing owls is grossly inaccurate. Photos 1–3 depict a grassland environment that typifies the environments where I have studied

burrowing owls in the highest-recorded densities in the published literature (Smallwood et al. 2013, Smallwood and Morrison 2018)). Furthermore, there were ground squirrels across the street.

A protocol-level detection survey (CDFW 2012) is warranted for burrowing owls at the project site, but has yet to be completed. Furthermore, ESA's reconnaissance survey achieved very few if any of the minimum standards of reconnaissance survey for special-status species of plants (CDFW 2018). Conclusions of potential project impacts to biological resources are too poorly founded on wildlife and plant surveys to be relied upon for decision-making.

Environmental Setting informed by Desktop Review

The purpose of literature and database review and of consulting with local experts is to inform the field survey, and to augment interpretation of its outcome. Analysts need this information to identify which species are known to have occurred at or near the project site, and to identify which other special-status species could conceivably occur at the site due to geographic range overlap and migration flight paths.

ESA did not reportedly review eBird (<https://eBird.org>) or iNaturalist (<https://www.inaturalist.org>) for documented occurrence records at or near the project site. Instead, ESA queried the California Natural Diversity Data Base (CNDDB) for documented occurrences of special-status species within the USGS Quadrangle of the project site and the immediately surrounding Quadrangles. By taking this approach, the IS/MND immediately screens out many special-status species from further consideration in the characterization of the wildlife community as part of the existing environmental setting. CNDDB is not designed to support absence determinations or to screen out species from characterization of a site's wildlife community. As noted by CNDDB, *"The CNDDB is a positive sighting database. It does not predict where something may be found. We map occurrences only where we have documentation that the species was found at the site. There are many areas of the state where no surveys have been conducted and therefore there is nothing on the map. That does not mean that there are no special status species present."* ESA and the IS/MND misuse CNDDB.

CNDDB relies entirely on volunteer reporting from biologists who were allowed access to whatever properties they report from. Many properties have never been surveyed by biologists. Many properties have been surveyed, but the survey outcomes never reported to CNDDB. Many properties have been surveyed multiple times, but not all survey outcomes reported to CNDDB. Furthermore, CNDDB is interested only in the findings of special-status species, which means that species more recently assigned special status will have been reported many fewer times to CNDDB than were species assigned special status since the inception of CNDDB. The lack of many CNDDB records for species recently assigned special status had nothing to do with whether the species' geographic ranges overlap the project site, but rather more to do with the brief time for records to have accumulated since the species were assigned special status. And because negative

findings are not reported to CNDDDB, CNDDDB cannot provide the basis for estimating occurrence likelihoods of species undocumented on the project site.

In my assessment based on database reviews and site visits, 121 special-status species of wildlife are known to occur near enough to the site to warrant analysis of occurrence potential (Table 2). Of these 121 species, 4 (3%) were recorded on or just off of the project site, and another 23 (19%) species have been documented within 1.5 miles of the site ('Very close'), another 52 (43%) within 1.5 and 4 miles ('Nearby'), and another 33 (27%) within 4 to 30 miles ('In region'). Nearly two-thirds (65%) of the species in Table 2 have been reportedly seen within 4 miles of the project site. The site therefore supports multiple special-status species of wildlife and carries the potential for supporting many more special-status species of wildlife based on proximity of recorded occurrences. The site is far richer in special-status species than is characterized in the IS/MND.

The IS/MND analyzes the occurrence likelihoods of only 8 (6.6%) of the special-status species in my Table 2. The IS/MND's smaller analytical effort results from its misuse of CNDDDB to screen out most of the species that could potentially occur at the project site (see comments above). Of the species the IS/MND analyzes, the IS/MND determines the occurrence likelihoods to be moderate for one species – California horned lark, and low for the other seven species. And for 113 special-status species in my Table 2, the IS/MND provides no occurrence likelihood determinations at all, including for four species documented on or next to the project site. The analysis is flawed from the IS/MND's initial misuse of CNDDDB to screen out special-status species from next-steps. Its determinations of occurrence likelihoods are also flawed (see below).

The IS/MND provides one over-arching reason for its decision to omit all special-status plant species and 45 special-status species of wildlife from its analysis, which was the disturbed nature of the study area and the absence of suitable habitat. However, no explanation is provided of why disturbance at the project site prevents all of these species whereas disturbance elsewhere does not prevent the occurrences of the same species. Every place in California is disturbed to some degree. The IS/MND provides no evidence of a threshold of disturbance that prevents the occurrences of special-status species of plants and animals, nor does it prevent evidence that such a threshold has been breached.

Of the seven species the IS/MND determines to have low occurrence potential, two have been documented within 1.5 miles of the project site and three have been documented within 1.5 and 4 miles of the site. The documented proximities of these species do not comport with the IS/MND's determinations.

Based on environmental conditions where I have observed California horned larks at other locations, I see no reason why horned larks should be determined to have a high rather than a moderate occurrence likelihood at the project site. Photos 1–3 show an environment that typifies where I have found this species. The site appears like the type of site where California horned larks breed.

Table 2. Occurrence likelihoods of special-status bird species at or near the proposed project site, according to eBird/iNaturalist records (<https://eBird.org>, <https://www.inaturalist.org>) and on-site survey findings, where ‘Very close’ indicates within 1.5 miles of the site, “nearby” indicates within 1.5 and 4 miles, and “in region” indicates within 4 and 30 miles, and ‘in range’ means the species’ geographic range overlaps the site. Entries in bold font identify species detected by Noriko.

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Monarch	<i>Danaus plexippus</i>	FC	Low	Very close
Crotch’s bumble bee	<i>Bombus crotchii</i>	CCE	Low	In region
Western spadefoot	<i>Spea hammondi</i>	SSC		In region
Western pond turtle	<i>Emys marmorata</i>	SSC		In region
Blainville’s horned lizard	<i>Phrynosoma blainvillii</i>	SSC	Low	Nearby
Coastal whiptail	<i>Aspidoscelis tigris stejnegeri</i>	SSC	Low	In region
San Diegan legless lizard	<i>Anniella stebbinsi</i>	SSC		Nearby
California glossy snake	<i>Arizona elegans occidentalis</i>	SSC		In range
Coast patch-nosed snake	<i>Salvadora hexalepis virgultea</i>	SSC		In region
Two-striped gartersnake	<i>Thamnophis hammondi</i>	SSC		In region
South coast gartersnake	<i>Thamnophis sirtalis pop. 1</i>	SSC		In region
Brant	<i>Branta bernicla</i>	SSC2		Nearby
Cackling goose (Aleutian)	<i>Branta hutchinsii leucopareia</i>	WL		Nearby
Redhead	<i>Aythya americana</i>	SSC2		Nearby
Harlequin duck	<i>Histrionicus histrionicus</i>	SSC2		In region
Western grebe	<i>Aechmophorus occidentalis</i>	BCC		Nearby
Clark’s grebe	<i>Aechmophorus clarkii</i>	BCC		Nearby
Western yellow-billed cuckoo	<i>Coccyzus americanus occidentalis</i>	FT, CE, BCC		Nearby
Black swift	<i>Cypseloides niger</i>	SSC3, BCC		Nearby
Vaux’s swift	<i>Chaetura vauxi</i>	SSC2, BCC		Nearby
Costa’s hummingbird	<i>Calypte costae</i>	BCC		Nearby
Rufous hummingbird	<i>Selasphorus rufus</i>	BCC		Very close
Allen’s hummingbird	<i>Selasphorus sasin</i>	BCC		Very close
Lesser sandhill crane	<i>Antigone canadensis canadensis</i>	SSC3		In region
American avocet ²	<i>Recurvirostra americana</i>	BCC		Nearby

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Mountain plover	<i>Charadrius montanus</i>	SSC2, BCC		In region
Snowy plover	<i>Charadrius nivosus</i>	BCC		Nearby
Western snowy plover	<i>Charadrius nivosus nivosus</i>	FT, SSC, BCC		In region
Whimbrel ²	<i>Numenius phaeopus</i>	BCC		Very close
Long-billed curlew	<i>Numenius americanus</i>	WL		Nearby
Marbled godwit	<i>Limosa fedoa</i>	BCC		Nearby
Red knot (Pacific)	<i>Calidris canutus</i>	BCC		In region
Short-billed dowitcher	<i>Limnodromus griseus</i>	BCC		In region
Willet	<i>Tringa semipalmata</i>	BCC		Nearby
Laughing gull	<i>Leucophaeus atricilla</i>	WL		In region
Heermann's gull	<i>Larus heermanni</i>	BCC		Nearby
Western gull	<i>Larus occidentalis</i>	BCC		On site
California gull	<i>Larus californicus</i>	BCC, WL	Observed	On site
California least tern	<i>Sternula antillarum browni</i>	FE, CE, FP		Nearby
Black tern	<i>Chlidonias niger</i>	SSC2, BCC		Nearby
Elegant tern	<i>Thalasseus elegans</i>	BCC, WL		Nearby
Black skimmer	<i>Rynchops niger</i>	BCC, SSC3		Nearby
Common loon	<i>Gavia immer</i>	SSC		Nearby
Wood stork	<i>Mycteria americana</i>	SSC1		Nearby
Brandt's cormorant	<i>Urile penicillatus</i>	BCC		Nearby
Double-crested cormorant	<i>Phalacrocorax auritus</i>	WL		Nearby
American white pelican	<i>Pelacanus erythrorhynchus</i>	SSC1, BCC		Very close
California brown pelican	<i>Pelecanus occidentalis californicus</i>	FP		In region
Least bittern	<i>Ixobrychus exilis</i>	SSC2		In region
White-faced ibis	<i>Plegadis chihi</i>	WL		Very close
Turkey vulture	<i>Cathartes aura</i>	BOP		Very close
Osprey	<i>Pandion haliaetus</i>	WL, BOP		Very close
White-tailed kite	<i>Elanus luecurus</i>	CFP, BOP		Very close
Golden eagle	<i>Aquila chrysaetos</i>	BGEPA, CFP, BOP, WL		Nearby

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Northern harrier	<i>Circus cyaneus</i>	BCC, SSC3, BOP		Very close
Sharp-shinned hawk	<i>Accipiter striatus</i>	WL, BOP		Nearby
Cooper's hawk	<i>Accipiter cooperii</i>	WL, BOP		Very close
Bald eagle	<i>Haliaeetus leucocephalus</i>	CE, BGEPA, BOP		Nearby
Red-shouldered hawk	<i>Buteo lineatus</i>	BOP		Very close
Swainson's hawk	<i>Buteo swainsoni</i>	CT, BOP		Nearby
Red-tailed hawk	<i>Buteo jamaicensis</i>	BOP		Very close
Ferruginous hawk	<i>Buteo regalis</i>	WL, BOP	Low	Nearby
Zone-tailed hawk	<i>Buteo albonotatus</i>	BOP		Nearby
Harris' hawk	<i>Parabuteo unicinctus</i>	WL, BOP		In region
Rough-legged hawk	<i>Buteo lagopus</i>	BOP		In region
Barn owl	<i>Tyto alba</i>	BOP		Nearby
Western screech-owl	<i>Megascops kennicotti</i>	BOP		Nearby
Great horned owl	<i>Bubo virginianus</i>	BOP		Very close
Burrowing owl	<i>Athene cunicularia</i>	BCC, SSC2, BOP	Low	Nearby
Long-eared owl	<i>Asio otus</i>	BCC, SSC3, BOP		In region
Short-eared owl	<i>Asia flammeus</i>	BCC, SSC3, BOP		In region
Lewis's woodpecker	<i>Melanerpes lewis</i>	BCC		Nearby
Nuttall's woodpecker	<i>Picoides nuttallii</i>	BCC		Nearby
American kestrel	<i>Falco sparverius</i>	BOP		On site
Merlin	<i>Falco columbarius</i>	WL, BOP		Very close
Peregrine falcon	<i>Falco peregrinus</i>	BOP	Low	Very close
Prairie falcon	<i>Falco mexicanus</i>	WL, BOP		Nearby
Olive-sided flycatcher	<i>Contopus cooperi</i>	BCC, SSC2		Nearby
Willow flycatcher	<i>Empidonax traillii</i>	CE		Nearby
Southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	FE, CE		In region
Vermilion flycatcher	<i>Pyrocephalus rubinus</i>	SSC2		Nearby
Least Bell's vireo	<i>Vireo bellii pusillus</i>	FE, CE		Nearby
Loggerhead shrike	<i>Lanius ludovicianus</i>	SSC2		Nearby

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Oak titmouse	<i>Baeolophus inornatus</i>	BCC		Very close
California horned lark	<i>Eremophila alpestris actia</i>	WL	Moderate	Very close
Bank swallow	<i>Riparia riparia</i>	CT		Nearby
Purple martin	<i>Progne subis</i>	SSC2		Nearby
Wrentit	<i>Chamaea fasciata</i>	BCC		Very close
California gnatcatcher	<i>Polioptila c. californica</i>	FT, SSC2		In region
California thrasher	<i>Toxostoma redivivum</i>	BCC		Very close
Cassin's finch	<i>Haemorhous cassinii</i>	BCC		In region
Lawrence's goldfinch	<i>Spinus lawrencei</i>	BCC		Nearby
Grasshopper sparrow	<i>Ammodramus savannarum</i>	SSC2		Very close
Black-chinned sparrow	<i>Spizella atrogularis</i>	BCC		In region
Gray-headed junco	<i>Junco hyemalis caniceps</i>	WL		In region
Bell's sparrow	<i>Amphispiza b. belli</i>	WL		In region
Belding's savannah sparrow ³	<i>Passerculus sandwichensis beldingi</i>	CE, BCC		Nearby
Large-billed savannah sparrow ³	<i>Passerculus sandwichensis rostratus</i>	SSC2		In region
Southern California rufous-crowned sparrow	<i>Aimophila ruficeps canescens</i>	WL		Nearby
Yellow-breasted chat	<i>Icteria virens</i>	SSC3		Nearby
Yellow-headed blackbird	<i>Xanthocephalus xanthocephalus</i>	SSC3		Nearby
Bullock's oriole	<i>Icterus bullockii</i>	BCC		Very close
Tricolored blackbird	<i>Agelaius tricolor</i>	CT, BCC, SSC1		Nearby
Lucy's warbler	<i>Leiothlypis luciae</i>	SSC3, BCC		Very close
Virginia's warbler	<i>Leiothlypis virginiae</i>	WL, BCC		Nearby
Yellow warbler	<i>Setophaga petechia</i>	SSC2		Very close
Summer tanager	<i>Piranga rubra</i>	SSC1		Nearby
Pallid bat	<i>Antrozous pallidus</i>	SSC, WBWG:H		In region
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	SSC, WBWG:H		In range
Silver-haired bat	<i>Lasionycteris noctivagans</i>	WBWG:M		In range
Western red bat	<i>Lasiurus blossevillii</i>	SSC, WBWG:H		In range

Common name	Species name	Status ¹	Occurrence potentials	
			IS/MND	Data base records, Site visits
Hoary bat	<i>Lasiurus cinereus</i>	WBWG:M		In region
Western yellow bat	<i>Lasiurus xanthinus</i>	SSC, WBWG:H		In range
Western small-footed myotis	<i>Myotis cililabrum</i>	WBWG:M		In range
Miller's myotis	<i>Myotis evotis</i>	WBWG:M		In region
Little brown myotis	<i>Myotis lucifugus</i>	WBWG:M		In region
Fringed myotis	<i>Myotis thysanodes</i>	WBWG:H		In range
Long-legged myotis	<i>Myotis volans</i>	WBWG:H		In range
Yuma myotis	<i>Myotis yumanensis</i>	WBWG:LM		In region
Western mastiff bat	<i>Eumops perotis</i>	SSC, WBWG:H		In range
American badger	<i>Taxidea taxus</i>	SSC		In region

¹ Listed as FT or FE = federal threatened or endangered, FC = federal candidate for listing, BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, CT or CE = California threatened or endangered, CCT or CCE = Candidate California threatened or endangered, CFP = California Fully Protected (California Fish and Game Code 3511), SSC = California Species of Special Concern (not threatened with extinction, but rare, very restricted in range, declining throughout range, peripheral portion of species' range, associated with habitat that is declining in extent), SSC1, SSC2 and SSC3 = California Bird Species of Special Concern priorities 1, 2 and 3, respectively (Shuford and Gardali 2008), WL = Taxa to Watch List (Shuford and Gardali 2008), and BOP = Birds of Prey (CFG Code 3503.5), and WBWG = Western Bat Working Group with priority rankings, of low (L), moderate (M), and high (H).

² Uncertain if BCC based on 2021 Bird of Conservation Concern list.

³ Uncertain of subspecies, but either resident Belding's or wintering large-billed savannah sparrows.

For each of the species of wildlife the IS/MND determines to have low occurrence potential, flawed reasons are reported. For example, the IS/MND reports that “the site is frequently disturbed and lacks connectivity to high quality habitat” of Crotch’s bumble bee. Again, the IS/MND fails to define a disturbance threshold that prevents the species at issue. The IS/MND fails to define that level of connectivity to high quality habitat that is needed, nor does it explain what it means by high quality habitat. (Habitat quality is typically represented by measures of productivity.)

Referring to Monarch, the IS/MND reports that “Suitable roosting habitat for this species does not occur within the site and host plant species were not detected.” However, this reporting implies that roosting habitat is the only resource that needs to be considered for Monarch. It is not. According to the conservation strategy of the Western Monarch Butterfly Conservation Plan, migratory habitats are no less important to the conservation of monarchs than are overwintering groves, and the Plan identifies urban areas as contributive to migratory habitat.

Referring to both coastal whiptail and coast horned lizard, the IS/MND reports that “Suitable habitat for this species does not occur within the site due to the existing level of disturbance from operating activities.” Repeating the flaw noted above, the IS/MND fails to define a disturbance threshold that prevents either species from occurring at the project site. How is it that western side-blotched lizards and Great Basin fence lizards both occur at the project site in abundance, but the disturbance of the site prevents the occurrences of special-status species? The IS/MND presents no evidence that either of these species should be determined to have low occurrence potential.

As for Ferruginous hawk, the IS/MND points out that “Suitable nesting habitat does not occur within the project site, however, there is low potential for foraging.” Whether nesting habitat is suitable on the project site is not an issue for this species. Ferruginous hawks nest far to the north, but must find sufficient forage in southern California over the winter in order to successfully nest up north. Ferruginous hawks are winter migrants to the area, and in my experience, they hunt over fields just like the project site (Photo 26). The project does not provide “low potential for foraging,” as there are many of the pocket gophers and other animals that ferruginous hawks hunt.

Referring to peregrine falcon, the IS/MND claims, “the closest foraging habitat is located over 2 miles northwest.” However, this assertion is inaccurate. The closest foraging opportunities are to be found on the project site. I have many times witnessed peregrine falcons foraging over fields just like the project site. For example, I witnessed multiple members of a family of peregrine falcons forage over a field I surveyed 14 times in Bakersfield, California – a field that was repeatedly disked and sometimes covered in trash. These peregrine falcons captured ground squirrels and birds (one was a mourning dove, which is a species Noriko saw on the project site) and carried them to their nest on a water tower 800 m away. Peregrine falcons could very well forage successfully at the project site, and they could nest in the tower mentioned by the ESA biologist.

Photo 26. *A ferruginous hawk attempts to grab a pocket gopher on a southern California field that looks not too unlike the project site.*



POTENTIAL BIOLOGICAL IMPACTS

An impacts analysis should consider whether and how a proposed project would affect members of a species, larger demographic units of the species, the whole of a species, and ecological communities. The accuracy of this analysis depends on an accurate characterization of the existing environmental setting. In the case of the proposed project, the existing environmental setting has not been accurately characterized, and several important types of potential project impacts have been inadequately analyzed. These types of impacts include habitat loss, interference with wildlife movement, bird-window collision mortality, wildlife-automobile collision mortality, house cat depredation, and parasitic loading from the dog run.

HABITAT LOSS

Between ESA's and Noriko's surveys, 27 species of vertebrate wildlife were documented on the project site, including 4 special-status species. Noriko's findings examined through an analytical bridge to my research work at an expansive study site predicts use of the project site by at least 100 species of vertebrate wildlife including 12 special-status species. Converting the site to the impervious surfaces of an apartment complex and to open space to be used as a dog run would eliminate the project site's productive capacity to all of the wildlife species that currently use it.

The IS/MND makes no attempt to estimate this lost capacity for any of the wildlife species potentially affected. In the case of birds, two methods exist for estimating the loss of productive capacity that would be caused by the project. One method would involve surveys to count the number of bird nests and chicks produced. The alternative method would be to infer productive capacity from estimates of total nest density elsewhere.

Because the project is located within an area that has undergone severe habitat fragmentation, the habitat that remains in fragmented patches probably no longer supports its original productive capacity of wildlife (Smallwood 2015). Habitat fragmentation and habitat loss have been recognized as the most likely leading causes of a documented 29% decline in overall bird abundance across North America over the last 48 years (Rosenberg et al. 2019). Habitat loss not only results in the immediate numerical decline of wildlife, but it also results in permanent loss of productive capacity. Habitat fragmentation multiplies the negative effects of habitat loss on the productive capacities of biological species (Smallwood 2015). Several studies have estimated total avian nest density at locations that had likewise been highly fragmented. Two study sites in grassland/wetland/woodland complexes within agricultural matrices had total bird nesting densities of 32.8 and 35.8 nests per acre (Young 1948, Yahner 1982) for an average 34.3 nests per acre. To acquire a total nest density closer to conditions in California, Noriko surveyed through the breeding season of 2023 over 4.29 acres of grassland in the San Jacinto Wildlife Area, where she tabulated 3.72 bird nests/acre. Applying her estimated total nest density to the project site's 5.17 acres of grassland predicts 19 bird nest sites. Assuming 1.39 broods per nest site based on Noriko's review of 322 North American bird species, which averaged 1.39 broods per year, then I predict the project would cost California 26 nest attempts/year.

The loss of 19 nest sites and 26 nest attempts/year would qualify as significant project impacts that has not been quantitatively addressed in the IS/MND. But the impact would not end with the immediate loss of nest sites as nest substrate is removed and foraging grounds graded in preparation for impervious surfaces. The reproductive capacity of the site would be lost. The average number of fledglings per nest in Young's (1948) study was 2.9. Assuming Young's (1948) study site typifies bird productivity, the project would prevent the production of 183 fledglings per year. Assuming an average bird generation time of 5 years, the lost capacity of both breeders and annual fledgling production can be estimated from an equation in Smallwood (2022): $\{(nests/year \times chicks/nest \times number\ of\ years) + (2\ adults/nest \times nests/year) \times (number\ of\ years \div years/generation)\} \div (number\ of\ years) = 83\ birds\ per\ year\ denied\ to\ California.$

INTERFERENCE WITH WILDLIFE MOVEMENT

One of CEQA's principal concerns regarding potential project impacts is whether a proposed project would interfere with wildlife movement in the region. Unfortunately, the IS/MND's analysis of whether the project would interfere with wildlife movement in the region is flawed and misleading. According to the IS/MND, "Wildlife corridors are not present within the Project site, which is surrounded by fencing and urban development. Thus, the Project would not result in impacts to existing wildlife corridors or affect wildlife movement." The IS/MND's conclusion lacks supporting evidence. The IS/MND reports no survey methodology designed to determine whether wildlife rely on the site for movement in the region. ESA implemented no sampling regime nor any program of observation to record wildlife movement patterns. ESA attempted neither to quantify nor even to qualitatively assess wildlife movement as evidence of the project's contribution to movement in the region. The conclusion in the IS/MND regarding wildlife movement is only speculative and conclusory. Not only is the IS/MND's

conclusion unfounded, but Noriko found that the site was heavily used by wildlife, including by birds flying to, from, and over the site. Because much of the surrounding area is developed, the site is one of the last remaining wildlife stopover opportunities in the region.

Furthermore, the IS/MND's premise that a wildlife corridor must overlap the project site in order for the project to interfere with wildlife movement represents a false CEQA standard, and is therefore inappropriate to the analysis. The primary phrase of the CEQA standard goes to wildlife movement regardless of whether the movement is channeled by a corridor. A site such as the proposed project site is critically important for wildlife movement because it composes an increasingly diminishing area of open space within a growing expanse of anthropogenic uses, forcing more species of volant wildlife to use the site for stopover and staging during migration, dispersal, and home range patrol (Warnock 2010, Taylor et al. 2011, Runge et al. 2014). The project would cut wildlife off from stopover and staging opportunities, forcing volant wildlife to travel even farther between remaining stopover sites. The project would interfere with wildlife movement in the region.

BIRD-WINDOW COLLISIONS

Considering the project would add a five-story, 67.5-foot-tall, 373,069-square-foot residential building with 234 residential units, along with many glass windows on the building's facades, the IS/MND neglects a large portion of habitat that is essential to many species. To understand this part of their habitat, one must consider the definition of habitat, which is a species' use of the environment (Hall et al. 1997, Morrison et al. 1998, Smallwood 2002). The gaseous atmosphere, or aerosphere, is a principal medium of life to volant animals such as birds (Davy et al. 2017, Diehl et al. 2017). The aerosphere is where birds and bats and other volant animals with wings migrate, disperse, forage, perform courtship and where some of them mate. Birds are some of the many types of animals that evolved wings as a morphological adaptation to thrive by moving through the medium of the aerosphere. The aerosphere is habitat. Indeed, an entire discipline of ecology has emerged to study this essential aspect of habitat – the discipline of aeroecology (Kunz et al. 2008).

Many special-status species of birds have been recorded at or near the aerosphere of the project site. My database review and the site visits indicate there are 96 special-status species of birds with potential to use the site's aerosphere (Table 2). Of these, 3 have been recorded on or over the project site, 23 within 1.5 miles of the site ('Very close'), 50 within 1.5 and 4 miles ('Nearby'), and another 20 within 4 to 30 miles ('In region'). The birds reported within all these distance domains from the project site can quickly fly those distances, so they would all be within short flights of the proposed project's windows.

Window collisions are often characterized as either the second or third largest source or human-caused bird mortality. The numbers behind these characterizations are often attributed to Klem's (1990) and Dunn's (1993) estimates of about 100 million to 1 billion bird fatalities in the USA, or more recently by Loss et al.'s (2014) estimate of 365-988

million bird fatalities in the USA or Calvert et al.'s (2013) and Machtans et al.'s (2013) estimates of 22.4 million and 25 million bird fatalities in Canada, respectively. The proposed project would impose windows in the airspace normally used by birds.

Glass-façades of buildings intercept and kill many birds, but these façades are differentially hazardous to birds based on spatial extent, contiguity, orientation, and other factors. At Washington State University, Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a three-story glass walkway (no fatality adjustments attempted). Prior to marking the windows to warn birds of the collision hazard, the collision rate was 84.7 per year. At that rate, and not attempting to adjust the fatality estimate for the proportion of fatalities not found, 4,574 birds were likely killed over the 54 years since the start of their study, and that's at a relatively small building façade. Accounting for the proportion of fatalities not found, the number of birds killed by this walkway over the last 54 years would have been about 14,270. And this is just for one 3-story, glass-sided walkway between two college campus buildings.

Klem's (1990) estimate was based on speculation that 1 to 10 birds are killed per building per year, and this speculated range was extended to the number of buildings estimated by the US Census Bureau in 1986. Klem's speculation was supported by fatality monitoring at only two houses, one in Illinois and the other in New York. Also, the basis of his fatality rate extension has changed greatly since 1986. Whereas his estimate served the need to alert the public of the possible magnitude of the bird-window collision issue, it was highly uncertain at the time and undoubtedly outdated more than three decades hence. Indeed, by 2010 Klem (2010) characterized the upper end of his estimated range – 1 billion bird fatalities – as conservative. Furthermore, the estimate lumped species together as if all birds are the same and the loss of all birds to windows has the same level of impact.

By the time Loss et al. (2014) performed their effort to estimate annual USA bird-window fatalities, many more fatality monitoring studies had been reported or were underway. Loss et al. (2014) incorporated many more fatality rates based on scientific monitoring, and they were more careful about which fatality rates to include. However, they included estimates based on fatality monitoring by homeowners, which in one study were found to detect only 38% of the available window fatalities (Bracey et al. 2016). Loss et al. (2014) excluded all fatality records lacking a dead bird in hand, such as injured birds or feather or blood spots on windows. Loss et al.'s (2014) fatality metric was the number of fatalities per building (where in this context a building can include a house, low-rise, or high-rise structure), but they assumed that this metric was based on window collisions. Because most of the bird-window collision studies were limited to migration seasons, Loss et al. (2014) developed an admittedly assumption-laden correction factor for making annual estimates. Also, only 2 of the studies included adjustments for carcass persistence and searcher detection error, and it was unclear how and to what degree fatality rates were adjusted for these factors. Although Loss et al. (2014) attempted to account for some biases as well as for large sources of uncertainty mostly resulting from an opportunistic rather than systematic sampling data source,

their estimated annual fatality rate across the USA was highly uncertain and vulnerable to multiple biases, most of which would have resulted in fatality estimates biased low.

In my review of bird-window collision monitoring, I found that the search radius around homes and buildings was very narrow, usually 2 meters. Based on my experience with bird collisions in other contexts, I would expect that a large portion of bird-window collision victims would end up farther than 2 m from the windows, especially when the windows are higher up on tall buildings. In my experience, searcher detection rates tend to be low for small birds deposited on ground with vegetation cover or woodchips or other types of organic matter. Also, vertebrate scavengers entrain on anthropogenic sources of mortality and quickly remove many of the carcasses, thereby preventing the fatality searcher from detecting these fatalities. Adjusting fatality rates for these factors – search radius bias, searcher detection error, and carcass persistence rates – would greatly increase nationwide estimates of bird-window collision fatalities.

Buildings can intercept many nocturnal migrants as well as birds flying in daylight. As mentioned above, Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a four-story glass walkway at Washington State University (no adjustments attempted for undetected fatalities). Somerlot (2003) found 21 bird fatalities among 13 buildings on a university campus within only 61 days. Monitoring twice per week, Hager et al. (2008) found 215 bird fatalities of 48 species, or 55 birds/building/year, and at another site they found 142 bird fatalities of 37 species for 24 birds/building/year. Gelb and Delacretaz (2009) recorded 5,400 bird fatalities under buildings in New York City, based on a decade of monitoring only during migration periods, and some of the high-rises were associated with hundreds of fatalities each. Klem et al. (2009) monitored 73 building façades in New York City during 114 days of two migratory periods, tallying 549 collision victims, nearly 5 birds per day. Borden et al. (2010) surveyed a 1.8 km route 3 times per week during 12-month period and found 271 bird fatalities of 50 species. Parkins et al. (2015) found 35 bird fatalities of 16 species within only 45 days of monitoring under 4 building façades. From 24 days of survey over a 48-day span, Porter and Huang (2015) found 47 fatalities under 8 buildings on a university campus. Sabo et al. (2016) found 27 bird fatalities over 61 days of searches under 31 windows. In San Francisco, Kahle et al. (2016) found 355 collision victims within 1,762 days under a 5-story building. Ocampo-Peñuela et al. (2016) searched the perimeters of 6 buildings on a university campus, finding 86 fatalities after 63 days of surveys. One of these buildings produced 61 of the 86 fatalities, and another building with collision-deterrent glass caused only 2 of the fatalities, thereby indicating a wide range in impacts likely influenced by various factors. There is ample evidence available to support my prediction that the proposed project would result in many collision fatalities of birds.

Project Impact Prediction

By the time of these comments, I had reviewed and processed results of bird collision monitoring at 213 buildings and façades for which bird collisions per m² of glass per year could be calculated and averaged (Johnson and Hudson 1976, O'Connell 2001, Somerlot 2003, Hager et al. 2008, Borden et al. 2010, Hager et al. 2013, Porter and

Huang 2015, Parkins et al. 2015, Kahle et al. 2016, Ocampo-Peñuela et al. 2016, Sabo et al. 2016, Barton et al. 2017, Gomez-Moreno et al. 2018, Schneider et al. 2018, Loss et al. 2019, Brown et al. 2020, City of Portland Bureau of Environmental Services and Portland Audubon 2020, Riding et al. 2020). These study results averaged 0.073 bird deaths per m² of glass per year (95% CI: 0.042-0.102). This average and its 95% confidence interval provide a robust basis for predicting fatality rates at a proposed new project.

The IS/MND does not disclose the extent of glass windows and glass railings on the proposed new building. I therefore used the building schematics in the IS/MND to measure the extent of windows. I measured windows along 10% of the building's façades, and then projected the total area of the windows measured to the entire building. I estimated 4,000 m² of exterior glass, not including glass railings. Applying the mean fatality rate (above) to my estimate of 4,000 m² of window glass in the project, I predict annual bird deaths of 292 (95% CI: 174–411).

The vast majority of these deaths would be of birds protected under the Migratory Bird Treaty Act and under the recently revised California Migratory Bird Protection Act, thus causing significant unmitigated impacts. Given the predicted level of bird-window collision mortality, and the lack of any proposed mitigation, it is my opinion that the proposed project would result in potentially significant adverse biological impacts. There is at least a fair argument for the need to prepare an EIR to appropriately analyze the impact of bird-glass collisions that might be caused by the project.

TRAFFIC IMPACTS TO WILDLIFE

Project-generated traffic would endanger wildlife that must, for various reasons, cross roads used by the project's traffic to get to and from the project site (Photos 27–29), including along roads far from the project footprint. Vehicle collisions have accounted for the deaths of many thousands of amphibian, reptile, mammal, bird, and arthropod fauna, and the impacts have often been found to be significant at the population level (Forman et al. 2003). Across North America traffic impacts have taken devastating tolls on wildlife (Forman et al. 2003). In Canada, 3,562 birds were estimated killed per 100 km of road per year (Bishop and Brogan 2013), and the US estimate of avian mortality on roads is 2,200 to 8,405 deaths per 100 km per year, or 89 million to 340 million total per year (Loss et al. 2014). Local impacts can be more intense than nationally.

Photo 27. A Gambel's quail dashes across a road on 3 April 2021. Such road crossings are usually successful, but too often prove fatal to the animal. Photo by Noriko Smallwood.



Photo 28. Mourning dove killed by vehicle on a California road. Photo by Noriko Smallwood, 21 June 2020.



Photo 29 Raccoon killed on Road 31 just east of Highway 505 in Solano County. Photo taken on 10 November 2018.

The nearest study of traffic-caused wildlife mortality was performed along a 2.5-mile stretch of Vasco Road in Contra Costa County, California. Fatality searches in this study found 1,275 carcasses of 49 species of mammals, birds, amphibians and reptiles over 15 months of searches (Mendelsohn et al. 2009). This fatality number needs to be adjusted for the proportion of fatalities that were not found due to scavenger removal and searcher error. This adjustment is typically made by placing carcasses for searchers to find (or not find) during their routine periodic fatality searches. This step was not taken at Vasco Road (Mendelsohn et al. 2009), but it was taken as part of another study next to Vasco Road (Brown et al. 2016). Brown et al.'s (2016) adjustment factors for carcass persistence resembled those of Santos et al. (2011). Also applying searcher detection rates from Brown et al. (2016), the adjusted total number of fatalities was estimated at 12,187 animals killed by traffic on the road. This fatality number over 1.25 years and 2.5 miles of road translates to 3,900 wild animals per mile per year. In terms comparable to the national estimates, the estimates from the Mendelsohn et al. (2009) study would translate to 243,740 animals killed per 100 km of road per year, or 29 times that of Loss

et al.'s (2014) upper bound estimate and 68 times the Canadian estimate. An analysis is needed of whether increased traffic generated by the project site would similarly result in local impacts on wildlife.

For wildlife vulnerable to front-end collisions and crushing under tires, road mortality can be predicted from the study of Mendelsohn et al. (2009) as a basis. My analysis of the Mendelsohn et al. (2009) data resulted in an estimated 3,900 animals killed per mile along a county road in Contra Costa County. Two percent of the estimated number of fatalities were birds, and the balance was composed of 34% mammals (many mice and pocket mice, but also ground squirrels, desert cottontails, striped skunks, American badgers, raccoons, and others), 52.3% amphibians (large numbers of California tiger salamanders and California red-legged frogs, but also Sierran treefrogs, western toads, arboreal salamanders, slender salamanders and others), and 11.7% reptiles (many western fence lizards, but also skinks, alligator lizards, and snakes of various species). VMT is useful for predicting wildlife mortality because I was able to quantify miles traveled along the studied reach of Vasco Road during the time period of the Mendelsohn et al. (2009), hence enabling a rate of fatalities per VMT that can be projected to other sites, assuming similar collision fatality rates.

Predicting project-generated traffic impacts to wildlife

The IS/MND predicts 3,664,270 annual VMT. During the Mendelsohn et al. (2009) study, 19,500 cars traveled Vasco Road daily, so the vehicle miles that contributed to my estimate of non-volant fatalities was $19,500 \text{ cars and trucks} \times 2.5 \text{ miles} \times 365 \text{ days/year} \times 1.25 \text{ years} = 22,242,187.5 \text{ vehicle miles}$ per 12,187 wildlife fatalities, or 1,825 vehicle miles per fatality. This rate divided into the predicted annual VMT, above, would predict 2,008 vertebrate wildlife fatalities per year.

Based on my analysis, the project-generated traffic would cause significant impacts to wildlife. The IS/MND does not address this potential impact, let alone propose to mitigate it. Mitigation measures to improve wildlife safety along roads are available and are feasible, and they need exploration for their suitability with the proposed project. Given the predicted level of project-generated, traffic-caused mortality, and the lack of any proposed mitigation, it is my opinion that the proposed project would result in potentially significant adverse biological impacts. A fair argument can be made for the need to prepare an EIR to appropriately analyze the potential impacts of project-generated automobile traffic on wildlife.

WILDLIFE DEPREDAATION BY HOUSE CATS

Considering national trends, it is safe to assume that house cats would be introduced to the project area by residents of the proposed 234 residential units. This is significant because house cats serve as one of the largest sources of avian mortality in North America (Dauphiné and Cooper 2009, Blancher 2013, Loss et al. 2013, Loyd et al. 2017). Loss et al. (2013) estimated 139 million cats in the USA in 2013 (range 114 to 164 million), which killed an estimated 16.95 billion vertebrate wildlife annually (range 7.6 to 26.3 billion). In 2012 there were 0.44 house cats per human, and 122 vertebrate

animals were killed per cat, free-ranging members of which killed disproportionately larger numbers of vertebrate wildlife. The IS/MND predicts the project would add 912 new residents. The above rates of cat ownership applied to this number of new residents **would predict 401 new house cats, which would kill 48,922 vertebrate wildlife per year.**

House cats also contribute to downstream loading of *Toxoplasma gondii*. According to a UC Davis wildlife health research program, *“Toxoplasma gondii is a parasite that can infect virtually all warm-blooded animals, but the only known definitive hosts are cats – domesticated and feral house cats included. Cats catch the parasite through hunting rodents and birds and they offload it into the environment through their feces... and ...rain that falls on cement creates more runoff than rain that falls on natural earth, which contributes to increased runoff that can carry fecal pathogens to the sea”* (<http://www.evotis.org/toxoplasma-gondii-sea-otters/>).

Impacts to wildlife from the introduction of house cats into the environment would be significant, and yet these impacts are not considered in the IS/MND. A fair argument can be made for the need to prepare an EIR to appropriately analyze potential impacts to wildlife due to depredation and parasite-loading by free-ranging house cats introduced by residents of the project. An obvious mitigation measure would be to constrain house cat ownership such as requiring cats to remain indoors.

DOG RUN

The project proposes the inclusion of a dog run, but the IS/MND does not analyze potential impacts to wildlife that could result from it. Dogs disturb and displace wildlife (Hennings 2016), and dog parks accumulate parasites. In one study of dog parks in Portugal (Ferreira et al. 2017), at least 7 different types of parasites were found in fecal and soil samples, and “the soil of all the parks was contaminated with hookworm eggs.” The parasite loading of the dog park could spill-over to wildlife of the immediate area or downstream to marine mammals at the coast. A fair argument can be made for the need to prepare an EIR to appropriately analyze the potential impacts to wildlife caused by the dog park.

CUMULATIVE IMPACTS

The IS/MND’s cumulative effects analysis is flawed. According to the IS/MND, “Because the Project could result in significant impacts related to biological resources ..., the Project could contribute to cumulative impacts to these resources. This contribution could be cumulatively considerable and thus significant. With the implementation of [mitigation measure BIO-1] ..., the Project’s impact related to biological resources ... would be reduced to less than cumulatively considerable and thus less than significant.” Essentially, the IS/MND implies that cumulative effects are simply residual impacts of incomplete mitigation of project-level impacts, and that no residual impacts would remain after the implementation of mitigation measure BIO-1 – the only measure proposed. This notion is inconsistent with CEQA’s definition of cumulative impacts and how to analyze them. If this was CEQA’s standard, then cumulative effects analysis

would be merely an analysis of mitigation efficacy. This is not how cumulative effects are to be analyzed; the cumulative effects analysis is fundamentally flawed.

Even should project-level mitigation be implemented as proposed in the IS/MND, development projects are causing cumulative impacts in California. To measure the impacts of habitat loss to wildlife caused by mitigated development projects, Noriko Smallwood and I revisited 80 sites of proposed projects that we had originally surveyed in support of comments on CEQA review documents (Smallwood and Smallwood 2023). We revisited the sites to repeat the survey methods at the same time of year, the same start time in the day, and the same methods and survey duration in order to measure the effects of mitigated development on wildlife. We structured the experiment in a before-after, control-impact experimental design, as some of the sites had been developed since our initial survey and some had remained undeveloped. We found that mitigated development resulted in a 66% loss of species on site, and 48% loss of species in the project area. Counts of vertebrate animals declined 90%. “Development impacts measured by the mean number of species detected per survey were greatest for amphibians (-100%), followed by mammals (-86%), grassland birds (-75%), raptors (-53%), special-status species (-49%), all birds as a group (-48%), non-native birds (-44%), and synanthropic birds (-28%). Our results indicated that urban development substantially reduced vertebrate species richness and numerical abundance, even after richness and abundance had likely already been depleted by the cumulative effects of loss, fragmentation, and degradation of habitat in the urbanizing environment,” and despite all of the mitigation measures and existing policies and regulations.

A fair argument can be made for the need to prepare an EIR to appropriately analyze potential project contributions to cumulative impacts to wildlife and plants in the region.

INSUFFICIENT MITIGATION

The only mitigation measure proposed in the IS/MND is a preconstruction survey for nesting birds:

Mitigation Measure BIO-1: *If construction activities occur within the bird nesting season (generally defined as February 15 through September 15), a qualified biologist shall conduct a nesting bird survey within 7 days prior to the start of construction. If an active nest is observed within 500 feet of the proposed construction, the nest shall be avoided, and a suitable buffer zone shall be delineated in the field such that no impacts shall occur until the nest has been determined to be inactive by a qualified biologist. Construction buffers are generally 300 feet for passerines and up to 500 feet for raptor species; however, avoidance buffers may be reduced at the discretion of the biologist, depending on the location of the nest and species tolerance to human presence and construction-related noise.*

If activities must take place within an established buffer, steps shall be taken to reduce indirect effects to nesting activity by actively reducing construction noise within proximity to a presumed nest location and/or installing temporary construction noise

barriers. If the reduction of noise is not feasible, construction activities shall be postponed until the nest is deemed inactive and/or the breeding season has concluded.

First, the avian breeding season recognized by the CDFW is now 1 February through 15 September. The IS/MND is skipping the first two weeks of the recognized avian breeding season.

Second, I concur with the implementation of preconstruction surveys, but it should be understood that preconstruction surveys are no substitute for detection surveys. It should be understood that preconstruction surveys, although warranted, actually achieve very little. Preconstruction, take-avoidance surveys consist of two steps, both of which are very difficult. First, the biologist(s) performing the survey must identify birds that are breeding. Second, the biologist(s) must locate the breeding birds' nests. The first step is typically completed by observing bird behaviors such as food deliveries and nest territory defense. These types of observations typically require many surveys on many dates spread throughout the breeding season, and these observations are to find the nest sites of single targeted species (Smallwood et al. 2013, Smallwood and Smallwood 2021). To identify the birds of all species nesting on a site requires a much greater survey effort.

To attempt to find all of the nest sites of all avian species, I completed surveys to complete the steps needed to count nest attempts of all birds on a research site. I constrained my surveys to a relatively small area of 12.74 acres, because I knew that finding all of the nest sites would be extremely difficult. I surveyed this site 30 times from March through mid-August 2023. Any one of my surveys might have resulted in one or a few nest detections, but my estimated total number of nests was 216. Cavity nests proved the easiest to find, because cavity nesters can more effectively defend their nests against predators and therefore have less need to hide the whereabouts of their nests. Nests of large raptors and herons were also relatively easy to find. I could also identify other birds engaged in nest attempts, but those birds using small cup nests in trees and shrubs and nests on the ground carefully avoided visits to their nests in my presence. Small birds in trees and shrubs and ground nesters are highly vulnerable to predation, and thus the most cryptic of nesters. Whereas I estimated lesser goldfinch as the most prolific nester on the study site, I found not one of their nest structures. Even the nesters that nest right out in the open are highly capable of hiding their nests sites from human eyes.

Even assuming all the nests could be found, the mitigation measure would apply only to the breeding season of the survey. After project construction, California would be denied the production of birds from the project site in every subsequent year. The impacts of the project to birds would be permanent and of large magnitude (see my prediction above, under Habitat Loss).

Finally, the mitigation language allows a single individual to make a subjective decision, outside the public's view, to determine and adjust the buffer area for any given species. This measure lacks objective criteria, and is unenforceable.

RECOMMENDED MEASURES

Protocol-level Detection Surveys in Support of Mitigation: If the project goes forward, detection surveys need to be completed for burrowing owl, white-tailed kite, peregrine falcon, and other special-status species. Detection survey protocols and guidelines are available from resource agencies for multiple special-status species. Otherwise, professional standards can be learned from the scientific literature and species' experts.

Pest Control: The project should commit to minimal use of rodenticides and avicides. It should commit to no placement of poison bait stations outside the buildings.

Guidelines on Building Design to Minimize Bird-Window Collisions: If the project goes forward, it should at a minimum adhere to available Bird-Safe Guidelines, such as those prepared by American Bird Conservancy and New York and San Francisco. The American Bird Conservancy (ABC) produced an excellent set of guidelines recommending actions to: (1) Minimize use of glass; (2) Placing glass behind some type of screening (grilles, shutters, exterior shades); (3) Using glass with inherent properties to reduce collisions, such as patterns, window films, decals or tape; and (4) Turning off lights during migration seasons (Sheppard and Phillips 2015). The City of San Francisco (San Francisco Planning Department 2011) also has a set of building design guidelines, based on the excellent guidelines produced by the New York City Audubon Society (Orff et al. 2007). The ABC document and both the New York and San Francisco documents provide excellent alerting of potential bird-collision hazards as well as many visual examples. The San Francisco Planning Department's (2011) building design guidelines are more comprehensive than those of New York City, but they could have gone further. For example, the San Francisco guidelines probably should have also covered scientific monitoring of impacts as well as compensatory mitigation for impacts that could not be avoided, minimized or reduced.

New research results inform of the efficacy of marking windows. Whereas Klem (1990) found no deterrent effect from decals on windows, Johnson and Hudson (1976) reported a fatality reduction of about 69% after placing decals on windows. In an experiment of opportunity, Ocampo-Peñuela et al. (2016) found only 2 of 86 fatalities at one of 6 buildings – the only building with windows treated with a bird deterrent film. At the building with fritted glass, bird collisions were 82% lower than at other buildings with untreated windows. Kahle et al. (2016) added external window shades to some windowed façades to reduce fatalities 82% and 95%. Brown et al. (2020) reported an 84% lower collision probability among fritted glass windows and windows treated with ORNILUX R UV. City of Portland Bureau of Environmental Services and Portland Audubon (2020) reduced bird collision fatalities 94% by affixing marked Solyx window film to existing glass panels of Portland's Columbia Building. Many external and internal glass markers have been tested experimentally, some showing no effect and some showing strong deterrent effects (Klem 1989, 1990, 2009, 2011; Klem and Saenger 2013; Rössler et al. 2015). For example, Feather Friendly® circular adhesive markers applied in a grid pattern across all windows reduced bird-window collision mortality by 95% in one study (Riggs et al. 2023) and by 95% in another (de Groot et al. 2021).

Another study tested the efficacy of two filmshades to be applied exteriorly to windows prior to installations: BirdShades increased bird-window avoidance by 47% and Haverkamp increased avoidance by 39% (Swaddle et al. 2023).

Monitoring and the use of compensatory mitigation should be incorporated at any new building project because the measures recommended in the available guidelines remain of uncertain efficacy, and even if these measures are effective, they will not reduce collision fatalities to zero. The only way to assess mitigation efficacy and to quantify post-construction fatalities is to monitor the project for fatalities, including at residential dwelling units.

Road Mortality: Compensatory mitigation is needed for the increased wildlife mortality that would be caused by bird-window collisions and the project-generated road traffic in the region. I suggest that this mitigation can be directed toward funding research to identify fatality patterns and effective impact reduction measures such as reduced speed limits and wildlife under-crossings or overcrossings of particularly dangerous road segments. Compensatory mitigation can also be provided in the form of donations to wildlife rehabilitation facilities (see below).

House Cats: If the Specific Plan goes forward, homeowners should not be allowed to let their cats range free. A fund should be established for long-term management of house cats in the project. Management could include public education about the environmental effects of outdoor and free-ranging cats. It could also include a program to spade and neuter cats, especially free-ranging cats. It could also involve some removals of feral cats.

Fund Wildlife Rehabilitation Facilities: Compensatory mitigation ought also to include funding contributions to wildlife rehabilitation facilities to cover the costs of injured animals that will be delivered to these facilities for care. Many animals would likely be injured by collisions with windows and automobiles, and by attacks by house cats.

Landscaping: If the project goes forward, California native plant landscaping (i.e. chaparral, grassland, and locally appropriate scrub plants) should be considered to be used in residential yards, street-ways, and parks, as opposed to landscaping with lawn and exotic shrubs. Native plants offer more structure, cover, food resources, and nesting substrate for wildlife than landscaping with lawn. Native plant landscaping has been shown to increase the abundance of arthropods which act as importance sources of food for wildlife and are crucial for pollination and plant reproduction (Narango et al. 2017, Adams et al. 2020, Smallwood and Wood 2022.). Further, many endangered and threatened insects require native host plants for reproduction and migration (e.g. El Segundo blue butterfly, monarch butterfly). Around the world, landscaping with native plants over exotic plants increases the abundance and diversity of birds, and is particularly valuable to native birds (Lerman and Warren 2011, Burghardt et al. 2008, Berthon et al. 2021, Smallwood and Wood 2022). Landscaping with native plants is a way to maintain or to bring back some of the natural habitat and lessen the footprint of urbanization by acting as interconnected patches of habitat for wildlife (Goddard et al.

2009, Tallamy 2020). Lastly, not only does native plant landscaping benefit wildlife, it requires less water and maintenance than traditional landscaping with lawn and hedges.

Thank you for your attention,



Shawn Smallwood, Ph.D.

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Photo 40. Yellow-rumped warbler at the project site. Noriko Smallwood.

Kenneth Shawn Smallwood

Curriculum Vitae

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Born May 3, 1963 in
Sacramento, California.
Married, father of two.

Ecologist

Expertise

- Finding solutions to controversial problems related to wildlife interactions with human industry, infrastructure, and activities;
- Wildlife monitoring and field study using GPS, thermal imaging, behavior surveys;
- Using systems analysis and experimental design principles to identify meaningful ecological patterns that inform management decisions.

Education

Ph.D. Ecology, University of California, Davis. September 1990.
M.S. Ecology, University of California, Davis. June 1987.
B.S. Anthropology, University of California, Davis. June 1985.
Corcoran High School, Corcoran, California. June 1981.

Experience

- 762 professional reports, including:
 - 90 peer reviewed publications
 - 24 in non-reviewed proceedings
- 646 reports, declarations, posters and book reviews
- 8 in mass media outlets
- 92 public presentations of research results

Editing for scientific journals: Guest Editor, *Wildlife Society Bulletin*, 2012-2013, of invited papers representing international views on the impacts of wind energy on wildlife and how to mitigate the impacts. Associate Editor, *Journal of Wildlife Management*, March 2004 to 30 June 2007. Editorial Board Member, *Environmental Management*, 10/1999 to 8/2004. Associate Editor, *Biological Conservation*, 9/1994 to 9/1995.

Member, Alameda County Scientific Review Committee (SRC), August 2006 to April 2011. The five-member committee investigated causes of bird and bat collisions in the Altamont Pass Wind Resource Area, and recommended mitigation and monitoring measures. The SRC reviewed the science underlying the Alameda County Avian Protection Program, and advised

the County on how to reduce wildlife fatalities.

Consulting Ecologist, 2004-2007, California Energy Commission (CEC). Provided consulting services as needed to the CEC on renewable energy impacts, monitoring and research, and produced several reports. Also collaborated with Lawrence-Livermore National Lab on research to understand and reduce wind turbine impacts on wildlife.

Consulting Ecologist, 1999-2013, U.S. Navy. Performed endangered species surveys, hazardous waste site monitoring, and habitat restoration for the endangered San Joaquin kangaroo rat, California tiger salamander, California red-legged frog, California clapper rail, western burrowing owl, salt marsh harvest mouse, and other species at Naval Air Station Lemoore; Naval Weapons Station, Seal Beach, Detachment Concord; Naval Security Group Activity, Skaggs Island; National Radio Transmitter Facility, Dixon; and, Naval Outlying Landing Field Imperial Beach.

Part-time Lecturer, 1998-2005, California State University, Sacramento. Instructed Mammalogy, Behavioral Ecology, and Ornithology Lab, Contemporary Environmental Issues, Natural Resources Conservation.

Senior Ecologist, 1999-2005, BioResource Consultants. Designed and implemented research and monitoring studies related to avian fatalities at wind turbines, avian electrocutions on electric distribution poles across California, and avian fatalities at transmission lines.

Chairman, Conservation Affairs Committee, The Wildlife Society--Western Section, 1999-2001. Prepared position statements and led efforts directed toward conservation issues, including travel to Washington, D.C. to lobby Congress for more wildlife conservation funding.

Systems Ecologist, 1995-2000, Institute for Sustainable Development. Headed ISD's program on integrated resources management. Developed indicators of ecological integrity for large areas, using remotely sensed data, local community involvement and GIS.

Associate, 1997-1998, Department of Agronomy and Range Science, University of California, Davis. Worked with Shu Geng and Mingua Zhang on several studies related to wildlife interactions with agriculture and patterns of fertilizer and pesticide residues in groundwater across a large landscape.

Lead Scientist, 1996-1999, National Endangered Species Network. Informed academic scientists and environmental activists about emerging issues regarding the Endangered Species Act and other environmental laws. Testified at public hearings on endangered species issues.

Ecologist, 1997-1998, Western Foundation of Vertebrate Zoology. Conducted field research to determine the impact of past mercury mining on the status of California red-legged frogs in Santa Clara County, California.

Senior Systems Ecologist, 1994-1995, EIP Associates, Sacramento, California. Provided consulting services in environmental planning, and quantitative assessment of land units for their conservation and restoration opportunities based on ecological resource requirements of 29 special-status species. Developed ecological indicators for prioritizing areas within Yolo County

to receive mitigation funds for habitat easements and restoration.

Post-Graduate Researcher, 1990-1994, Department of Agronomy and Range Science, *U.C. Davis*. Under Dr. Shu Geng's mentorship, studied landscape and management effects on temporal and spatial patterns of abundance among pocket gophers and species of Falconiformes and Carnivora in the Sacramento Valley. Managed and analyzed a data base of energy use in California agriculture. Assisted with landscape (GIS) study of groundwater contamination across Tulare County, California.

Work experience in graduate school: Co-taught Conservation Biology with Dr. Christine Schonewald, 1991 & 1993, UC Davis Graduate Group in Ecology; Reader for Dr. Richard Coss's course on Psychobiology in 1990, UC Davis Department of Psychology; Research Assistant to Dr. Walter E. Howard, 1988-1990, UC Davis Department of Wildlife and Fisheries Biology, testing durable baits for pocket gopher management in forest clearcuts; Research Assistant to Dr. Terrell P. Salmon, 1987-1988, UC Wildlife Extension, Department of Wildlife and Fisheries Biology, developing empirical models of mammal and bird invasions in North America, and a rating system for priority research and control of exotic species based on economic, environmental and human health hazards in California. Student Assistant to Dr. E. Lee Fitzhugh, 1985-1987, UC Cooperative Extension, Department of Wildlife and Fisheries Biology, developing and implementing statewide mountain lion track count for long-term monitoring.

Fulbright Research Fellow, Indonesia, 1988. Tested use of new sampling methods for numerical monitoring of Sumatran tiger and six other species of endemic felids, and evaluated methods used by other researchers.

Projects

Repowering wind energy projects through careful siting of new wind turbines using map-based collision hazard models to minimize impacts to volant wildlife. Funded by wind companies (principally NextEra Renewable Energy, Inc.), California Energy Commission and East Bay Regional Park District, I have collaborated with a GIS analyst and managed a crew of five field biologists performing golden eagle behavior surveys and nocturnal surveys on bats and owls. The goal is to quantify flight patterns for development of predictive models to more carefully site new wind turbines in repowering projects. Focused behavior surveys began May 2012 and continue. Collision hazard models have been prepared for seven wind projects, three of which were built. Planning for additional repowering projects is underway.

Test avian safety of new mixer-ejector wind turbine (MEWT). Designed and implemented a before-after, control-impact experimental design to test the avian safety of a new, shrouded wind turbine developed by Ogin Inc. (formerly known as FloDesign Wind Turbine Corporation). Supported by a \$718,000 grant from the California Energy Commission's Public Interest Energy Research program and a 20% match share contribution from Ogin, I managed a crew of seven field biologists who performed periodic fatality searches and behavior surveys, carcass detection trials, nocturnal behavior surveys using a thermal camera, and spatial analyses with the collaboration of a GIS analyst. Field work began 1 April 2012 and ended 30 March 2015 without Ogin installing its MEWTs, but we still achieved multiple important scientific advances.

Reduce avian mortality due to wind turbines at Altamont Pass. Studied wildlife impacts caused by 5,400 wind turbines at the world's most notorious wind resource area. Studied how impacts are perceived by monitoring and how they are affected by terrain, wind patterns, food resources, range management practices, wind turbine operations, seasonal patterns, population cycles, infrastructure management such as electric distribution, animal behavior and social interactions.

Reduce avian mortality on electric distribution poles. Directed research toward reducing bird electrocutions on electric distribution poles, 2000-2007. Oversaw 5 founts of fatality searches at 10,000 poles from Orange County to Glenn County, California, and produced two large reports.

Cook *et al.* v. Rockwell International *et al.*, No. 90-K-181 (D. Colorado). Provided expert testimony on the role of burrowing animals in affecting the fate of buried and surface-deposited radioactive and hazardous chemical wastes at the Rocky Flats Plant, Colorado. Provided expert reports based on four site visits and an extensive document review of burrowing animals. Conducted transect surveys for evidence of burrowing animals and other wildlife on and around waste facilities. Discovered substantial intrusion of waste structures by burrowing animals. I testified in federal court in November 2005, and my clients were subsequently awarded a \$553,000,000 judgment by a jury. After appeals the award was increased to two billion dollars.

Hanford Nuclear Reservation Litigation. Provided expert testimony on the role of burrowing animals in affecting the fate of buried radioactive wastes at the Hanford Nuclear Reservation, Washington. Provided three expert reports based on three site visits and extensive document review. Predicted and verified a certain population density of pocket gophers on buried waste structures, as well as incidence of radionuclide contamination in body tissue. Conducted transect surveys for evidence of burrowing animals and other wildlife on and around waste facilities. Discovered substantial intrusion of waste structures by burrowing animals.

Expert testimony and declarations on proposed residential and commercial developments, gas-fired power plants, wind, solar and geothermal projects, water transfers and water transfer delivery systems, endangered species recovery plans, Habitat Conservation Plans and Natural Communities Conservation Programs. Testified before multiple government agencies, Tribunals, Boards of Supervisors and City Councils, and participated with press conferences and depositions. Prepared expert witness reports and court declarations, which are summarized under Reports (below).

Protocol-level surveys for special-status species. Used California Department of Fish and Wildlife and US Fish and Wildlife Service protocols to search for California red-legged frog, California tiger salamander, arroyo southwestern toad, blunt-nosed leopard lizard, western pond turtle, giant kangaroo rat, San Joaquin kangaroo rat, San Joaquin kit fox, western burrowing owl, Swainson's hawk, Valley elderberry longhorn beetle and other special-status species.

Conservation of San Joaquin kangaroo rat. Performed research to identify factors responsible for the decline of this endangered species at Lemoore Naval Air Station, 2000-2013, and implemented habitat enhancements designed to reverse the trend and expand the population.

Impact of West Nile Virus on yellow-billed magpies. Funded by Sacramento-Yolo Mosquito and Vector Control District, 2005-2008, compared survey results pre- and post-West Nile Virus epidemic for multiple bird species in the Sacramento Valley, particularly on yellow-billed magpie and American crow due to susceptibility to WNV.

Workshops on HCPs. Assisted Dr. Michael Morrison with organizing and conducting a 2-day workshop on Habitat Conservation Plans, sponsored by Southern California Edison, and another 1-day workshop sponsored by PG&E. These Workshops were attended by academics, attorneys, and consultants with HCP experience. We guest-edited a Proceedings published in Environmental Management.

Mapping of biological resources along Highways 101, 46 and 41. Used GPS and GIS to delineate vegetation complexes and locations of special-status species along 26 miles of highway in San Luis Obispo County, 14 miles of highway and roadway in Monterey County, and in a large area north of Fresno, including within reclaimed gravel mining pits.

GPS mapping and monitoring at restoration sites and at Caltrans mitigation sites. Monitored the success of elderberry shrubs at one location, the success of willows at another location, and the response of wildlife to the succession of vegetation at both sites. Also used GPS to monitor the response of fossorial animals to yellow star-thistle eradication and natural grassland restoration efforts at Bear Valley in Colusa County and at the decommissioned Mather Air Force Base in Sacramento County.

Mercury effects on Red-legged Frog. Assisted Dr. Michael Morrison and US Fish and Wildlife Service in assessing the possible impacts of historical mercury mining on the federally listed California red-legged frog in Santa Clara County. Also measured habitat variables in streams.

Opposition to proposed No Surprises rule. Wrote a white paper and summary letter explaining scientific grounds for opposing the incidental take permit (ITP) rules providing ITP applicants and holders with general assurances they will be free of compliance with the Endangered Species Act once they adhere to the terms of a “properly functioning HCP.” Submitted 188 signatures of scientists and environmental professionals concerned about No Surprises rule US Fish and Wildlife Service, National Marine Fisheries Service, all US Senators.

Natomas Basin Habitat Conservation Plan alternative. Designed narrow channel marsh to increase the likelihood of survival and recovery in the wild of giant garter snake, Swainson’s hawk and Valley Elderberry Longhorn Beetle. The design included replication and interspersions of treatments for experimental testing of critical habitat elements. I provided a report to Northern Territories, Inc.

Assessments of agricultural production system and environmental technology transfer to China. Twice visited China and interviewed scientists, industrialists, agriculturalists, and the Directors of the Chinese Environmental Protection Agency and the Department of Agriculture to assess the need and possible pathways for environmental clean-up technologies and trade opportunities between the US and China.

Yolo County Habitat Conservation Plan. Conducted landscape ecology study of Yolo County to spatially prioritize allocation of mitigation efforts to improve ecosystem functionality within the County from the perspective of 29 special-status species of wildlife and plants. Used a hierarchically structured indicators approach to apply principles of landscape and ecosystem ecology, conservation biology, and local values in rating land units. Derived GIS maps to help guide the conservation area design, and then developed implementation strategies.

Mountain lion track count. Developed and conducted a carnivore monitoring program throughout California since 1985. Species counted include mountain lion, bobcat, black bear, coyote, red and gray fox, raccoon, striped skunk, badger, and black-tailed deer. Vegetation and land use are also monitored. Track survey transect was established on dusty, dirt roads within randomly selected quadrats.

Sumatran tiger and other felids. Upon award of Fulbright Research Fellowship, I designed and initiated track counts for seven species of wild cats in Sumatra, including Sumatran tiger, fishing cat, and golden cat. Spent four months on Sumatra and Java in 1988, and learned Bahasa Indonesia, the official Indonesian language.

Wildlife in agriculture. Beginning as post-graduate research, I studied pocket gophers and other wildlife in 40 alfalfa fields throughout the Sacramento Valley, and I surveyed for wildlife along a 200 mile road transect since 1989 with a hiatus of 1996-2004. The data are analyzed using GIS and methods from landscape ecology, and the results published and presented orally to farming groups in California and elsewhere. I also conducted the first study of wildlife in cover crops used on vineyards and orchards.

Agricultural energy use and Tulare County groundwater study. Developed and analyzed a data base of energy use in California agriculture, and collaborated on a landscape (GIS) study of groundwater contamination across Tulare County, California.

Pocket gopher damage in forest clear-cuts. Developed gopher sampling methods and tested various poison baits and baiting regimes in the largest-ever field study of pocket gopher management in forest plantations, involving 68 research plots in 55 clear-cuts among 6 National Forests in northern California.

Risk assessment of exotic species in North America. Developed empirical models of mammal and bird species invasions in North America, as well as a rating system for assigning priority research and control to exotic species in California, based on economic, environmental, and human health hazards.

Peer Reviewed Publications

Smallwood, K. S. 2022. Utility-scale solar impacts to volant wildlife. *Journal of Wildlife Management*: e22216. <https://doi.org/10.1002/jwmg.22216>

Smallwood, K. S., and N. L. Smallwood. 2021. Breeding Density and Collision Mortality of Loggerhead Shrike (*Lanius ludovicianus*) in the Altamont Pass Wind Resource Area. *Diversity* 13, 540. <https://doi.org/10.3390/d13110540>.

Smallwood, K. S. 2020. USA wind energy-caused bat fatalities increase with shorter fatality search intervals. *Diversity* 12(98); <https://doi.org/10.3390/d12030098>

Smallwood, K. S., D. A. Bell, and S. Standish. 2020. Dogs detect larger wind energy impacts on bats and birds. *Journal of Wildlife Management* 84:852-864. DOI: 10.1002/jwmg.21863.

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- Smallwood, K. S., L. Neher, and D. A. Bell. 2017. Turbine siting for raptors: an example from Repowering of the Altamont Pass Wind Resource Area. M. Perrow, Ed., *Wildlife and Wind Farms - Conflicts and Solutions*, Volume 2. Pelagic Publishing, Exeter, United Kingdom. www.bit.ly/2v3cR9Q
- Johnson, D. H., S. R. Loss, K. S. Smallwood, W. P. Erickson. 2016. Avian fatalities at wind energy facilities in North America: A comparison of recent approaches. *Human–Wildlife Interactions* 10(1):7-18.
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Comments on Environmental Documents (Year; pages)

I was retained or commissioned to comment on environmental planning and review documents, including:

- Shirk & Riggin Industrial Park Application, Visalia (2022; 22);
- Duarte Industrial Application, Visalia (2022; 17);
- Amond World Cold Storage Warehouse IS/MND, Madera (2022; 23);
- Replies on Schulte Logistics Centre EIR, Tracy (2022; 28);
- Alta Cuvee Mixed Use Project Recirculated IS/MND, Ranch Cucamonga (2022; 8);
- Fourth visit, Veterans Affairs Site Plan Review No. 20-0102 MND, Bakersfield (2022; 9);
- Replies on 1242 20th Street Wellness Center Project FEIR, Santa Monica (2022; 5);
- 656 South San Vicente Medical Office Project EIR, Los Angeles (2022; 21);
- UCSF New Hospital at Parnassus Heights DEIR. San Francisco (2022; 40);
- DPR-21-021 Warehouse IS, Modesto (2022; 19);
- Ormat Brawley Solar Project DEIR, Brawley (2022; 37);
- Site visits to Heber 1 Geothermal Repower Project IS/MND (2022; 31);
- Heritage Industrial Center Design Review, Chula Vista (2022; 13);
- Temporary Outdoor Vehicle Storage DEIR, Port of Hueneme (2022; 29);
- CNU Medical Center and Innovation Park DEIR, Natomas (2022; 35);
- Beverly Boulevard Warehouse IS/MND, Pico Rivera (2021; 28);
- Hagemon Properties IS/MND Amendment, Bakersfield (2022; 23);
- Airport Distribution Center IS/MND, Redding (2021; 22);
- Orchard on Nevada Warehouse Staff Report, Redlands (2021; 24);
- Landings Logistics Center Exemption, Bakersfield (2021; 19);
- Replies on Hearn Veterans Village IS/MND, Santa Rosa (2021; 22);
- North Central Valley BESS Project IS/MND, Stockton (2021; 37);
- 2nd Replies on Heber 1 Geothermal Repower Project IS/MND (2022; 21);
- Stagecoach Solar DEIR, Barstow (2021; 24);
- Updated Sun Lakes Village North EIR Amendment 5, Banning, Riverside County (2021; 35);
- Freedom Circle Focus Area and Greystar General Plan Amendment Project EIR, San Jose (2021; 43);
- Operon HKI Warehouse IS/MND, Perris (2021; 26);
- Fairway Business Park Phase III IS/MND, Lake Elsinore (2021; 23);
- South Stockton Commerce Center IS/MND, Stockton (2021; 31);
- Starpoint Warehouse IS/MND, San Bernardino (2021; 24);
- Replies on Heber 1 Geothermal Repower Project IS/MND (2021; 15);
- Heber 1 Geothermal Repower Project IS/MND (2021; 11);

- Alviso Hotel Project IS/MND, San Jose (2021; 43);
- Replies on Easton Research Park West IS/MND, Rancho Cordova (2021; 3);
- Easton Research Park West IS/MND, Rancho Cordova (2021; 31);
- US Cold Storage DEIR, Hesperia (2021; 30);
- 1242 20th Street Wellness Center Project FEIR, Santa Monica (2021; 23);
- Third visit, Veterans Affairs Site Plan Review No. 20-0102 MND, Bakersfield (2021; 10);
- Roseland Creek Community Park Project IS/MND, Santa Rosa (2021; 23);
- Vista Mar Declaration of Irreparable Harm, Pacifica (2021; 3);
- LogistiCenter at Fairfield IS/MND (2021; 25);
- Alta Cuvee Mixed Use Project IS/MND, Ranch Cucamonga (2021; 29);
- Caligrows Architectural and Site Plan Review, Patterson (2021; 21);
- 1055 E. Sandhill Avenue Warehouse IS/MND, Carson (2021; 10);
- Chestnut & Tenth Street Commercial Project IS/MND, Gilroy (2021; 27);
- Libitzky Management Warehouse IS/MND, Modesto (2021; 20);
- 3rd Replies on Heber 2 Geothermal Repower Project IS/MND, El Centro (2021; 10);
- Medical Office Building DEIR, Santa Cruz (2021; 30);
- Scannell Warehouse DEIR, Richmond (2021; 24);
- Diamond Heights Application, San Francisco (2021; 24);
- Costa Azul Mixed-Use EIR Addendum, San Diego (2021; 25);
- Woodland Research Park DEIR (2021; 45);
- 2nd Replies on Diamond Street Industrial IS/MND, San Marcos (2021; 9);
- Replies on Diamond Street Industrial IS/MND, San Marcos (2021; 3);
- Diamond Street Industrial IS/MND, San Marcos (2021; 28);
- DHS 109 Industrial Park IS/MND, Desert Hot Springs (2021; 33);
- Jersey Industrial Complex Rancho Cucamonga (2022; 22);
- 1188 Champions Drive Parking Garage Staff Report, San Jose (2021; 5);
- San Pedro Mountain, Pacifica (2021; 22);
- Pixior Warehouse IS/MND, Hesperia (2021; 29);
- 2nd Replies on Heber 2 Geothermal Repower Project IS/MND, El Centro (2021; 9);
- Hearn Veterans Village IS/MND, Santa Rosa (2021; 23);
- Second visit, Veterans Affairs Site Plan Review No. 20-0102 MND, Bakersfield (2021; 11);
- Replies on Station East Residential/Mixed Use EIR, Union City (2021; 26);
- Schulte Logistics Centre EIR, Tracy (2021; 30);
- 4150 Point Eden Way Industrial Development EIR, Hayward (2021; 13);
- Airport Business Centre IS/MND, Manteca (2021; 27);
- Dual-branded Hotel IS/MND, Santa Clara (2021; 26);
- Legacy Highlands Specific Plan EIR, Beaumont (2021; 47);
- UC Berkeley LRDP and Housing Projects #1 and #2 EIR (2021; 27);
- Santa Maria Airport Business Park EIR, Santa Maria (2021; 27);
- Replies on Coachella Valley Arena EIR Addendum, Thousand Palms (2021; 20);
- Coachella Valley Arena EIR Addendum, Thousand Palms (2021; 35);
- Inland Harbor Warehouse NOD, Ontario (2021; 8);
- Alvarado Specific Plan DEIR, La Mesa (2021; 35);
- Harvill Avenue and Rider Street Terminal Project MND, Riverside (2021; 23);

- Gillespie Field EIR Addendum, El Cajon (2021; 28);
- Heritage Wind Energy Project section 94-c siting process, New York (2021: 99);
- Commercial Street Hotels project Site Plans, Oakland (2021; 19);
- Heber 1 Geothermal Repower Project MND, El Centro (2021; 11);
- Citrus-Slover Warehouse Project MND, Fontana (2021; 20);
- Scott Ranch Project RDEIR (Davidon Homes), Petaluma (2021; 31);
- Replies on StratosFuel Renewable H2 Project MND, Victorville (2021; 5);
- StratosFuel Renewable H2 Project MND, Victorville (2021; 25);
- Replies on PARS Global Storage MND, Murietta (2021; 22);
- Baldwin-Zacharias Master Plans EIR, Patterson (2021; 38);
- 1000 Gibraltar Drive EIR, Milpitas (2021; 20);
- Mango Avenue Industrial Warehouse Project, Fontana, MND (2021; 20);
- Veterans Affairs Site Plan Review No. 20-0102 MND, Bakersfield (2021; 25);
- Replies on UCSF Comprehensive Parnassus Heights Plan EIR (2021; 13);
- 14 Charles Hill Circle Design Review (2021; 11);
- SDG Commerce 217 Warehouse IS, American Canyon (2021; 26);
- Mulqueeney Ranch Wind Repowering Project DSEIR (2021; 98);
- Clawiter Road Industrial Project IS/MND, Hayward (2021; 18);
- Garnet Energy Center Stipulations, New York (2020);
- Heritage Wind Energy Project, New York (2020: 71);
- Ameresco Keller Canyon RNG Project IS/MND, Martinez (2020; 11);
- Cambria Hotel Project Staff Report, Dublin (2020; 19);
- Central Pointe Mixed-Use Staff Report, Santa Ana (2020; 20);
- Oak Valley Town Center EIR Addendum, Calimesa (2020; 23);
- Coachillin Specific Plan MND Amendment, Desert Hot Springs (2020; 26);
- Stockton Avenue Hotel and Condominiums Project Tiering to EIR, San Jose (2020; 19);
- Cityline Sub-block 3 South Staff Report, Sunnyvale (2020; 22);
- Station East Residential/Mixed Use EIR, Union City (2020; 21);
- Multi-Sport Complex & Southeast Industrial Annexation Suppl. EIR, Elk Grove (2020; 24);
- Sun Lakes Village North EIR Amendment 5, Banning, Riverside County (2020; 27);
- 2nd comments on 1296 Lawrence Station Road, Sunnyvale (2020; 4);
- 1296 Lawrence Station Road, Sunnyvale (2020; 16);
- Mesa Wind Project EA, Desert Hot Springs (2020; 31);
- 11th Street Development Project IS/MND, City of Upland (2020; 17);
- Vista Mar Project IS/MND, Pacifica (2020; 17);
- Emerson Creek Wind Project Application, Ohio (2020; 64);
- Replies on Wister Solar Energy Facility EIR, Imperial County (2020; 12);
- Wister Solar Energy Facility EIR, Imperial County (2020; 28);
- Crimson Solar EIS/EIR, Mojave Desert (2020, 35) not submitted;
- Sakioka Farms EIR tiering, Oxnard (2020; 14);
- 3440 Wilshire Project IS/MND, Los Angeles (2020; 19);
- Replies on 2400 Barranca Office Development Project EIR, Irvine (2020; 8);
- 2400 Barranca Office Development Project EIR, Irvine (2020; 25);
- Replies on Heber 2 Geothermal Repower Project IS/MND, El Centro (2020; 4);

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- Lots 4-12 Oddstad Way Project IS/MND, Pacifica (2020; 16);
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- Replies to responses on Casmalia and Linden Warehouse, Rialto (2020; 15);
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- Ruby Street Apartments Project Env. Checklist, Hayward (2020; 20);
- Replies to responses on 3721 Mt. Diablo Boulevard Staff Report (2020; 5);
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- North Pointe Business Center MND, Fresno (2020; 14);
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- First Industrial Logistics Center II, Moreno Valley IS/MND (2020; 23);
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- Replies on Beale WAPA Interconnection Project EA & CEQA checklist (2020; 29);
- 2nd comments on Beale WAPA Interconnection Project EA & CEQA checklist (2020; 34);
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- Levine-Fricke Softball Field Improvement Addendum, UC Berkeley (2020; 16);
- Greenlaw Partners Warehouse and Distribution Center Staff Report, Palmdale (2020; 14);
- Humboldt Wind Energy Project DEIR (2019; 25);
- Sand Hill Supplemental EIR, Altamont Pass (2019; 17);
- 1700 Dell Avenue Office Project, Campbell (2019, 28);
- 1180 Main Street Office Project MND, Redwood City (2019; 19);
- Summit Ridge Wind Farm Request for Amendment 4, Oregon (2019; 46);
- Shafter Warehouse Staff Report (2019; 4);
- Park & Broadway Design Review, San Diego (2019; 19);
- Pinnacle Pacific Heights Design Review, San Diego (2019; 19);
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- Preserve at Torrey Highlands EIR, San Diego (2019; 24);
- Santana West Project EIR Addendum, San Jose (2019; 18);
- The Ranch at Eastvale EIR Addendum, Riverside County (2020; 19);
- Hageman Warehouse IS/MND, Bakersfield (2019; 13);
- Oakley Logistics Center EIR, Antioch (2019; 22);
- 27 South First Street IS, San Jose (2019; 23);
- 2nd replies on Times Mirror Square Project EIR, Los Angeles (2020; 11);
- Replies on Times Mirror Square Project EIR, Los Angeles (2020; 13);
- Times Mirror Square Project EIR, Los Angeles (2019; 18);
- East Monte Vista & Aviator General Plan Amend EIR Addendum, Vacaville (2019; 22);
- Hillcrest LRDP EIR, La Jolla (2019; 36);

- 555 Portola Road CUP, Portola Valley (2019; 11);
- Johnson Drive Economic Development Zone SEIR, Pleasanton (2019; 27);
- 1750 Broadway Project CEQA Exemption, Oakland (2019; 19);
- Mor Furniture Project MND, Murietta Hot Springs (2019; 27);
- Harbor View Project EIR, Redwood City (2019; 26);
- Visalia Logistics Center (2019; 13);
- Cordelia Industrial Buildings MND (2019; 14);
- Scheu Distribution Center IS/ND, Rancho Cucamonga (2019; 13);
- Mills Park Center Staff Report, San Bruno (2019; 22);
- Site visit to Desert Highway Farms IS/MND, Imperial County (2019; 9);
- Desert Highway Farms IS/MND, Imperial County (2019; 12);
- ExxonMobil Interim Trucking for Santa Ynez Unit Restart SEIR, Santa Barbara (2019; 9);
- Olympic Holdings Inland Center Warehouse Project MND, Rancho Cucamonga (2019; 14);
- Replies to responses on Lawrence Equipment Industrial Warehouse, Banning (2019; 19);
- PARS Global Storage MND, Murietta (2019; 13);
- Slover Warehouse EIR Addendum, Fontana (2019; 16);
- Seefried Warehouse Project IS/MND, Lathrop (2019; 19)
- World Logistics Center Site Visit, Moreno Valley (2019; 19);
- Merced Landfill Gas-To-Energy Project IS/MND (2019; 12);
- West Village Expansion FEIR, UC Davis (2019; 11);
- Site visit, Doheny Ocean Desalination EIR, Dana Point (2019; 11);
- Replies to responses on Avalon West Valley Expansion EIR, San Jose (2019; 10);
- Avalon West Valley Expansion EIR, San Jose (2019; 22);
- Sunroad – Otay 50 EIR Addendum, San Diego (2019; 26);
- Del Rey Pointe Residential Project IS/MND, Los Angeles (2019; 34);
- 1 AMD Redevelopment EIR, Sunnyvale (2019; 22);
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- SDG Commerce 330 Warehouse IS, American Canyon (2019; 21);
- PAMA Business Center IS/MND, Moreno Valley (2019; 23);
- Cupertino Village Hotel IS (2019; 24);
- Lake House IS/ND, Lodi (2019; 33);
- Campo Wind Project DEIS, San Diego County (DEIS, (2019; 14);
- Stirling Warehouse MND site visit, Victorville (2019; 7);
- Green Valley II Mixed-Use Project EIR, Fairfield (2019; 36);
- We Be Jammin rezone MND, Fresno (2019; 14);
- Gray Whale Cove Pedestrian Crossing IS/ND, Pacifica (2019; 7);
- Visalia Logistics Center & DDG 697V Staff Report (2019; 9);
- Mather South Community Masterplan Project EIR (2019; 35);
- Del Hombro Apartments EIR, Walnut Creek (2019; 23);
- Otay Ranch Planning Area 12 EIR Addendum, Chula Vista (2019; 21);
- The Retreat at Sacramento IS/MND (2019; 26);
- Site visit to Sunroad – Centrum 6 EIR Addendum, San Diego (2019; 9);
- Sunroad – Centrum 6 EIR Addendum, San Diego (2018; 22);
- North First and Brokaw Corporate Campus Buildings EIR Addendum, San Jose (2018; 30);

- South Lake Solar IS, Fresno County (2018; 18);
- Galloo Island Wind Project Application, New York (not submitted) (2018; 44);
- Doheny Ocean Desalination EIR, Dana Point (2018; 15);
- Stirling Warehouse MND, Victorville (2018; 18);
- LDK Warehouse MND, Vacaville (2018; 30);
- Gateway Crossings FEIR, Santa Clara (2018; 23);
- South Hayward Development IS/MND (2018; 9);
- CBU Specific Plan Amendment, Riverside (2018; 27);
- 2nd replies to responses on Dove Hill Road Assisted Living Project MND (2018; 11);
- Replies to responses on Dove Hill Road Assisted Living Project MND (2018; 7);
- Dove Hill Road Assisted Living Project MND (2018; 12);
- Deer Ridge/Shadow Lakes Golf Course EIR, Brentwood (2018; 21);
- Pyramid Asphalt BLM Finding of No Significance, Imperial County (2018; 22);
- Amáre Apartments IS/MND, Martinez (2018; 15);
- Petaluma Hill Road Cannabis MND, Santa Rosa (2018; 21);
- 2nd comments on Zeiss Innovation Center IS/MND, Dublin (2018; 12);
- Zeiss Innovation Center IS/MND, Dublin (2018; 32);
- City of Hope Campus Plan EIR, Duarte (2018; 21);
- Palo Verde Center IS/MND, Blythe (2018; 14);
- Logisticcenter at Vacaville MND (2018; 24);
- IKEA Retail Center SEIR, Dublin (2018; 17);
- Merge 56 EIR, San Diego (2018; 15);
- Natomas Crossroads Quad B Office Project P18-014 EIR, Sacramento (2018; 12);
- 2900 Harbor Bay Parkway Staff Report, Alameda (2018; 30);
- At Dublin EIR, Dublin (2018; 25);
- Fresno Industrial Rezone Amendment Application No. 3807 IS (2018; 10);
- Nova Business Park IS/MND, Napa (2018; 18);
- Updated Collision Risk Model Priors for Estimating Eagle Fatalities, USFWS (2018; 57);
- 750 Marlborough Avenue Warehouse MND, Riverside (2018; 14);
- Replies to responses on San Bernardino Logistics Center IS (2018; 12);
- San Bernardino Logistics Center IS (2018; 19);
- CUP2017-16, Costco IS/MND, Clovis (2018; 11);
- Desert Land Ventures Specific Plan EIR, Desert Hot Springs (2018; 18);
- Ventura Hilton IS/MND (2018; 30);
- North of California Street Master Plan Project IS, Mountain View (2018; 11);
- Tamarind Warehouse MND, Fontana (2018; 16);
- Lathrop Gateway Business Park EIR Addendum (2018; 23);
- Centerpointe Commerce Center IS, Moreno Valley (2019; 18);
- Amazon Warehouse Notice of Exemption, Bakersfield (2018; 13);
- CenterPoint Building 3 project Staff Report, Manteca (2018; 23);
- Cessna & Aviator Warehouse IS/MND, Vacaville (2018; 24);
- Napa Airport Corporate Center EIR, American Canyon (2018, 15);
- 800 Opal Warehouse Initial Study, Mentone, San Bernardino County (2018; 18);
- 2695 W. Winton Ave Industrial Project IS, Hayward (2018; 22);

- Trinity Cannabis Cultivation and Manufacturing Facility DEIR, Calexico (2018; 15);
- Shoe Palace Expansion IS/MND, Morgan Hill (2018; 21);
- Newark Warehouse at Morton Salt Plant Staff Report (2018; 15);
- Northlake Specific Plan FEIR “Peer Review”, Los Angeles County (2018; 9);
- Replies to responses on Northlake Specific Plan SEIR, Los Angeles County (2018; 13);
- Northlake Specific Plan SEIR, Los Angeles County (2017; 27);
- Bogle Wind Turbine DEIR, east Yolo County (2017; 48);
- Ferrante Apartments IS/MND, Los Angeles (2017; 14);
- The Villages of Lakeview EIR, Riverside (2017; 28);
- Data Needed for Assessing Trail Management Impacts on Northern Spotted Owl, Marin County (2017; 5);
- Notes on Proposed Study Options for Trail Impacts on Northern Spotted Owl (2017; 4);
- Pyramid Asphalt IS, Imperial County (Declaration) (2017; 5);
- San Geronio Crossings EIR, Riverside County (2017; 22);
- Replies to responses on Jupiter Project IS and MND, Apple Valley (2017; 12);
- Proposed World Logistics Center Mitigation Measures, Moreno Valley (2017, 2019; 12);
- MacArthur Transit Village Project Modified 2016 CEQA Analysis (2017; 12);
- PG&E Company Bay Area Operations and Maintenance HCP (2017; 45);
- Central SoMa Plan DEIR (2017; 14);
- Suggested mitigation for trail impacts on northern spotted owl, Marin County (2016; 5);
- Colony Commerce Center Specific Plan DEIR, Ontario (2016; 16);
- Fairway Trails Improvements MND, Marin County (2016; 13);
- Review of Avian-Solar Science Plan (2016; 28);
- Replies on Pyramid Asphalt IS, Imperial County (2016; 5);
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- Agua Mansa Distribution Warehouse Project Initial Study (2016; 14);
- Santa Anita Warehouse MND, Rancho Cucamonga (2016; 12);
- CapRock Distribution Center III DEIR, Rialto (2016; 12);
- Orange Show Logistics Center IS/MND, San Bernardino (2016; 9);
- City of Palmdale Oasis Medical Village Project IS/MND (2016; 7);
- Comments on proposed rule for incidental eagle take, USFWS (2016, 49);
- Replies on Grapevine Specific and Community Plan FEIR, Kern County (2016; 25);
- Grapevine Specific and Community Plan DEIR, Kern County (2016; 15);
- Clinton County Zoning Ordinance for Wind Turbine siting (2016);
- Hallmark at Shenandoah Warehouse Project Initial Study, San Bernardino (2016; 6);
- Tri-City Industrial Complex Initial Study, San Bernardino (2016; 5);
- Hidden Canyon Industrial Park Plot Plan 16-PP-02, Beaumont (2016; 12);
- Kimball Business Park DEIR (2016; 10);
- Jupiter Project IS and MND, Apple Valley, San Bernardino County (2016; 9);
- Revised Draft Giant Garter Snake Recovery Plan of 2015 (2016, 18);
- Palo Verde Mesa Solar Project EIR, Blythe (2016; 27);
- Reply on Fairview Wind Project Natural Heritage Assessment, Ontario, Canada (2016; 14);
- Fairview Wind Project Natural Heritage Assessment, Ontario, Canada (2016; 41);
- Reply on Amherst Island Wind Farm Natural Heritage Assessment, Ontario (2015, 38);

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- Proposed Section 24 Specific Plan Agua Caliente Band of Cahuilla Indians DEIS (2015, 9);
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- West Valley Logistics Center Specific Plan DEIR, Fontana (2015, 10);
- Willow Springs Solar Photovoltaic Project DEIR (2015, 28);
- Alameda Creek Bridge Replacement Project DEIR (2015, 10);
- World Logistic Center Specific Plan FEIR, Moreno Valley (2015, 12);
- Elkhorn Valley Wind Power Project Impacts, Oregon (2015; 143);
- Bay Delta Conservation Plan EIR/EIS, Sacramento (2014, 21);
- Addison Wind Energy Project DEIR, Mojave (2014, 32);
- Replies on the Addison Wind Energy Project DEIR, Mojave (2014, 15);
- Addison and Rising Tree Wind Energy Project FEIR, Mojave (2014, 12);
- Palen Solar Electric Generating System FSA (CEC), Blythe (2014, 20);
- Rebuttal testimony on Palen Solar Energy Generating System (2014, 9);
- Seven Mile Hill and Glenrock/Rolling Hills impacts + Addendum, Wyoming (2014; 105);
- Rising Tree Wind Energy Project DEIR, Mojave (2014, 32);
- Replies on the Rising Tree Wind Energy Project DEIR, Mojave (2014, 15);
- Soitec Solar Development Project PEIR, Boulevard, San Diego County (2014, 18);
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- West Antelope Solar Energy Project IS/MND, Antelope Valley (2013, 18);
- Cuyama Solar Project DEIR, Carrizo Plain (2014, 19);
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- Kingbird Solar Photovoltaic Project EIR, Kern County (2013, 19);
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- Sunlight Partners LANDPRO Solar Project MND (2013; 11);
- Declaration in opposition to BLM fracking (2013; 5);
- Blythe Energy Project (solar) CEC Staff Assessment (2013;16);
- Rosamond Solar Project EIR Addendum, Kern County (2013; 13);
- Pioneer Green Solar Project EIR, Bakersfield (2013; 13);
- Replies on Soccer Center Solar Project MND (2013; 6);
- Soccer Center Solar Project MND, Lancaster (2013; 10);
- Plainview Solar Works MND, Lancaster (2013; 10);
- Alamo Solar Project MND, Mojave Desert (2013; 15);
- Replies on Imperial Valley Solar Company 2 Project (2013; 10);
- Imperial Valley Solar Company 2 Project (2013; 13);

- FRV Orion Solar Project DEIR, Kern County (PP12232) (2013; 9);
- Casa Diablo IV Geothermal Development Project (2013; 6);
- Reply on Casa Diablo IV Geothermal Development Project (2013; 8);
- Alta East Wind Project FEIS, Tehachapi Pass (2013; 23);
- Metropolitan Air Park DEIR, City of San Diego (2013;);
- Davidson Homes Tentative Subdivision Rezoning Project DEIR, Petaluma (2013; 9);
- Oakland Zoo Expansion Impacts on Alameda Whipsnake (2013; 10);
- Campo Verde Solar project FEIR, Imperial Valley (2013; 11pp);
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- Summer Solar and Springtime Solar Projects IS/MND Lancaster (2012; 8);
- J&J Ranch, 24 Adobe Lane Environmental Review, Orinda (2012; 14);
- Replies on Hudson Ranch Power II Geothermal Project and Simbol Calipatria Plant II (2012; 8);
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- Desert Harvest Solar Project EIS, near Joshua Tree (2012; 15);
- Solar Gen 2 Array Project DEIR, El Centro (2012; 16);
- Ocotillo Sol Project EIS, Imperial Valley (2012; 4);
- Beacon Photovoltaic Project DEIR, Kern County (2012; 5);
- Butte Water District 2012 Water Transfer Program IS/MND (2012; 11);
- Mount Signal and Calexico Solar Farm Projects DEIR (2011; 16);
- City of Elk Grove Sphere of Influence EIR (2011; 28);
- Sutter Landing Park Solar Photovoltaic Project MND, Sacramento (2011; 9);
- Rabik/Gudath Project, 22611 Coleman Valley Road, Bodega Bay (CPN 10-0002) (2011; 4);
- Ivanpah Solar Electric Generating System (ISEGS) (Declaration) (2011; 9);
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- Route 84 Safety Improvement Project (Declaration) (2011; 7);
- Rebuttal on Whistling Ridge Wind Energy Power DEIS, Skamania County, (2010; 6);
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- Klickitat County's Decisions on Windy Flats West Wind Energy Project (2010; 17);
- St. John's Church Project DEIR, Orinda (2010; 14);
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- Rio del Oro Specific Plan Project FEIR, Rancho Cordova (2010;12);
- Results Radio Zone File #2009-001, Mace Blvd site, Davis (2009; 10);
- Answers to Questions on 33% RPS Implementation Analysis Preliminary Results Report (2009; 9);
- SEPA Determination of Non-significance regarding zoning adjustments for Skamania County, Washington (Second Declaration) (2008; 17);
- Draft 1A Summary Report to CAISO (2008; 10);
- Hilton Manor Project Categorical Exemption, County of Placer (2009; 9);
- Protest of CARE to Amendment to the Power Purchase and Sale Agreement for Procurement of Eligible Renewable Energy Resources Between Hatchet Ridge Wind LLC and PG&E (2009; 3);

- Tehachapi Renewable Transmission Project EIR/EIS (2009; 142);
- Delta Shores Project EIR, south Sacramento (2009; 11 + addendum 2);
- Declaration in Support of Care’s Petition to Modify D.07-09-040 (2008; 3);
- The Public Utility Commission’s Implementation Analysis December 16 Workshop for the Governor’s Executive Order S-14-08 to implement a 33% Renewable Portfolio Standard by 2020 (2008; 9);
- The Public Utility Commission’s Implementation Analysis Draft Work Plan for the Governor’s Executive Order S-14-08 to implement a 33% Renewable Portfolio Standard by 2020 (2008; 11);
- Draft 1A Summary Report to California Independent System Operator for Planning Reserve Margins (PRM) Study (2008; 7.);
- SEPA Determination of Non-significance regarding zoning adjustments for Skamania County, Washington (Declaration) (2008; 16);
- Colusa Generating Station, California Energy Commission PSA (2007; 24);
- Rio del Oro Specific Plan Project Recirculated DEIR, Mather (2008; 66);
- Replies on Regional University Specific Plan EIR, Roseville (2008; 20);
- Regional University Specific Plan EIR, Roseville (2008; 33);
- Clark Precast, LLC’s “Sugarland” project, ND, Woodland (2008; 15);
- Cape Wind Project DEIS, Nantucket (2008; 157);
- Yuba Highlands Specific Plan EIR, Spenceville, Yuba County (2006; 37);
- Replies to responses on North Table Mountain MND, Butte County (2006; 5);
- North Table Mountain MND, Butte County (2006; 15);
- Windy Point Wind Farm EIS (2006; 14 and Powerpoint slide replies);
- Shiloh I Wind Power Project EIR, Rio Vista (2005; 18);
- Buena Vista Wind Energy Project NOP, Byron (2004; 15);
- Callahan Estates Subdivision ND, Winters (2004; 11);
- Winters Highlands Subdivision IS/ND (2004; 9);
- Winters Highlands Subdivision IS/ND (2004; 13);
- Creekside Highlands Project, Tract 7270 ND (2004; 21);
- Petition to California Fish and Game Commission to list Burrowing Owl (2003; 10);
- Altamont Pass Wind Resource Area CUP renewals, Alameda County (2003; 41);
- UC Davis Long Range Development Plan: Neighborhood Master Plan (2003; 23);
- Anderson Marketplace Draft Environmental Impact Report (2003; 18);
- Negative Declaration of the proposed expansion of Temple B’nai Tikyah (2003; 6);
- Antonio Mountain Ranch Specific Plan Public Draft EIR (2002; 23);
- Replies on East Altamont Energy Center evidentiary hearing (2002; 9);
- Revised Draft Environmental Impact Report, The Promenade (2002; 7);
- Recirculated Initial Study for Calpine’s proposed Pajaro Valley Energy Center (2002; 3);
- UC Merced -- Declaration (2002; 5);
- Replies on Atwood Ranch Unit III Subdivision FEIR (2003; 22);
- Atwood Ranch Unit III Subdivision EIR (2002; 19);
- California Energy Commission Staff Report on GWF Tracy Peaker Project (2002; 20);
- Silver Bend Apartments IS/MND, Placer County (2002; 13);
- UC Merced Long-range Development Plan DEIR and UC Merced Community Plan DEIR (2001; 26);

- Colusa County Power Plant IS, Maxwell (2001; 6);
- Dog Park at Catlin Park, Folsom, California (2001; 5);
- Calpine and Bechtel Corporations' Biological Resources Implementation and Monitoring Program (BRMIMP) for the Metcalf Energy Center (2000; 10);
- Metcalf Energy Center, California Energy Commission FSA (2000);
- US Fish and Wildlife Service Section 7 consultation with the California Energy Commission regarding Calpine and Bechtel Corporations' Metcalf Energy Center (2000; 4);
- California Energy Commission's Preliminary Staff Assessment of the proposed Metcalf Energy Center (2000: 11);
- Site-specific management plans for the Natomas Basin Conservancy's mitigation lands, prepared by Wildlands, Inc. (2000: 7);
- Affidavit of K. Shawn Smallwood in Spirit of the Sage Council, et al. (Plaintiffs) vs. Bruce Babbitt, Secretary, U.S. Department of the Interior, et al. (Defendants), Injuries caused by the No Surprises policy and final rule which codifies that policy (1999: 9).
- California Board of Forestry's proposed amended Forest Practices Rules (1999);
- Sunset Skyranch Airport Use Permit IS/MND (1999);
- Ballona West Bluffs Project Environmental Impact Report (1999; oral presentation);
- Draft Recovery Plan for Giant Garter Snake (Fed. Reg. 64(176): 49497-49498) (1999; 8);
- Draft Recovery Plan for Arroyo Southwestern Toad (1998);
- Pacific Lumber Co. (Headwaters) HCP & EIR, Fortuna (1998; 28);
- Natomas Basin HCP Permit Amendment, Sacramento (1998);
- San Diego Multi-Species Conservation Program FEIS/FEIR (1997; 10);

Comments on other Environmental Review Documents:

- Proposed Regulation for California Fish and Game Code Section 3503.5 (2015: 12);
- Statement of Overriding Considerations related to extending Altamont Winds, Inc.'s Conditional Use Permit PLN2014-00028 (2015; 8);
- Covell Village PEIR, Davis (2005; 19);
- Bureau of Land Management Wind Energy Programmatic EIS Scoping (2003; 7.);
- NEPA Environmental Analysis for Biosafety Level 4 National Biocontainment Laboratory (NBL) at UC Davis (2003: 7);
- Notice of Preparation of UC Merced Community and Area Plan EIR, on behalf of The Wildlife Society—Western Section (2001: 8.);
- Preliminary Draft Yolo County Habitat Conservation Plan (2001; 2 letters totaling 35.);
- Merced County General Plan Revision, notice of Negative Declaration (2001: 2.);
- Notice of Preparation of Campus Parkway EIR/EIS (2001: 7.);
- Draft Recovery Plan for the bighorn sheep in the Peninsular Range (*Ovis candensis*) (2000);
- Draft Recovery Plan for the California Red-legged Frog (*Rana aurora draytonii*), on behalf of The Wildlife Society—Western Section (2000: 10.);
- Sierra Nevada Forest Plan Amendment Draft Environmental Impact Statement, on behalf of The Wildlife Society—Western Section (2000: 7.);
- State Water Project Supplemental Water Purchase Program, Draft Program EIR (1997);
- Davis General Plan Update EIR (2000);
- Turn of the Century EIR (1999: 10);

- Proposed termination of Critical Habitat Designation under the Endangered Species Act (Fed. Reg. 64(113): 31871-31874) (1999);
- NOA Draft Addendum to the Final Handbook for Habitat Conservation Planning and Incidental Take Permitting Process, termed the HCP 5-Point Policy Plan (Fed. Reg. 64(45): 11485 - 11490) (1999; 2 + attachments);
- Covell Center Project EIR and EIR Supplement (1997).

Position Statements I prepared the following position statements for the Western Section of The Wildlife Society, and one for nearly 200 scientists:

- Recommended that the California Department of Fish and Game prioritize the extermination of the introduced southern water snake in northern California. The Wildlife Society--Western Section (2001);
- Recommended that The Wildlife Society—Western Section appoint or recommend members of the independent scientific review panel for the UC Merced environmental review process (2001);
- Opposed the siting of the University of California's 10th campus on a sensitive vernal pool/grassland complex east of Merced. The Wildlife Society--Western Section (2000);
- Opposed the legalization of ferret ownership in California. The Wildlife Society--Western Section (2000);
- Opposed the Proposed "No Surprises," "Safe Harbor," and "Candidate Conservation Agreement" rules, including permit-shield protection provisions (Fed. Reg. Vol. 62, No. 103, pp. 29091-29098 and No. 113, pp. 32189-32194). This statement was signed by 188 scientists and went to the responsible federal agencies, as well as to the U.S. Senate and House of Representatives.

Posters at Professional Meetings

Leyvas, E. and K. S. Smallwood. 2015. Rehabilitating injured animals to offset and rectify wind project impacts. Conference on Wind Energy and Wildlife Impacts, Berlin, Germany, 9-12 March 2015.

Smallwood, K. S., J. Mount, S. Standish, E. Leyvas, D. Bell, E. Walther, B. Karas. 2015. Integrated detection trials to improve the accuracy of fatality rate estimates at wind projects. Conference on Wind Energy and Wildlife Impacts, Berlin, Germany, 9-12 March 2015.

Smallwood, K. S. and C. G. Thelander. 2005. Lessons learned from five years of avian mortality research in the Altamont Pass WRA. AWEA conference, Denver, May 2005.

Neher, L., L. Wilder, J. Woo, L. Spiegel, D. Yen-Nakafugi, and K.S. Smallwood. 2005. Bird's eye view on California wind. AWEA conference, Denver, May 2005.

Smallwood, K. S., C. G. Thelander and L. Spiegel. 2003. Toward a predictive model of avian fatalities in the Altamont Pass Wind Resource Area. Windpower 2003 Conference and Convention, Austin, Texas.

Smallwood, K.S. and Eva Butler. 2002. Pocket Gopher Response to Yellow Star-thistle Eradication as part of Grassland Restoration at Decommissioned Mather Air Force Base, Sacramento County,

California. White Mountain Research Station Open House, Barcroft Station.

Smallwood, K.S. and Michael L. Morrison. 2002. Fresno kangaroo rat (*Dipodomys nitratoides*) Conservation Research at Resources Management Area 5, Lemoore Naval Air Station. White Mountain Research Station Open House, Barcroft Station.

Smallwood, K.S. and E.L. Fitzhugh. 1989. Differentiating mountain lion and dog tracks. Third Mountain Lion Workshop, Prescott, AZ.

Smith, T. R. and K. S. Smallwood. 2000. Effects of study area size, location, season, and allometry on reported *Sorex* shrew densities. Annual Meeting of the Western Section of The Wildlife Society.

Presentations at Professional Meetings and Seminars

Long-Term Population Trend of Burrowing Owls in the Altamont. Golden Gate Audubon, 21 October 2020.

Long-Term Population Trend of Burrowing Owls in the Altamont. East Bay Regional Park District 2020 Stewardship Seminar, Oakland, California, 18 November 2020.

Smallwood, K.S., D.A. Bell, and S. Standish. Dogs detect larger wind energy effects on bats and birds. The Wildlife Society, 28 September 2020.

Smallwood, K.S. and D.A. Bell. Effects of wind turbine curtailment on bird and bat fatalities in the Altamont Pass Wind Resource Area. The Wildlife Society, 28 September 2020.

Smallwood, K.S., D.A. Bell, and S. Standish. Dogs detect larger wind energy effects on bats and birds. The Wildlife Survey, 7 February 2020.

Smallwood, K.S. and D.A. Bell. Effects of wind turbine curtailment on bird and bat fatalities in the Altamont Pass Wind Resource Area. The Wildlife Survey, 7 February 2020.

Dog detections of bat and bird fatalities at wind farms in the Altamont Pass Wind Resource Area. East Bay Regional Park District 2019 Stewardship Seminar, Oakland, California, 13 November 2019.

Repowering the Altamont Pass. Altamont Symposium, The Wildlife Society – Western Section, 5 February 2017.

Developing methods to reduce bird mortality in the Altamont Pass Wind Resource Area, 1999-2007. Altamont Symposium, The Wildlife Society – Western Section, 5 February 2017.

Conservation and recovery of burrowing owls in Santa Clara Valley. Santa Clara Valley Habitat Agency, Newark, California, 3 February 2017.

Mitigation of Raptor Fatalities in the Altamont Pass Wind Resource Area. Raptor Research Foundation Meeting, Sacramento, California, 6 November 2015.

From burrows to behavior: Research and management for burrowing owls in a diverse landscape. California Burrowing Owl Consortium meeting, 24 October 2015, San Jose, California.

The Challenges of repowering. Keynote presentation at Conference on Wind Energy and Wildlife Impacts, Berlin, Germany, 10 March 2015.

Research Highlights Altamont Pass 2011-2015. Scientific Review Committee, Oakland, California, 8 July 2015.

Siting wind turbines to minimize raptor collisions: Altamont Pass Wind Resource Area. US Fish and Wildlife Service Golden Eagle Working Group, Sacramento, California, 8 January 2015.

Evaluation of nest boxes as a burrowing owl conservation strategy. Sacramento Chapter of the Western Section, The Wildlife Society. Sacramento, California, 26 August 2013.

Predicting collision hazard zones to guide repowering of the Altamont Pass. Conference on wind power and environmental impacts. Stockholm, Sweden, 5-7 February 2013.

Impacts of Wind Turbines on Wildlife. California Council for Wildlife Rehabilitators, Yosemite, California, 12 November 2012.

Impacts of Wind Turbines on Birds and Bats. Madrone Audubon Society, Santa Rosa, California, 20 February 2012.

Comparing Wind Turbine Impacts across North America. California Energy Commission Staff Workshop: Reducing the Impacts of Energy Infrastructure on Wildlife, 20 July 2011.

Siting Repowered Wind Turbines to Minimize Raptor Collisions. California Energy Commission Staff Workshop: Reducing the Impacts of Energy Infrastructure on Wildlife, 20 July 2011.

Siting Repowered Wind Turbines to Minimize Raptor Collisions. Alameda County Scientific Review Committee meeting, 17 February 2011

Comparing Wind Turbine Impacts across North America. Conference on Wind energy and Wildlife impacts, Trondheim, Norway, 3 May 2011.

Update on Wildlife Impacts in the Altamont Pass Wind Resource Area. Raptor Symposium, The Wildlife Society—Western Section, Riverside, California, February 2011.

Siting Repowered Wind Turbines to Minimize Raptor Collisions. Raptor Symposium, The Wildlife Society - Western Section, Riverside, California, February 2011.

Wildlife mortality caused by wind turbine collisions. Ecological Society of America, Pittsburgh, Pennsylvania, 6 August 2010.

Map-based repowering and reorganization of a wind farm to minimize burrowing owl fatalities. California burrowing Owl Consortium Meeting, Livermore, California, 6 February 2010.

Environmental barriers to wind power. Getting Real About Renewables: Economic and Environmental Barriers to Biofuels and Wind Energy. A symposium sponsored by the Environmental & Energy Law & Policy Journal, University of Houston Law Center, Houston, 23 February 2007.

Lessons learned about bird collisions with wind turbines in the Altamont Pass and other US wind farms. Meeting with Japan Ministry of the Environment and Japan Ministry of the Economy, Wild Bird Society of Japan, and other NGOs Tokyo, Japan, 9 November 2006.

Lessons learned about bird collisions with wind turbines in the Altamont Pass and other US wind farms. Symposium on bird collisions with wind turbines. Wild Bird Society of Japan, Tokyo, Japan, 4 November 2006.

Responses of Fresno kangaroo rats to habitat improvements in an adaptive management framework. California Society for Ecological Restoration (SERCAL) 13th Annual Conference, UC Santa Barbara, 27 October 2006.

Fatality associations as the basis for predictive models of fatalities in the Altamont Pass Wind Resource Area. EEI/APLIC/PIER Workshop, 2006 Biologist Task Force and Avian Interaction with Electric Facilities Meeting, Pleasanton, California, 28 April 2006.

Burrowing owl burrows and wind turbine collisions in the Altamont Pass Wind Resource Area. The Wildlife Society - Western Section Annual Meeting, Sacramento, California, February 8, 2006.

Mitigation at wind farms. Workshop: Understanding and resolving bird and bat impacts. American Wind Energy Association and Audubon Society. Los Angeles, CA. January 10 and 11, 2006.

Incorporating data from the California Wildlife Habitat Relationships (CWHR) system into an impact assessment tool for birds near wind farms. Shawn Smallwood, Kevin Hunting, Marcus Yee, Linda Spiegel, Monica Parisi. Workshop: Understanding and resolving bird and bat impacts. American Wind Energy Association and Audubon Society. Los Angeles, CA. January 10 and 11, 2006.

Toward indicating threats to birds by California's new wind farms. California Energy Commission, Sacramento, May 26, 2005.

Avian collisions in the Altamont Pass. California Energy Commission, Sacramento, May 26, 2005.

Ecological solutions for avian collisions with wind turbines in the Altamont Pass Wind Resource Area. EPRI Environmental Sector Council, Monterey, California, February 17, 2005.

Ecological solutions for avian collisions with wind turbines in the Altamont Pass Wind Resource Area. The Wildlife Society—Western Section Annual Meeting, Sacramento, California, January 19, 2005.

Associations between avian fatalities and attributes of electric distribution poles in California. The Wildlife Society - Western Section Annual Meeting, Sacramento, California, January 19, 2005.

Minimizing avian mortality in the Altamont Pass Wind Resources Area. UC Davis Wind Energy Collaborative Forum, Palm Springs, California, December 14, 2004.

Selecting electric distribution poles for priority retrofitting to reduce raptor mortality. Raptor Research Foundation Meeting, Bakersfield, California, November 10, 2004.

Responses of Fresno kangaroo rats to habitat improvements in an adaptive management framework. Annual Meeting of the Society for Ecological Restoration, South Lake Tahoe, California, October 16, 2004.

Lessons learned from five years of avian mortality research at the Altamont Pass Wind Resources Area in California. The Wildlife Society Annual Meeting, Calgary, Canada, September 2004.

The ecology and impacts of power generation at Altamont Pass. Sacramento Petroleum Association, Sacramento, California, August 18, 2004.

Burrowing owl mortality in the Altamont Pass Wind Resource Area. California Burrowing Owl Consortium meeting, Hayward, California, February 7, 2004.

Burrowing owl mortality in the Altamont Pass Wind Resource Area. California Burrowing Owl Symposium, Sacramento, November 2, 2003.

Raptor Mortality at the Altamont Pass Wind Resource Area. National Wind Coordinating Committee, Washington, D.C., November 17, 2003.

Raptor Behavior at the Altamont Pass Wind Resource Area. Annual Meeting of the Raptor Research Foundation, Anchorage, Alaska, September, 2003.

Raptor Mortality at the Altamont Pass Wind Resource Area. Annual Meeting of the Raptor Research Foundation, Anchorage, Alaska, September, 2003.

California mountain lions. Ecological & Environmental Issues Seminar, Department of Biology, California State University, Sacramento, November, 2000.

Intra- and inter-turbine string comparison of fatalities to animal burrow densities at Altamont Pass. National Wind Coordinating Committee, Carmel, California, May, 2000.

Using a Geographic Positioning System (GPS) to map wildlife and habitat. Annual Meeting of the Western Section of The Wildlife Society, Riverside, CA, January, 2000.

Suggested standards for science applied to conservation issues. Annual Meeting of the Western Section of The Wildlife Society, Riverside, CA, January, 2000.

The indicators framework applied to ecological restoration in Yolo County, California. Society for Ecological Restoration, September 25, 1999.

Ecological restoration in the context of animal social units and their habitat areas. Society for Ecological Restoration, September 24, 1999.

Relating Indicators of Ecological Health and Integrity to Assess Risks to Sustainable Agriculture and Native Biota. International Conference on Ecosystem Health, August 16, 1999.

A crosswalk from the Endangered Species Act to the HCP Handbook and real HCPs. Southern California Edison, Co. and California Energy Commission, March 4-5, 1999.

Mountain lion track counts in California: Implications for Management. Ecological & Environmental Issues Seminar, Department of Biological Sciences, California State University, Sacramento, November 4, 1998.

“No Surprises” -- Lack of science in the HCP process. California Native Plant Society Annual Conservation Conference, The Presidio, San Francisco, September 7, 1997.

In Your Interest. A half hour weekly show aired on Channel 10 Television, Sacramento. In this episode, I served on a panel of experts discussing problems with the implementation of the Endangered Species Act. Aired August 31, 1997.

Spatial scaling of pocket gopher (*Geomyidae*) density. Southwestern Association of Naturalists 44th Meeting, Fayetteville, Arkansas, April 10, 1997.

Estimating prairie dog and pocket gopher burrow volume. Southwestern Association of Naturalists 44th Meeting, Fayetteville, Arkansas, April 10, 1997.

Ten years of mountain lion track survey. Fifth Mountain Lion Workshop, San Diego, February 27, 1996.

Study and interpretive design effects on mountain lion density estimates. Fifth Mountain Lion Workshop, San Diego, February 27, 1996.

Small animal control. Session moderator and speaker at the California Farm Conference, Sacramento, California, Feb. 28, 1995.

Small animal control. Ecological Farming Conference, Asylomar, California, Jan. 28, 1995.

Habitat associations of the Swainson's Hawk in the Sacramento Valley's agricultural landscape. 1994 Raptor Research Foundation Meeting, Flagstaff, Arizona.

Alfalfa as wildlife habitat. Seed Industry Conference, Woodland, California, May 4, 1994.

Habitats and vertebrate pests: impacts and management. Managing Farmland to Bring Back Game Birds and Wildlife to the Central Valley. Yolo County Resource Conservation District, U.C. Davis, February 19, 1994.

Management of gophers and alfalfa as wildlife habitat. Orland Alfalfa Production Meeting and Sacramento Valley Alfalfa Production Meeting, February 1 and 2, 1994.

Patterns of wildlife movement in a farming landscape. Wildlife and Fisheries Biology Seminar

Series: Recent Advances in Wildlife, Fish, and Conservation Biology, U.C. Davis, Dec. 6, 1993.

Alfalfa as wildlife habitat. California Alfalfa Symposium, Fresno, California, Dec. 9, 1993.

Management of pocket gophers in Sacramento Valley alfalfa. California Alfalfa Symposium, Fresno, California, Dec. 8, 1993.

Association analysis of raptors in a farming landscape. Plenary speaker at Raptor Research Foundation Meeting, Charlotte, North Carolina, Nov. 6, 1993.

Landscape strategies for biological control and IPM. Plenary speaker, International Conference on Integrated Resource Management and Sustainable Agriculture, Beijing, China, Sept. 11, 1993.

Landscape Ecology Study of Pocket Gophers in Alfalfa. Alfalfa Field Day, U.C. Davis, July 1993.

Patterns of wildlife movement in a farming landscape. Spatial Data Analysis Colloquium, U.C. Davis, August 6, 1993.

Sound stewardship of wildlife. Veterinary Medicine Seminar: Ethics of Animal Use, U.C. Davis. May 1993.

Landscape ecology study of pocket gophers in alfalfa. Five County Grower's Meeting, Tracy, California. February 1993.

Turbulence and the community organizers: The role of invading species in ordering a turbulent system, and the factors for invasion success. Ecology Graduate Student Association Colloquium, U.C. Davis. May 1990.

Evaluation of exotic vertebrate pests. Fourteenth Vertebrate Pest Conference, Sacramento, California. March 1990.

Analytical methods for predicting success of mammal introductions to North America. The Western Section of the Wildlife Society, Hilo, Hawaii. February 1988.

A state-wide mountain lion track survey. Sacramento County Dept Parks and Recreation. April 1986.

The mountain lion in California. Davis Chapter of the Audubon Society. October 1985.

Ecology Graduate Student Seminars, U.C. Davis, 1985-1990: Social behavior of the mountain lion; Mountain lion control; Political status of the mountain lion in California.

Other forms of Participation at Professional Meetings

- Scientific Committee, Conference on Wind energy and Wildlife impacts, Berlin, Germany, March 2015.
- Scientific Committee, Conference on Wind energy and Wildlife impacts, Stockholm,

Sweden, February 2013.

- Workshop co-presenter at Birds & Wind Energy Specialist Group (BAWESG) Information sharing week, Bird specialist studies for proposed wind energy facilities in South Africa, Endangered Wildlife Trust, Darling, South Africa, 3-7 October 2011.
- Scientific Committee, Conference on Wind energy and Wildlife impacts, Trondheim, Norway, 2-5 May 2011.
- Chair of Animal Damage Management Session, The Wildlife Society, Annual Meeting, Reno, Nevada, September 26, 2001.
- Chair of Technical Session: Human communities and ecosystem health: Comparing perspectives and making connection. Managing for Ecosystem Health, International Congress on Ecosystem Health, Sacramento, CA August 15-20, 1999.
- Student Awards Committee, Annual Meeting of the Western Section of The Wildlife Society, Riverside, CA, January, 2000.
- Student Mentor, Annual Meeting of the Western Section of The Wildlife Society, Riverside, CA, January, 2000.

Printed Mass Media

Smallwood, K.S., D. Mooney, and M. McGuinness. 2003. We must stop the UCD biolab now. Op-Ed to the Davis Enterprise.

Smallwood, K.S. 2002. Spring Lake threatens Davis. Op-Ed to the Davis Enterprise.

Smallwood, K.S. Summer, 2001. Mitigation of habitation. The Flatlander, Davis, California.

Entrikan, R.K. and K.S. Smallwood. 2000. Measure O: Flawed law would lock in new taxes. Op-Ed to the Davis Enterprise.

Smallwood, K.S. 2000. Davis delegation lobbies Congress for Wildlife conservation. Op-Ed to the Davis Enterprise.

Smallwood, K.S. 1998. Davis Visions. The Flatlander, Davis, California.

Smallwood, K.S. 1997. Last grab for Yolo's land and water. The Flatlander, Davis, California.

Smallwood, K.S. 1997. The Yolo County HCP. Op-Ed to the Davis Enterprise.

Radio/Television

PBS News Hour,

FOX News, Energy in America: Dead Birds Unintended Consequence of Wind Power

Development, August 2011.

KXJZ Capital Public Radio -- Insight (Host Jeffrey Callison). Mountain lion attacks (with guest Professor Richard Coss). 23 April 2009;

KXJZ Capital Public Radio -- Insight (Host Jeffrey Callison). Wind farm Rio Vista Renewable Power. 4 September 2008;

KQED QUEST Episode #111. Bird collisions with wind turbines. 2007;

KDVS Speaking in Tongues (host Ron Glick), Yolo County HCP: 1 hour. December 27, 2001;

KDVS Speaking in Tongues (host Ron Glick), Yolo County HCP: 1 hour. May 3, 2001;

KDVS Speaking in Tongues (host Ron Glick), Yolo County HCP: 1 hour. February 8, 2001;

KDVS Speaking in Tongues (host Ron Glick & Shawn Smallwood), California Energy Crisis: 1 hour. Jan. 25, 2001;

KDVS Speaking in Tongues (host Ron Glick), Headwaters Forest HCP: 1 hour. 1998;

Davis Cable Channel (host Gerald Heffernon), Burrowing owls in Davis: half hour. June, 2000;

Davis Cable Channel (hosted by Davis League of Women Voters), Measure O debate: 1 hour. October, 2000;

KXTV 10, In Your Interest, The Endangered Species Act: half hour. 1997.

Committees

- Scientific Review Committee, Alameda County, Altamont Pass Wind Resource Area
- Ph.D. Thesis Committee, Steve Anderson, University of California, Davis
- MS Thesis Committee, Marcus Yee, California State University, Sacramento

Other Professional Activities or Products

Testified in Federal Court in Denver during 2005 over the fate of radio-nuclides in the soil at Rocky Flats Plant after exposure to burrowing animals. My clients won a judgment of \$553,000,000. I have also testified in many other cases of litigation under CEQA, NEPA, the Warren-Alquist Act, and other environmental laws. My clients won most of the cases for which I testified.

Testified before Environmental Review Tribunals in Ontario, Canada regarding proposed White Pines, Amherst Island, and Fairview Wind Energy projects.

Testified in Skamania County Hearing in 2009 on the potential impacts of zoning the County for development of wind farms and hazardous waste facilities.

Testified in deposition in 2007 in the case of O'Dell et al. vs. FPL Energy in Houston, Texas.

Testified in Klickitat County Hearing in 2006 on the potential impacts of the Windy Point Wind Farm.

Memberships in Professional Societies

The Wildlife Society
Raptor Research Foundation

Honors and Awards

Fulbright Research Fellowship to Indonesia, 1987
J.G. Boswell Full Academic Scholarship, 1981 college of choice
Certificate of Appreciation, The Wildlife Society—Western Section, 2000, 2001
Northern California Athletic Association Most Valuable Cross Country Runner, 1984
American Legion Award, Corcoran High School, 1981, and John Muir Junior High, 1977
CIF Section Champion, Cross Country in 1978
CIF Section Champion, Track & Field 2 mile run in 1981
National Junior Record, 20 kilometer run, 1982
National Age Group Record, 1500 meter run, 1978

Community Activities

District 64 Little League Umpire, 2003-2007
Dixon Little League Umpire, 2006-07
Davis Little League Chief Umpire and Board member, 2004-2005
Davis Little League Safety Officer, 2004-2005
Davis Little League Certified Umpire, 2002-2004
Davis Little League Scorekeeper, 2002
Davis Visioning Group member
Petitioner for Writ of Mandate under the California Environmental Quality Act against City of Woodland decision to approve the Spring Lake Specific Plan, 2002
Served on campaign committees for City Council candidates

Exhibit B

Date: April 2, 2024

To: Marjan Kris Abubo
Lozeau | Drury LLP
1939 Harrison Street, Suite 150
Oakland, California 94612

From: Francis J. Offermann PE CIH

Subject: Indoor Air Quality: Lockwood III Apartments Project, Oxnard, CA.
(IEE File Reference: P-4789)

Pages: 18

Indoor Air Quality Impacts

Indoor air quality (IAQ) directly impacts the comfort and health of building occupants, and the achievement of acceptable IAQ in newly constructed and renovated buildings is a well-recognized design objective. For example, IAQ is addressed by major high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014). Indoor air quality in homes is particularly important because occupants, on average, spend approximately ninety percent of their time indoors with the majority of this time spent at home (EPA, 2011). Some segments of the population that are most susceptible to the effects of poor IAQ, such as the very young and the elderly, occupy their homes almost continuously. Additionally, an increasing number of adults are working from home at least some of the time during the workweek. Indoor air quality also is a serious concern for workers in hotels, offices and other business establishments.

The concentrations of many air pollutants often are elevated in homes and other buildings relative to outdoor air because many of the materials and products

used indoors contain and release a variety of pollutants to air (Hodgson et al., 2002; Offermann and Hodgson, 2011). With respect to indoor air contaminants for which inhalation is the primary route of exposure, the critical design and construction parameters are the provision of adequate ventilation and the reduction of indoor sources of the contaminants.

Indoor Formaldehyde Concentrations Impact. In the California New Home Study (CNHS) of 108 new homes in California (Offermann, 2009), 25 air contaminants were measured, and formaldehyde was identified as the indoor air contaminant with the highest cancer risk as determined by the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), No Significant Risk Levels (NSRL) for carcinogens. The NSRL is the daily intake level calculated to result in one excess case of cancer in an exposed population of 100,000 (i.e., ten in one million cancer risk) and for formaldehyde is 40 µg/day. The NSRL concentration of formaldehyde that represents a daily dose of 40 µg is 2 µg/m³, assuming a continuous 24-hour exposure, a total daily inhaled air volume of 20 m³, and 100% absorption by the respiratory system. All of the CNHS homes exceeded this NSRL concentration of 2 µg/m³. The median indoor formaldehyde concentration was 36 µg/m³, and ranged from 4.8 to 136 µg/m³, which corresponds to a median exceedance of the 2 µg/m³ NSRL concentration of 18 and a range of 2.3 to 68.

Therefore, the cancer risk of a resident living in a California home with the median indoor formaldehyde concentration of 36 µg/m³, is 180 per million as a result of formaldehyde alone. The CEQA significance threshold for airborne cancer risk is 10 per million, as established by the San Diego County Air Pollution Control District (SDAPCD, 2021).

Besides being a human carcinogen, formaldehyde is also a potent eye and respiratory irritant. In the CNHS, many homes exceeded the non-cancer reference exposure levels (RELs) prescribed by California Office of Environmental Health Hazard Assessment (OEHHA, 2017b). The percentage of homes exceeding the RELs ranged from 98% for the Chronic REL of 9 µg/m³ to 28% for the Acute REL of 55 µg/m³.

The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particleboard. These materials are commonly used in building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.

In January 2009, the California Air Resources Board (CARB) adopted an airborne toxics control measure (ATCM) to reduce formaldehyde emissions from composite wood products, including hardwood plywood, particleboard, medium density fiberboard, and also furniture and other finished products made with these wood products (California Air Resources Board 2009). While this formaldehyde ATCM has resulted in reduced emissions from composite wood products sold in California, they do not preclude that homes built with composite wood products meeting the CARB ATCM will have indoor formaldehyde concentrations below cancer and non-cancer exposure guidelines.

A follow up study to the California New Home Study (CNHS) was conducted in 2016-2018 (Singer et. al., 2019), and found that the median indoor formaldehyde in new homes built after 2009 with CARB Phase 2 Formaldehyde ATCM materials had lower indoor formaldehyde concentrations, with a median indoor concentrations of $22.4 \mu\text{g}/\text{m}^3$ (18.2 ppb) as compared to a median of $36 \mu\text{g}/\text{m}^3$ found in the 2007 CNHS. Unlike in the CNHS study where formaldehyde concentrations were measured with pumped DNPH samplers, the formaldehyde concentrations in the HENGH study were measured with passive samplers, which were estimated to under-measure the true indoor formaldehyde concentrations by approximately 7.5%. Applying this correction to the HENGH indoor formaldehyde concentrations results in a median indoor concentration of $24.1 \mu\text{g}/\text{m}^3$, which is 33% lower than the $36 \mu\text{g}/\text{m}^3$ found in the 2007 CNHS.

Thus, while new homes built after the 2009 CARB formaldehyde ATCM have a 33% lower median indoor formaldehyde concentration and cancer risk, the median lifetime cancer risk is still 120 per million for homes built with CARB compliant composite wood products. This median lifetime cancer risk is more than 12 times the OEHHA 10 in a million cancer risk threshold (OEHHA, 2017a).

With respect to the Lockwood III Apartments Project, Oxnard, CA, the buildings consist of residential spaces.

The residential occupants will potentially have continuous exposure (e.g. 24 hours per day, 52 weeks per year). These exposures are anticipated to result in significant cancer risks resulting from exposures to formaldehyde released by the building materials and furnishing commonly found in residential construction.

Because these residences will be constructed with CARB Phase 2 Formaldehyde ATCM materials, and be ventilated with the minimum code required amount of outdoor air, the indoor residential formaldehyde concentrations are likely similar to those concentrations observed in residences built with CARB Phase 2 Formaldehyde ATCM materials, which is a median of 24.1 $\mu\text{g}/\text{m}^3$ (Singer et. al., 2020)

Assuming that the residential occupants inhale 20 m^3 of air per day, the average 70-year lifetime formaldehyde daily dose is 482 $\mu\text{g}/\text{day}$ for continuous exposure in the residences. This exposure represents a cancer risk of 120 per million, which is more than 12 times the CEQA cancer risk of 10 per million. For occupants that do not have continuous exposure, the cancer risk will be proportionally less but still substantially over the CEQA cancer risk of 10 per million (e.g. for 12/hour/day occupancy, more than 6 times the CEQA cancer risk of 10 per million).

In addition, we note that the average outdoor air concentration of formaldehyde in California is 3 ppb, or 3.7 $\mu\text{g}/\text{m}^3$, (California Air Resources Board, 2004), and thus represents an average pre-existing background airborne cancer risk of 1.85 per million. Thus, the indoor air formaldehyde exposures describe above exacerbate this pre-existing risk resulting from outdoor air formaldehyde exposures.

Appendix A, Indoor Formaldehyde Concentrations and the CARB Formaldehyde ATCM, provides analyses that show utilization of CARB Phase 2 Formaldehyde ATCM materials will not ensure acceptable cancer risks with respect to formaldehyde emissions from composite wood products.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

The following describes a method that should be used, prior to construction in the environmental review under CEQA, for determining whether the indoor concentrations resulting from the formaldehyde emissions of specific building materials/furnishings selected exceed cancer and non-cancer guidelines. Such a design analyses can be used to identify those materials/furnishings prior to the completion of the City's CEQA review and project approval, that have formaldehyde emission rates that contribute to indoor concentrations that exceed cancer and non-cancer guidelines, so that alternative lower emitting materials/furnishings may be selected and/or higher minimum outdoor air ventilation rates can be increased to achieve acceptable indoor concentrations and incorporated as mitigation measures for this project.

Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment

This formaldehyde emissions assessment should be used in the environmental review under CEQA to assess the indoor formaldehyde concentrations from the proposed loading of building materials/furnishings, the area-specific formaldehyde emission rate data for building materials/furnishings, and the design minimum outdoor air ventilation rates. This assessment allows the applicant (and the City) to determine, before the conclusion of the environmental review process and the building materials/furnishings are specified, purchased, and installed, if the total chemical emissions will exceed cancer and non-cancer guidelines, and if so, allow for changes in the selection of specific

material/furnishings and/or the design minimum outdoor air ventilations rates such that cancer and non-cancer guidelines are not exceeded.

1.) Define Indoor Air Quality Zones. Divide the building into separate indoor air quality zones, (IAQ Zones). IAQ Zones are defined as areas of well-mixed air. Thus, each ventilation system with recirculating air is considered a single zone, and each room or group of rooms where air is not recirculated (e.g. 100% outdoor air) is considered a separate zone. For IAQ Zones with the same construction material/furnishings and design minimum outdoor air ventilation rates. (e.g. hotel rooms, apartments, condominiums, etc.) the formaldehyde emission rates need only be assessed for a single IAQ Zone of that type.

2.) Calculate Material/Furnishing Loading. For each IAQ Zone, determine the building material and furnishing loadings (e.g., m^2 of material/ m^2 floor area, units of furnishings/ m^2 floor area) from an inventory of all potential indoor formaldehyde sources, including flooring, ceiling tiles, furnishings, finishes, insulation, sealants, adhesives, and any products constructed with composite wood products containing urea-formaldehyde resins (e.g., plywood, medium density fiberboard, particleboard).

3.) Calculate the Formaldehyde Emission Rate. For each building material, calculate the formaldehyde emission rate ($\mu\text{g}/\text{h}$) from the product of the area-specific formaldehyde emission rate ($\mu\text{g}/\text{m}^2\text{-h}$) and the area (m^2) of material in the IAQ Zone, and from each furnishing (e.g. chairs, desks, etc.) from the unit-specific formaldehyde emission rate ($\mu\text{g}/\text{unit-h}$) and the number of units in the IAQ Zone.

NOTE: As a result of the high-performance building rating systems and building codes (California Building Standards Commission, 2014; USGBC, 2014), most manufacturers of building materials furnishings sold in the United States conduct chemical emission rate tests using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers,” (CDPH, 2017), or other equivalent chemical emission rate testing methods. Most manufacturers of building furnishings sold in the United States conduct chemical emission rate tests using ANSI/BIFMA M7.1 Standard Test Method for

Determining VOC Emissions (BIFMA, 2018), or other equivalent chemical emission rate testing methods.

CDPH, BIFMA, and other chemical emission rate testing programs, typically certify that a material or furnishing does not create indoor chemical concentrations in excess of the maximum concentrations permitted by their certification. For instance, the CDPH emission rate testing requires that the measured emission rates when input into an office, school, or residential model do not exceed one-half of the OEHHA Chronic Exposure Guidelines (OEHHA, 2017b) for the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017). These certifications themselves do not provide the actual area-specific formaldehyde emission rate (i.e., $\mu\text{g}/\text{m}^2\text{-h}$) of the product, but rather provide data that the formaldehyde emission rates do not exceed the maximum rate allowed for the certification. Thus, for example, the data for a certification of a specific type of flooring may be used to calculate that the area-specific emission rate of formaldehyde is less than 31 $\mu\text{g}/\text{m}^2\text{-h}$, but not the actual measured specific emission rate, which may be 3, 18, or 30 $\mu\text{g}/\text{m}^2\text{-h}$. These area-specific emission rates determined from the product certifications of CDPH, BIFA, and other certification programs can be used as an initial estimate of the formaldehyde emission rate.

If the actual area-specific emission rates of a building material or furnishing is needed (i.e. the initial emission rates estimates from the product certifications are higher than desired), then that data can be acquired by requesting from the manufacturer the complete chemical emission rate test report. For instance if the complete CDPH emission test report is requested for a CDHP certified product, that report will provide the actual area-specific emission rates for not only the 35 specific VOCs, including formaldehyde, listed in Table 4-1 of the CDPH test method (CDPH, 2017), but also all of the cancer and reproductive/developmental chemicals listed in the California Proposition 65 Safe Harbor Levels (OEHHA, 2017a), all of the toxic air contaminants (TACs) in the California Air Resources Board Toxic Air Contamination List (CARB, 2011), and the 10 chemicals with the greatest emission rates.

Alternatively, a sample of the building material or furnishing can be submitted to a chemical emission rate testing laboratory, such as Berkeley Analytical Laboratory (<https://berkeleyanalytical.com>), to measure the formaldehyde emission rate.

4.) Calculate the Total Formaldehyde Emission Rate. For each IAQ Zone, calculate the total formaldehyde emission rate (i.e. $\mu\text{g/h}$) from the individual formaldehyde emission rates from each of the building material/furnishings as determined in Step 3.

5.) Calculate the Indoor Formaldehyde Concentration. For each IAQ Zone, calculate the indoor formaldehyde concentration ($\mu\text{g/m}^3$) from Equation 1 by dividing the total formaldehyde emission rates (i.e. $\mu\text{g/h}$) as determined in Step 4, by the design minimum outdoor air ventilation rate (m^3/h) for the IAQ Zone.

(Equation 1)

where:

C_{in} = indoor formaldehyde concentration ($\mu\text{g/m}^3$)

E_{total} = total formaldehyde emission rate ($\mu\text{g/h}$) into the IAQ Zone.

Q_{oa} = design minimum outdoor air ventilation rate to the IAQ Zone (m^3/h)

The above Equation 1 is based upon mass balance theory, and is referenced in Section 3.10.2 “Calculation of Estimated Building Concentrations” of the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers”, (CDPH, 2017).

6.) Calculate the Indoor Exposure Cancer and Non-Cancer Health Risks. For each IAQ Zone, calculate the cancer and non-cancer health risks from the indoor formaldehyde concentrations determined in Step 5 and as described in the OEHHA Air Toxics Hot Spots Program Risk Assessment Guidelines; Guidance Manual for Preparation of Health Risk Assessments (OEHHA, 2015).

7.) Mitigate Indoor Formaldehyde Exposures of exceeding the CEQA Cancer and/or Non-Cancer Health Risks. In each IAQ Zone, provide mitigation for any formaldehyde exposure risk as determined in Step 6, that exceeds the CEQA cancer risk of 10 per

million or the CEQA non-cancer Hazard Quotient of 1.0.

Provide the source and/or ventilation mitigation required in all IAQ Zones to reduce the health risks of the chemical exposures below the CEQA cancer and non-cancer health risks.

Source mitigation for formaldehyde may include:

- 1.) reducing the amount materials and/or furnishings that emit formaldehyde
- 2.) substituting a different material with a lower area-specific emission rate of formaldehyde

Ventilation mitigation for formaldehyde emitted from building materials and/or furnishings may include:

- 1.) increasing the design minimum outdoor air ventilation rate to the IAQ Zone.

NOTE: Mitigating the formaldehyde emissions through use of less material/furnishings, or use of lower emitting materials/furnishings, is the preferred mitigation option, as mitigation with increased outdoor air ventilation increases initial and operating costs associated with the heating/cooling systems.

Further, we are not asking that the builder “speculate” on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers,” (CDPH, 2017), and use the procedure described earlier above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Impact. Another important finding of the CNHS, was that the outdoor air ventilation rates in the homes were very low. Outdoor air ventilation is a very

important factor influencing the indoor concentrations of air contaminants, as it is the primary removal mechanism of all indoor air generated contaminants. Lower outdoor air exchange rates cause indoor generated air contaminants to accumulate to higher indoor air concentrations. Many homeowners rarely open their windows or doors for ventilation as a result of their concerns for security/safety, noise, dust, and odor concerns (Price, 2007). In the CNHS field study, 32% of the homes did not use their windows during the 24-hour Test Day, and 15% of the homes did not use their windows during the entire preceding week. Most of the homes with no window usage were homes in the winter field session. Thus, a substantial percentage of homeowners never open their windows, especially in the winter season. The median 24-hour measurement was 0.26 air changes per hour (ach), with a range of 0.09 ach to 5.3 ach. A total of 67% of the homes had outdoor air exchange rates below the minimum California Building Code (2001) requirement of 0.35 ach. Thus, the relatively tight envelope construction, combined with the fact that many people never open their windows for ventilation, results in homes with low outdoor air exchange rates and higher indoor air contaminant concentrations.

The Lockwood III Apartments Project, Oxnard, CA is close to roads with moderate to high traffic (e.g., Lakewood Street, East Gonzalez Road, Ventura Freeway -101, etc.) and thus the Project site is a sound impacted site.

According to the Initial Study/Mitigated Negative Declaration- Lockwood III Apartments Project, Oxnard, CA (ESA, 2024), Appendix I, Table 10, the ambient noise levels with the Project range from 66.1 to 71.2 dBA CNEL.

However, these ambient noise levels were only measured during a single 24-hour period (August 1-2, 2022). In order to design the building for this Project such that interior noise levels are acceptable, an acoustic study with actual on-site measurements of the existing ambient noise levels and modeled future ambient noise levels needs to be conducted. The acoustic study of the existing ambient noise levels should be conducted over a one-week period. and report the dBA CNEL or Ldn. This study will allow for the selection of a building envelope and windows with a sufficient STC such that the indoor noise levels are acceptable. A mechanical supply of outdoor air ventilation to allow for a habitable interior

environment with closed windows and doors will also be required. Such a ventilation system would allow windows and doors to be kept closed at the occupant's discretion to control exterior noise within building interiors.

PM_{2.5} Outdoor Concentrations Impact. An additional impact of the nearby motor vehicle traffic associated with this project, are the outdoor concentrations of PM_{2.5}. Initial Study/Mitigated Negative Declaration- Lockwood III Apartments Project, Oxnard, CA (ESA, 2024), the Project is located in the South Coast Air Basin, which is a State and Federal non-attainment area for PM_{2.5}.

An air quality analysis should be conducted to determine the concentrations of PM_{2.5} in the outdoor and indoor air that people inhale each day. This air quality analysis needs to consider the cumulative impacts of the project related emissions, existing and projected future emissions from local PM_{2.5} sources (e.g. stationary sources, motor vehicles, and airport traffic) upon the outdoor air concentrations at the Project site. If the outdoor concentrations are determined to exceed the California and National annual average PM_{2.5} exceedance concentration of 12 µg/m³, or the National 24-hour average exceedance concentration of 35 µg/m³, then the buildings need to have a mechanical supply of outdoor air that has air filtration with sufficient removal efficiency, such that the indoor concentrations of outdoor PM_{2.5} particles is less than the California and National PM_{2.5} annual and 24-hour standards.

It is my experience that based on the projected high traffic noise levels, the annual average concentration of PM_{2.5} will exceed the California and National PM_{2.5} annual and 24-hour standards and warrant installation of high efficiency air filters (i.e. MERV 13 or higher) in all mechanically supplied outdoor air ventilation systems.

Indoor Air Quality Impact Mitigation Measures

The following are recommended mitigation measures to minimize the impacts upon indoor quality:

Indoor Formaldehyde Concentrations Mitigation. Use only composite wood materials (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins (CARB, 2009). CARB Phase 2 certified composite wood products, or ultra-low emitting formaldehyde (ULEF) resins, do not insure indoor formaldehyde concentrations that are below the CEQA cancer risk of 10 per million. Only composite wood products manufactured with CARB approved no-added formaldehyde (NAF) resins, such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

Alternatively, conduct the previously described Pre-Construction Building Material/Furnishing Chemical Emissions Assessment, to determine that the combination of formaldehyde emissions from building materials and furnishings do not create indoor formaldehyde concentrations that exceed the CEQA cancer and non-cancer health risks.

It is important to note that we are not asking that the builder “speculate” on what and how much composite materials be used, but rather at the design stage to select composite wood materials based on the formaldehyde emission rates that manufacturers routinely conduct using the California Department of Health “Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers”, (CDPH, 2017), and use the procedure described above (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Outdoor Air Ventilation Mitigation. Provide each habitable room with a continuous mechanical supply of outdoor air that meets or exceeds the California 2016 Building Energy Efficiency Standards (California Energy Commission, 2015) requirements of the greater of 15 cfm/occupant or 0.15 cfm/ft² of floor area. Following installation of the system conduct testing and balancing to insure that required amount of outdoor air is entering each habitable room and provide a written report documenting the outdoor airflow rates. Do not use exhaust only mechanical outdoor air systems, use only balanced

outdoor air supply and exhaust systems or outdoor air supply only systems. Provide a manual for the occupants or maintenance personnel, that describes the purpose of the mechanical outdoor air system and the operation and maintenance requirements of the system.

PM_{2.5} Outdoor Air Concentration Mitigation. Install air filtration with sufficient PM_{2.5} removal efficiency (e.g. MERV 13 or higher) to filter the outdoor air entering the mechanical outdoor air supply systems, such that the indoor concentrations of outdoor PM_{2.5} particles are less than the California and National PM_{2.5} annual and 24-hour standards. Install the air filters in the system such that they are accessible for replacement by the occupants or maintenance personnel. Include in the mechanical outdoor air ventilation system manual instructions on how to replace the air filters and the estimated frequency of replacement.

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APPENDIX A

INDOOR FORMALDEHYDE CONCENTRATIONS AND THE CARB FORMALDEHYDE ATCM

With respect to formaldehyde emissions from composite wood products, the CARB ATCM regulations of formaldehyde emissions from composite wood products, do not assure healthful indoor air quality. The following is the stated purpose of the CARB ATCM regulation - *The purpose of this airborne toxic control measure is to “reduce formaldehyde emissions from composite wood products, and finished goods that contain composite wood products, that are sold, offered for sale, supplied, used, or manufactured for sale in California”*. In other words, the CARB ATCM regulations do not “assure healthful indoor air quality”, but rather “reduce formaldehyde emissions from composite wood products”.

Just how much protection do the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products? Definitely some, but certainly the regulations do not “*assure healthful indoor air quality*” when CARB Phase 2 products are utilized. As shown in the Chan 2019 study of new California homes, the median indoor formaldehyde concentration was of 22.4 $\mu\text{g}/\text{m}^3$ (18.2 ppb), which corresponds to a cancer risk of 112 per million for occupants with continuous exposure, which is more than 11 times the CEQA cancer risk of 10 per million.

Another way of looking at how much protection the CARB ATCM regulations provide building occupants from the formaldehyde emissions generated by composite wood products is to calculate the maximum number of square feet of composite wood product that can be in a residence without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy.

For this calculation I utilized the floor area (2,272 ft^2), the ceiling height (8.5 ft), and the number of bedrooms (4) as defined in Appendix B (New Single-Family Residence Scenario) of the Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions for Indoor Sources Using Environmental Chambers, Version 1.1,

2017, California Department of Public Health, Richmond, CA.
<https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/EHLB/IAQ/Pages/VOC.aspx>.

For the outdoor air ventilation rate I used the 2019 Title 24 code required mechanical ventilation rate (ASHRAE 62.2) of 106 cfm (180 m³/h) calculated for this model residence. For the composite wood formaldehyde emission rates I used the CARB ATCM Phase 2 rates.

The calculated maximum number of square feet of composite wood product that can be in a residence, without exceeding the CEQA cancer risk of 10 per million for occupants with continuous occupancy are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 15 ft² (0.7% of the floor area), or
Particle Board – 30 ft² (1.3% of the floor area), or
Hardwood Plywood – 54 ft² (2.4% of the floor area), or
Thin MDF – 46 ft² (2.0 % of the floor area).

For offices and hotels the calculated maximum amount of composite wood product (% of floor area) that can be used without exceeding the CEQA cancer risk of 10 per million for occupants, assuming 8 hours/day occupancy, and the California Mechanical Code minimum outdoor air ventilation rates are as follows for the different types of regulated composite wood products.

Medium Density Fiberboard (MDF) – 3.6 % (offices) and 4.6% (hotel rooms), or
Particle Board – 7.2 % (offices) and 9.4% (hotel rooms), or
Hardwood Plywood – 13 % (offices) and 17% (hotel rooms), or
Thin MDF – 11 % (offices) and 14 % (hotel rooms)

Clearly the CARB ATCM does not regulate the formaldehyde emissions from composite wood products such that the potentially large areas of these products, such as for flooring, baseboards, interior doors, window and door trims, and kitchen and bathroom cabinetry,

could be used without causing indoor formaldehyde concentrations that result in CEQA cancer risks that substantially exceed 10 per million for occupants with continuous occupancy.

Even composite wood products manufactured with CARB certified ultra low emitting formaldehyde (ULEF) resins do not insure that the indoor air will have concentrations of formaldehyde that meet the OEHHA cancer risks that substantially exceed 10 per million. The permissible emission rates for ULEF composite wood products are only 11-15% lower than the CARB Phase 2 emission rates. Only use of composite wood products made with no-added formaldehyde resins (NAF), such as resins made from soy, polyvinyl acetate, or methylene diisocyanate can insure that the OEHHA cancer risk of 10 per million is met.

If CARB Phase 2 compliant or ULEF composite wood products are utilized in construction, then the resulting indoor formaldehyde concentrations should be determined in the design phase using the specific amounts of each type of composite wood product, the specific formaldehyde emission rates, and the volume and outdoor air ventilation rates of the indoor spaces, and all feasible mitigation measures employed to reduce this impact (e.g. use less formaldehyde containing composite wood products and/or incorporate mechanical systems capable of higher outdoor air ventilation rates). See the procedure described earlier (i.e. Pre-Construction Building Material/Furnishing Formaldehyde Emissions Assessment) to insure that the materials selected achieve acceptable cancer risks from material off gassing of formaldehyde.

Alternatively, and perhaps a simpler approach, is to use only composite wood products (e.g. hardwood plywood, medium density fiberboard, particleboard) for all interior finish systems that are made with CARB approved no-added formaldehyde (NAF) resins.

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Education

M.S. Mechanical Engineering (1985)
Stanford University, Stanford, CA.

Graduate Studies in Air Pollution Monitoring and Control (1980)
University of California, Berkeley, CA.

B.S. in Mechanical Engineering (1976)
Rensselaer Polytechnic Institute, Troy, N.Y.

Professional Experience

President: Indoor Environmental Engineering, San Francisco, CA. December, 1981 - present.

Direct team of environmental scientists, chemists, and mechanical engineers in conducting State and Federal research regarding indoor air quality instrumentation development, building air quality field studies, ventilation and air cleaning performance measurements, and chemical emission rate testing.

Provide design side input to architects regarding selection of building materials and ventilation system components to ensure a high quality indoor environment.

Direct Indoor Air Quality Consulting Team for the winning design proposal for the new State of Washington Ecology Department building.

Develop a full-scale ventilation test facility for measuring the performance of air diffusers; ASHRAE 129, Air Change Effectiveness, and ASHRAE 113, Air Diffusion Performance Index.

Develop a chemical emission rate testing laboratory for measuring the chemical emissions from building materials, furnishings, and equipment.

Principle Investigator of the California New Homes Study (2005-2007). Measured ventilation and indoor air quality in 108 new single family detached homes in northern and southern California.

Develop and teach IAQ professional development workshops to building owners, managers, hygienists, and engineers.

Air Pollution Engineer: Earth Metrics Inc., Burlingame, CA, October, 1985 to March, 1987.

Responsible for development of an air pollution laboratory including installation a forced choice olfactometer, tracer gas electron capture chromatograph, and associated calibration facilities. Field team leader for studies of fugitive odor emissions from sewage treatment plants, entrainment of fume hood exhausts into computer chip fabrication rooms, and indoor air quality investigations.

Staff Scientist: Building Ventilation and Indoor Air Quality Program, Energy and Environment Division, Lawrence Berkeley Laboratory, Berkeley, CA. January, 1980 to August, 1984.

Deputy project leader for the Control Techniques group; responsible for laboratory and field studies aimed at evaluating the performance of indoor air pollutant control strategies (i.e. ventilation, filtration, precipitation, absorption, adsorption, and source control).

Coordinated field and laboratory studies of air-to-air heat exchangers including evaluation of thermal performance, ventilation efficiency, cross-stream contaminant transfer, and the effects of freezing/defrosting.

Developed an *in situ* test protocol for evaluating the performance of air cleaning systems and introduced the concept of effective cleaning rate (ECR) also known as the Clean Air Delivery Rate (CADR).

Coordinated laboratory studies of portable and ducted air cleaning systems and their effect on indoor concentrations of respirable particles and radon progeny.

Co-designed an automated instrument system for measuring residential ventilation rates and radon concentrations.

Designed hardware and software for a multi-channel automated data acquisition system used to evaluate the performance of air-to-air heat transfer equipment.

Assistant Chief Engineer: Alta Bates Hospital, Berkeley, CA, October, 1979 to January, 1980.

Responsible for energy management projects involving installation of power factor correction capacitors on large inductive electrical devices and installation of steam meters on physical plant steam lines. Member of Local 39, International Union of Operating Engineers.

Manufacturing Engineer: American Precision Industries, Buffalo, NY, October, 1977 to October, 1979.

Responsible for reorganizing the manufacturing procedures regarding production of shell and tube heat exchangers. Designed customized automatic assembly, welding, and testing equipment. Designed a large paint spray booth. Prepared economic studies justifying new equipment purchases. Safety Director.

Project Engineer: Arcata Graphics, Buffalo, N.Y. June, 1976 to October, 1977.

Responsible for the design and installation of a bulk ink storage and distribution system and high speed automatic counting and marking equipment. Also coordinated material handling studies which led to the purchase and installation of new equipment.

PROFESSIONAL ORGANIZATION MEMBERSHIP

American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE)

- Chairman of SPC-145P, Standards Project Committee - Test Method for Assessing the Performance of Gas Phase Air Cleaning Equipment (1991-1992)
- Member SPC-129P, Standards Project Committee - Test Method for Ventilation Effectiveness (1986-97)
 - Member of Drafting Committee
- Member Environmental Health Committee (1992-1994, 1997-2001, 2007-2010)
 - Chairman of EHC Research Subcommittee
 - Member of Man Made Mineral Fiber Position Paper Subcommittee
 - Member of the IAQ Position Paper Committee
 - Member of the Legionella Position Paper Committee
 - Member of the Limiting Indoor Mold and Dampness in Buildings Position Paper Committee
- Member SSPC-62, Standing Standards Project Committee - Ventilation for Acceptable Indoor Air Quality (1992 to 2000)
 - Chairman of Source Control and Air Cleaning Subcommittee
- Chairman of TC-4.10, Indoor Environmental Modeling (1988-92)
 - Member of Research Subcommittee
- Chairman of TC-2.3, Gaseous Air Contaminants and Control Equipment (1989-92)
 - Member of Research Subcommittee

American Society for Testing and Materials (ASTM)

- D-22 Sampling and Analysis of Atmospheres
 - Member of Indoor Air Quality Subcommittee
- E-06 Performance of Building Constructions

American Board of Industrial Hygiene (ABIH)

American Conference of Governmental Industrial Hygienists (ACGIH)

- Bioaerosols Committee (2007-2013)

American Industrial Hygiene Association (AIHA)

Cal-OSHA Indoor Air Quality Advisory Committee

International Society of Indoor Air Quality and Climate (ISIAQ)

- Co-Chairman of Task Force on HVAC Hygiene

U. S. Green Building Council (USGBC)

- Member of the IEQ Technical Advisory Group (2007-2009)
- Member of the IAQ Performance Testing Work Group (2010-2012)

Western Construction Consultants (WESTCON)

PROFESSIONAL CREDENTIALS

Licensed Professional Engineer - Mechanical Engineering

Certified Industrial Hygienist - American Board of Industrial Hygienists

SCIENTIFIC MEETINGS AND SYMPOSIA

Biological Contamination, Diagnosis, and Mitigation, Indoor Air'90, Toronto, Canada, August, 1990.

Models for Predicting Air Quality, Indoor Air'90, Toronto, Canada, August, 1990.

Microbes in Building Materials and Systems, Indoor Air '93, Helsinki, Finland, July, 1993.

Microorganisms in Indoor Air Assessment and Evaluation of Health Effects and Probable Causes, Walnut Creek, CA, February 27, 1997.

Controlling Microbial Moisture Problems in Buildings, Walnut Creek, CA, February 27, 1997.

Scientific Advisory Committee, Roomvent 98, 6th International Conference on Air Distribution in Rooms, KTH, Stockholm, Sweden, June 14-17, 1998.

Moisture and Mould, Indoor Air '99, Edinburgh, Scotland, August, 1999.

Ventilation Modeling and Simulation, Indoor Air '99, Edinburgh, Scotland, August, 1999.

Microbial Growth in Materials, Healthy Buildings 2000, Espoo, Finland, August, 2000.

Co-Chair, Bioaerosols X- Exposures in Residences, Indoor Air 2002, Monterey, CA, July 2002.

Healthy Indoor Environments, Anaheim, CA, April 2003.

Chair, Environmental Tobacco Smoke in Multi-Family Homes, Indoor Air 2008, Copenhagen, Denmark, July 2008.

Co-Chair, ISIAQ Task Force Workshop; HVAC Hygiene, Indoor Air 2002, Monterey, CA, July 2002.

Chair, ETS in Multi-Family Housing: Exposures, Controls, and Legalities Forum, Healthy Buildings 2009, Syracuse, CA, September 14, 2009.

Chair, Energy Conservation and IAQ in Residences Workshop, Indoor Air 2011, Austin, TX, June 6, 2011.

Chair, Electronic Cigarettes: Chemical Emissions and Exposures Colloquium, Indoor Air 2016, Ghent, Belgium, July 4, 2016.

SPECIAL CONSULTATION

Provide consultation to the American Home Appliance Manufacturers on the development of a standard for testing portable air cleaners, AHAM Standard AC-1.

Served as an expert witness and special consultant for the U.S. Federal Trade Commission regarding the performance claims found in advertisements of portable air cleaners and residential furnace filters.

Conducted a forensic investigation for a San Mateo, CA pro se defendant, regarding an alleged homicide where the victim was kidnapped in a steamer trunk. Determined the air exchange rate in the steamer trunk and how long the person could survive.

Conducted *in situ* measurement of human exposure to toluene fumes released during nailpolish application for a plaintiffs attorney pursuing a California Proposition 65 product labeling case. June, 1993.

Conducted a forensic *in situ* investigation for the Butte County, CA Sheriff's Department of the emissions of a portable heater used in the bedroom of two twin one year old girls who suffered simultaneous crib death.

Consult with OSHA on the 1995 proposed new regulation regarding indoor air quality and environmental tobacco smoke.

Consult with EPA on the proposed Building Alliance program and with OSHA on the proposed new OSHA IAQ regulation.

Johnson Controls Audit/Certification Expert Review; Milwaukee, WI. May 28-29, 1997.

Winner of the nationally published 1999 Request for Proposals by the State of Washington to conduct a comprehensive indoor air quality investigation of the Washington State Department of Ecology building in Lacey, WA.

Selected by the State of California Attorney General's Office in August, 2000 to conduct a comprehensive indoor air quality investigation of the Tulare County Court House.

Lawrence Berkeley Laboratory IAQ Experts Workshop: "Cause and Prevention of Sick Building Problems in Offices: The Experience of Indoor Environmental Quality Investigators", Berkeley, California, May 26-27, 2004.

Provide consultation and chemical emission rate testing to the State of California Attorney General's Office in 2013-2015 regarding the chemical emissions from e-cigarettes.

PEER-REVIEWED PUBLICATIONS :

F.J.Offermann, C.D.Hollowell, and G.D.Roseme, "Low-Infiltration Housing in Rochester, New York: A Study of Air Exchange Rates and Indoor Air Quality," *Environment International*, 8, pp. 435-445, 1982.

W.W.Nazaroff, F.J.Offermann, and A.W.Robb, "Automated System for Measuring Air Exchange Rate and Radon Concentration in Houses," *Health Physics*, 45, pp. 525-537, 1983.

F.J.Offermann, W.J.Fisk, D.T.Grimsrud, B.Pedersen, and K.L.Revzan, "Ventilation Efficiencies of Wall- or Window-Mounted Residential Air-to-Air Heat Exchangers," *ASHRAE Annual Transactions*, 89-2B, pp 507-527, 1983.

W.J.Fisk, K.M.Archer, R.E Chant, D. Hekmat, F.J.Offermann, and B.Pedersen, "Onset of Freezing in Residential Air-to-Air Heat Exchangers," *ASHRAE Annual Transactions*, 91-1B, 1984.

W.J.Fisk, K.M.Archer, R.E Chant, D. Hekmat, F.J.Offermann, and B.Pedersen, "Performance of Residential Air-to-Air Heat Exchangers During Operation with Freezing and Periodic Defrosts," *ASHRAE Annual Transactions*, 91-1B, 1984.

F.J.Offermann, R.G.Sextro, W.J.Fisk, D.T.Grimsrud, W.W.Nazaroff, A.V.Nero, and K.L.Revzan, "Control of Respirable Particles with Portable Air Cleaners," *Atmospheric Environment*, Vol. 19, pp.1761-1771, 1985.

R.G.Sextro, F.J.Offermann, W.W.Nazaroff, A.V.Nero, K.L.Revzan, and J.Yater, "Evaluation of Indoor Control Devices and Their Effects on Radon Progeny Concentrations," *Atmospheric Environment*, *12*, pp. 429-438, 1986.

W.J. Fisk, R.K.Spencer, F.J.Offermann, R.K.Spencer, B.Pedersen, R.Sextro, "Indoor Air Quality Control Techniques," *Noyes Data Corporation*, Park Ridge, New Jersey, (1987).

F.J.Offermann, "Ventilation Effectiveness and ADPI Measurements of a Forced Air Heating System," *ASHRAE Transactions* , Volume 94, Part 1, pp 694-704, 1988.

F.J.Offermann and D. Int-Hout "Ventilation Effectiveness Measurements of Three Supply/Return Air Configurations," *Environment International* , Volume 15, pp 585-592 1989.

F.J. Offermann, S.A. Loiselle, M.C. Quinlan, and M.S. Rogers, "A Study of Diesel Fume Entrainment in an Office Building," *IAQ '89*, The Human Equation: Health and Comfort, pp 179-183, ASHRAE, Atlanta, GA, 1989.

R.G.Sextro and F.J.Offermann, "Reduction of Residential Indoor Particle and Radon Progeny Concentrations with Ducted Air Cleaning Systems," submitted to *Indoor Air*, 1990.

S.A.Loiselle, A.T.Hodgson, and F.J.Offermann, "Development of An Indoor Air Sampler for Polycyclic Aromatic Compounds", *Indoor Air* , Vol 2, pp 191-210, 1991.

F.J.Offermann, S.A.Loiselle, A.T.Hodgson, L.A. Gundel, and J.M. Daisey, "A Pilot Study to Measure Indoor Concentrations and Emission Rates of Polycyclic Aromatic Compounds", *Indoor Air* , Vol 4, pp 497-512, 1991.

F.J. Offermann, S. A. Loiselle, R.G. Sextro, "Performance Comparisons of Six Different Air Cleaners Installed in a Residential Forced Air Ventilation System," *IAQ'91*, Healthy Buildings, pp 342-350, ASHRAE, Atlanta, GA (1991).

F.J. Offermann, J. Daisey, A. Hodgson, L. Gundell, and S. Loiselle, "Indoor Concentrations and Emission Rates of Polycyclic Aromatic Compounds", *Indoor Air*, Vol 4, pp 497-512 (1992).

F.J. Offermann, S. A. Loiselle, R.G. Sextro, "Performance of Air Cleaners Installed in a Residential Forced Air System," *ASHRAE Journal*, pp 51-57, July, 1992.

F.J. Offermann and S. A. Loiselle, "Performance of an Air-Cleaning System in an Archival Book Storage Facility," *IAQ'92*, ASHRAE, Atlanta, GA, 1992.

S.B. Hayward, K.S. Liu, L.E. Alevantis, K. Shah, S. Loiselle, F.J. Offermann, Y.L. Chang, L. Webber, "Effectiveness of Ventilation and Other Controls in Reducing Exposure to ETS in Office Buildings," *Indoor Air '93*, Helsinki, Finland, July 4-8, 1993.

F.J. Offermann, S. A. Loiselle, G. Ander, H. Lau, "Indoor Contaminant Emission Rates Before and After a Building Bake-out," *IAQ'93*, Operating and Maintaining Buildings for Health, Comfort, and Productivity, pp 157-163, ASHRAE, Atlanta, GA, 1993.

L.E. Alevantis, Hayward, S.B., Shah, S.B., Loiselle, S., and Offermann, F.J. "Tracer Gas Techniques for Determination of the Effectiveness of Pollutant Removal From Local Sources," *IAQ '93*, Operating and Maintaining Buildings for Health, Comfort, and Productivity, pp 119-129, ASHRAE, Atlanta, GA, 1993.

L.E. Alevantis, Liu, L.E., Hayward, S.B., Offermann, F.J., Shah, S.B., Leiserson, K. Tsao, E., and Huang, Y., "Effectiveness of Ventilation in 23 Designated Smoking Areas in California Buildings," *IAQ '94*, Engineering Indoor Environments, pp 167-181, ASHRAE, Atlanta, GA, 1994.

L.E. Alevantis, Offermann, F.J., Loiselle, S., and Macher, J.M., "Pressure and Ventilation Requirements of Hospital Isolation Rooms for Tuberculosis (TB) Patients: Existing Guidelines in the United States and a Method for Measuring Room Leakage", Ventilation and Indoor air quality in Hospitals, M. Maroni, editor, Kluwer Academic publishers, Netherlands, 1996.

F.J. Offermann, M. A. Waz, A.T. Hodgson, and H.M. Ammann, "Chemical Emissions from a Hospital Operating Room Air Filter," *IAQ'96*, Paths to Better Building Environments, pp 95-99, ASHRAE, Atlanta, GA, 1996.

F.J. Offermann, "Professional Malpractice and the Sick Building Investigator," *IAQ'96*, Paths to Better Building Environments, pp 132-136, ASHRAE, Atlanta, GA, 1996.

F.J. Offermann, "Standard Method of Measuring Air Change Effectiveness," *Indoor Air*, Vol 1, pp.206-211, 1999.

F. J. Offermann, A. T. Hodgson, and J. P. Robertson, "Contaminant Emission Rates from PVC Backed Carpet Tiles on Damp Concrete", Healthy Buildings 2000, Espoo, Finland, August 2000.

K.S. Liu, L.E. Alevantis, and F.J. Offermann, "A Survey of Environmental Tobacco Smoke Controls in California Office Buildings", *Indoor Air*, Vol 11, pp. 26-34, 2001.

F.J. Offermann, R. Colfer, P. Radzinski, and J. Robertson, "Exposure to Environmental Tobacco Smoke in an Automobile", Indoor Air 2002, Monterey, California, July 2002.

F. J. Offermann, J.P. Robertson, and T. Webster, "The Impact of Tracer Gas Mixing on Airflow Rate Measurements in Large Commercial Fan Systems", Indoor Air 2002, Monterey, California, July 2002.

M. J. Mendell, T. Brennan, L. Hathon, J.D. Odom, F.J. Offermann, B.H. Turk, K.M. Wallingford, R.C. Diamond, W.J. Fisk, "Causes and prevention of Symptom Complaints

in Office Buildings: Distilling the Experience of Indoor Environmental Investigators”, submitted to Indoor Air 2005, Beijing, China, September 4-9, 2005.

F.J. Offermann, “Ventilation and IAQ in New Homes With and Without Mechanical Outdoor Air Systems”, Healthy Buildings 2009, Syracuse, CA, September 14, 2009.

F.J. Offermann, “ASHRAE 62.2 Intermittent Residential Ventilation: What’s It Good For, Intermittently Poor IAQ”, IAQVEC 2010, Syracuse, CA, April 21, 2010.

F.J. Offermann and A.T. Hodgson, “Emission Rates of Volatile Organic Compounds in New Homes”, Indoor Air 2011, Austin, TX, June, 2011.

P. Jenkins, R. Johnson, T. Phillips, and F. Offermann, “Chemical Concentrations in New California Homes and Garages”, Indoor Air 2011, Austin, TX, June, 2011.

W. J. Mills, B. J. Grigg, F. J. Offermann, B. E. Gustin, and N. E. Spingarm, “Toluene and Methyl Ethyl Ketone Exposure from a Commercially Available Contact Adhesive”, Journal of Occupational and Environmental Hygiene, 9:D95-D102 May, 2012.

F. J. Offermann, R. Maddalena, J. C. Offermann, B. C. Singer, and H. Wilhelm, “The Impact of Ventilation on the Emission Rates of Volatile Organic Compounds in Residences”, HB 2012, Brisbane, AU, July, 2012.

F. J. Offermann, A. T. Hodgson, P. L. Jenkins, R. D. Johnson, and T. J. Phillips, “Attached Garages as a Source of Volatile Organic Compounds in New Homes”, HB 2012, Brisbane, CA, July, 2012.

R. Maddalena, N. Li, F. Offermann, and B. Singer, “Maximizing Information from Residential Measurements of Volatile Organic Compounds”, HB 2012, Brisbane, AU, July, 2012.

W. Chen, A. Persily, A. Hodgson, F. Offermann, D. Poppendieck, and K. Kumagai, “Area-Specific Airflow Rates for Evaluating the Impacts of VOC emissions in U.S. Single-Family Homes”, Building and Environment, Vol. 71, 204-211, February, 2014.

F. J. Offermann, A. Eagan A. C. Offermann, and L. J. Radonovich, “Infectious Disease Aerosol Exposures With and Without Surge Control Ventilation System Modifications”, Indoor Air 2014, Hong Kong, July, 2014.

F. J. Offermann, “Chemical Emissions from E-Cigarettes: Direct and Indirect Passive Exposures”, Building and Environment, Vol. 93, Part 1, 101-105, November, 2015.

F. J. Offermann, “Formaldehyde Emission Rates From Lumber Liquidators Laminate Flooring Manufactured in China”, Indoor Air 2016, Belgium, Ghent, July, 2016.

F. J. Offermann, “Formaldehyde and Acetaldehyde Emission Rates for E-Cigarettes”, Indoor Air 2016, Belgium, Ghent, July, 2016.

OTHER REPORTS:

W.J.Fisk, P.G.Cleary, and F.J.Offermann, "Energy Saving Ventilation with Residential Heat Exchangers," a Lawrence Berkeley Laboratory brochure distributed by the Bonneville Power Administration, 1981.

F.J.Offermann, J.R.Girman, and C.D.Hollowell, "Midway House Tightening Project: A Study of Indoor Air Quality," Lawrence Berkeley Laboratory, Berkeley, CA, Report LBL-12777, 1981.

F.J.Offermann, J.B.Dickinson, W.J.Fisk, D.T.Grimsrud, C.D.Hollowell, D.L.Krinkle, and G.D.Roseme, "Residential Air-Leakage and Indoor Air Quality in Rochester, New York," Lawrence Berkeley Laboratory, Berkeley, CA, Report LBL-13100, 1982.

F.J.Offermann, W.J.Fisk, B.Pedersen, and K.L.Revzan, Residential Air-to-Air Heat Exchangers: A Study of the Ventilation Efficiencies of Wall- or Window- Mounted Units," Lawrence Berkeley Laboratory, Berkeley, CA, Report LBL-14358, 1982.

F.J.Offermann, W.J.Fisk, W.W.Nazaroff, and R.G.Sextro, "A Review of Portable Air Cleaners for Controlling Indoor Concentrations of Particulates and Radon Progeny," An interim report for the Bonneville Power Administration, 1983.

W.J.Fisk, K.M.Archer, R.E.Chant, D.Hekmat, F.J.Offermann, and B.S. Pedersen, "Freezing in Residential Air-to-Air Heat Exchangers: An Experimental Study," Lawrence Berkeley Laboratory, Berkeley, CA, Report LBL-16783, 1983.

R.G.Sextro, W.W.Nazaroff, F.J.Offermann, and K.L.Revzan, "Measurements of Indoor Aerosol Properties and Their Effect on Radon Progeny," Proceedings of the American Association of Aerosol Research Annual Meeting, April, 1983.

F.J.Offermann, R.G.Sextro, W.J.Fisk, W.W. Nazaroff, A.V.Nero, K.L.Revzan, and J.Yater, "Control of Respirable Particles and Radon Progeny with Portable Air Cleaners," Lawrence Berkeley Laboratory, Berkeley, CA, Report LBL-16659, 1984.

W.J.Fisk, R.K.Spencer, D.T.Grimsrud, F.J.Offermann, B.Pedersen, and R.G.Sextro, "Indoor Air Quality Control Techniques: A Critical Review," Lawrence Berkeley Laboratory, Berkeley, CA, Report LBL-16493, 1984.

F.J.Offermann, J.R.Girman, and R.G.Sextro, "Controlling Indoor Air Pollution from Tobacco Smoke: Models and Measurements," Indoor Air, Proceedings of the 3rd International Conference on Indoor Air Quality and Climate, Vol 1, pp 257-264, Swedish Council for Building Research, Stockholm (1984), Lawrence Berkeley Laboratory, Berkeley, CA, Report LBL-17603, 1984.

R.Otto, J.Girman, F.Offermann, and R.Sextro, "A New Method for the Collection and Comparison of Respirable Particles in the Indoor Environment," Lawrence Berkeley Laboratory, Berkeley, CA, Special Director Fund's Study, 1984.

A.T.Hodgson and F.J.Offermann, "Examination of a Sick Office Building," Lawrence Berkeley Laboratory, Berkeley, CA, an informal field study, 1984.

R.G.Sextro, F.J.Offermann, W.W.Nazaroff, and A.V.Nero, "Effects of Aerosol Concentrations on Radon Progeny," *Aerosols, Science, & Technology, and Industrial Applications of Airborne Particles*, editors B.Y.H.Liu, D.Y.H.Pui, and H.J.Fissan, p525, Elsevier, 1984.

K.Sexton, S.Hayward, F.Offermann, R.Sextro, and L.Weber, "Characterization of Particulate and Organic Emissions from Major Indoor Sources, Proceedings of the Third International Conference on Indoor Air Quality and Climate, Stockholm, Sweden, August 20-24, 1984.

F.J.Offermann, "Tracer Gas Measurements of Laboratory Fume Entrainment at a Semiconductor Manufacturing Plant," an Indoor Environmental Engineering R&D Report, 1986.

F.J.Offermann, "Tracer Gas Measurements of Ventilation Rates in a Large Office Building," an Indoor Environmental Engineering R&D Report, 1986.

F.J.Offermann, "Measurements of Volatile Organic Compounds in a New Large Office Building with Adhesive Fastened Carpeting," an Indoor Environmental Engineering R&D Report, 1986.

F.J.Offermann, "Designing and Operating Healthy Buildings", an Indoor Environmental Engineering R&D Report, 1986.

F.J.Offermann, "Measurements and Mitigation of Indoor Spray-Applied Pesticides", an Indoor Environmental Engineering R&D Report, 1988.

F.J.Offermann and S. Loiselle, "Measurements and Mitigation of Indoor Mold Contamination in a Residence", an Indoor Environmental Engineering R&D Report, 1989.

F.J.Offermann and S. Loiselle, "Performance Measurements of an Air Cleaning System in a Large Archival Library Storage Facility", an Indoor Environmental Engineering R&D Report, 1989.

F.J. Offermann, J.M. Daisey, L.A. Gundel, and A.T. Hodgson, S. A. Loiselle, "Sampling, Analysis, and Data Validation of Indoor Concentrations of Polycyclic Aromatic Hydrocarbons", Final Report, Contract No. A732-106, California Air Resources Board, March, 1990.

L.A. Gundel, J.M. Daisey, and F.J. Offermann, "A Sampling and Analytical Method for Gas Phase Polycyclic Aromatic Hydrocarbons", Proceedings of the 5th International Conference on Indoor Air Quality and Climate, Indoor Air '90, July 29-August 1990.

A.T. Hodgson, J.M. Daisey, and F.J. Offermann "Development of an Indoor Sampling and Analytical Method for Particulate Polycyclic Aromatic Hydrocarbons", Proceedings of the 5th International Conference on Indoor Air Quality and Climate, Indoor Air '90, July 29-August, 1990.

F.J. Offermann, J.O. Sateri, "Tracer Gas Measurements in Large Multi-Room Buildings", Indoor Air '93, Helsinki, Finland, July 4-8, 1993.

F.J. Offermann, M. T. O'Flaherty, and M. A. Waz "Validation of ASHRAE 129 - Standard Method of Measuring Air Change Effectiveness", Final Report of ASHRAE Research Project 891, December 8, 1997.

S.E. Guffey, F.J. Offermann et. al., "Proceedings of the Workshop on Ventilation Engineering Controls for Environmental Tobacco smoke in the Hospitality Industry", U.S. Department of Labor Occupational Safety and Health Administration and ACGIH, 1998.

F.J. Offermann, R.J. Fiskum, D. Kosar, and D. Mudaari, "A Practical Guide to Ventilation Practices & Systems for Existing Buildings", *Heating/Piping/Air Conditioning Engineering* supplement to April/May 1999 issue.

F.J. Offermann, P. Pasanen, "Workshop 18: Criteria for Cleaning of Air Handling Systems", Healthy Buildings 2000, Espoo, Finland, August 2000.

F.J. Offermann, Session Summaries: Building Investigations, and Design & Construction, Healthy Buildings 2000, Espoo, Finland, August 2000.

F.J. Offermann, "The IAQ Top 10", Engineered Systems, November, 2008.

L. Kincaid and F.J. Offermann, "Unintended Consequences: Formaldehyde Exposures in Green Homes, AIHA Synergist, February, 2010.

F.J. Offermann, "IAQ in Air Tight Homes", ASHRAE Journal, November, 2010.

F.J. Offermann, "The Hazards of E-Cigarettes", ASHRAE Journal, June, 2014.

PRESENTATIONS :

"Low-Infiltration Housing in Rochester, New York: A Study of Air Exchange Rates and Indoor Air Quality," Presented at the International Symposium on Indoor Air Pollution, Health and Energy Conservation, Amherst, MA, October 13-16, 1981.

"Ventilation Efficiencies of Wall- or Window-Mounted Residential Air-to-Air Heat Exchangers," Presented at the American Society of Heating, Refrigeration, and Air Conditioning Engineers Summer Meeting, Washington, DC, June, 1983.

"Controlling Indoor Air Pollution from Tobacco Smoke: Models and Measurements," Presented at the Third International Conference on Indoor Air Quality and Climate, Stockholm, Sweden, August 20-24, 1984.

"Indoor Air Pollution: An Emerging Environmental Problem", Presented to the Association of Environmental Professionals, Bar Area/Coastal Region 1, Berkeley, CA, May 29, 1986.

"Ventilation Measurement Techniques," Presented at the Workshop on Sampling and Analytical Techniques, Georgia Institute of Technology, Atlanta, Georgia, September 26, 1986 and September 25, 1987.

"Buildings That Make You Sick: Indoor Air Pollution", Presented to the Sacramento Association of Professional Energy Managers, Sacramento, CA, November 18, 1986.

"Ventilation Effectiveness and Indoor Air Quality", Presented to the American Society of Heating, Refrigeration, and Air Conditioning Engineers Northern Nevada Chapter, Reno, NV, February 18, 1987, Golden Gate Chapter, San Francisco, CA, October 1, 1987, and the San Jose Chapter, San Jose, CA, June 9, 1987.

"Tracer Gas Techniques for Studying Ventilation," Presented at the Indoor Air Quality Symposium, Georgia Tech Research Institute, Atlanta, GA, September 22-24, 1987.

"Indoor Air Quality Control: What Works, What Doesn't," Presented to the Sacramento Association of Professional Energy Managers, Sacramento, CA, November 17, 1987.

"Ventilation Effectiveness and ADPI Measurements of a Forced Air Heating System," Presented at the American Society of Heating, Refrigeration, and Air Conditioning Engineers Winter Meeting, Dallas, Texas, January 31, 1988.

"Indoor Air Quality, Ventilation, and Energy in Commercial Buildings", Presented at the Building Owners & Managers Association of Sacramento, Sacramento, CA, July 21, 1988.

"Controlling Indoor Air Quality: The New ASHRAE Ventilation Standards and How to Evaluate Indoor Air Quality", Presented at a conference "Improving Energy Efficiency and Indoor Air Quality in Commercial Buildings," National Energy Management Institute, Reno, Nevada, November 4, 1988.

"A Study of Diesel Fume Entrainment Into an Office Building," Presented at Indoor Air '89: The Human Equation: Health and Comfort, American Society of Heating, Refrigeration, and Air Conditioning Engineers, San Diego, CA, April 17-20, 1989.

"Indoor Air Quality in Commercial Office Buildings," Presented at the Renewable Energy Technologies Symposium and International Exposition, Santa Clara, CA June 20, 1989.

"Building Ventilation and Indoor Air Quality", Presented to the San Joaquin Chapter of the American Society of Heating, Refrigeration, and Air Conditioning Engineers, September 7, 1989.

"How to Meet New Ventilation Standards: Indoor Air Quality and Energy Efficiency," a workshop presented by the Association of Energy Engineers; Chicago, IL, March 20-21, 1989; Atlanta, GA, May 25-26, 1989; San Francisco, CA, October 19-20, 1989; Orlando, FL, December 11-12, 1989; Houston, TX, January 29-30, 1990; Washington D.C., February 26-27, 1990; Anchorage, Alaska, March 23, 1990; Las Vegas, NV, April 23-24, 1990; Atlantic City, NJ, September 27-28, 1991; Anaheim, CA, November 19-20, 1991; Orlando, FL, February 28 - March 1, 1991; Washington, DC, March 20-21, 1991; Chicago, IL, May 16-17, 1991; Lake Tahoe, NV, August 15-16, 1991; Atlantic City, NJ, November 18-19, 1991; San Jose, CA, March 23-24, 1992.

"Indoor Air Quality," a seminar presented by the Anchorage, Alaska Chapter of the American Society of Heating, Refrigeration, and Air Conditioning Engineers, March 23, 1990.

"Ventilation and Indoor Air Quality", Presented at the 1990 HVAC & Building Systems Congress, Santa Clara, CA, March 29, 1990.

"Ventilation Standards for Office Buildings", Presented to the South Bay Property Managers Association, Santa Clara, May 9, 1990.

"Indoor Air Quality", Presented at the Responsive Energy Technologies Symposium & International Exposition (RETSIE), Santa Clara, CA, June 20, 1990.

"Indoor Air Quality - Management and Control Strategies", Presented at the Association of Energy Engineers, San Francisco Bay Area Chapter Meeting, Berkeley, CA, September 25, 1990.

"Diagnosing Indoor Air Contaminant and Odor Problems", Presented at the ASHRAE Annual Meeting, New York City, NY, January 23, 1991.

"Diagnosing and Treating the Sick Building Syndrome", Presented at the Energy 2001, Oklahoma, OK, March 19, 1991.

"Diagnosing and Mitigating Indoor Air Quality Problems" a workshop presented by the Association of Energy Engineers, Chicago, IL, October 29-30, 1990; New York, NY, January 24-25, 1991; Anaheim, April 25-26, 1991; Boston, MA, June 10-11, 1991; Atlanta, GA, October 24-25, 1991; Chicago, IL, October 3-4, 1991; Las Vegas, NV, December 16-17, 1991; Anaheim, CA, January 30-31, 1992; Atlanta, GA, March 5-6, 1992; Washington, DC, May 7-8, 1992; Chicago, IL, August 19-20, 1992; Las Vegas,

NV, October 1-2, 1992; New York City, NY, October 26-27, 1992, Las Vegas, NV, March 18-19, 1993; Lake Tahoe, CA, July 14-15, 1994; Las Vegas, NV, April 3-4, 1995; Lake Tahoe, CA, July 11-12, 1996; Miami, FL, December 9-10, 1996.

"Sick Building Syndrome and the Ventilation Engineer", Presented to the San Jose Engineers Club, May, 21, 1991.

"Duct Cleaning: Who Needs It ? How Is It Done ? What Are The Costs ?" What Are the Risks ?, Moderator of Forum at the ASHRAE Annual Meeting, Indianapolis ID, June 23, 1991.

"Operating Healthy Buildings", Association of Plant Engineers, Oakland, CA, November 14, 1991.

"Duct Cleaning Perspectives", Moderator of Seminar at the ASHRAE Semi-Annual Meeting, Indianapolis, IN, June 24, 1991.

"Duct Cleaning: The Role of the Environmental Hygienist," ASHRAE Annual Meeting, Anaheim, CA, January 29, 1992.

"Emerging IAQ Issues", Fifth National Conference on Indoor Air Pollution, University of Tulsa, Tulsa, OK, April 13-14, 1992.

"International Symposium on Room Air Convection and Ventilation Effectiveness", Member of Scientific Advisory Board, University of Tokyo, July 22-24, 1992.

"Guidelines for Contaminant Control During Construction and Renovation Projects in Office Buildings," Seminar paper at the ASHRAE Annual Meeting, Chicago, IL, January 26, 1993.

"Outside Air Economizers: IAQ Friend or Foe", Moderator of Forum at the ASHRAE Annual Meeting, Chicago, IL, January 26, 1993.

"Orientation to Indoor Air Quality," an EPA two and one half day comprehensive indoor air quality introductory workshop for public officials and building property managers; Sacramento, September 28-30, 1992; San Francisco, February 23-24, 1993; Los Angeles, March 16-18, 1993; Burbank, June 23, 1993; Hawaii, August 24-25, 1993; Las Vegas, August 30, 1993; San Diego, September 13-14, 1993; Phoenix, October 18-19, 1993; Reno, November 14-16, 1995; Fullerton, December 3-4, 1996; Fresno, May 13-14, 1997.

"Building Air Quality: A Guide for Building Owners and Facility Managers," an EPA one half day indoor air quality introductory workshop for building owners and facility managers. Presented throughout Region IX 1993-1995.

"Techniques for Airborne Disease Control", EPRI Healthcare Initiative Symposium; San Francisco, CA; June 7, 1994.

“Diagnosing and Mitigating Indoor Air Quality Problems”, CIHC Conference; San Francisco, September 29, 1994.

”Indoor Air Quality: Tools for Schools,” an EPA one day air quality management workshop for school officials, teachers, and maintenance personnel; San Francisco, October 18-20, 1994; Cerritos, December 5, 1996; Fresno, February 26, 1997; San Jose, March 27, 1997; Riverside, March 5, 1997; San Diego, March 6, 1997; Fullerton, November 13, 1997; Santa Rosa, February 1998; Cerritos, February 26, 1998; Santa Rosa, March 2, 1998.

ASHRAE 62 Standard “Ventilation for Acceptable IAQ”, ASCR Convention; San Francisco, CA, March 16, 1995.

“New Developments in Indoor Air Quality: Protocol for Diagnosing IAQ Problems”, AIHA-NC; March 25, 1995.

"Experimental Validation of ASHRAE SPC 129, Standard Method of Measuring Air Change Effectiveness", 16th AIVC Conference, Palm Springs, USA, September 19-22, 1995.

“Diagnostic Protocols for Building IAQ Assessment”, American Society of Safety Engineers Seminar: ‘Indoor Air Quality – The Next Door’; San Jose Chapter, September 27, 1995; Oakland Chapter, 9, 1997.

“Diagnostic Protocols for Building IAQ Assessment”, Local 39; Oakland, CA, October 3, 1995.

“Diagnostic Protocols for Solving IAQ Problems”, CSU-PPD Conference; October 24, 1995.

“Demonstrating Compliance with ASHRAE 62-1989 Ventilation Requirements”, AIHA; October 25, 1995.

“IAQ Diagnostics: Hands on Assessment of Building Ventilation and Pollutant Transport”, EPA Region IX; Phoenix, AZ, March 12, 1996; San Francisco, CA, April 9, 1996; Burbank, CA, April 12, 1996.

“Experimental Validation of ASHRAE 129P: Standard Method of Measuring Air Change Effectiveness”, Room Vent ‘96 / International Symposium on Room Air Convection and Ventilation Effectiveness”; Yokohama, Japan, July 16-19, 1996.

“IAQ Diagnostic Methodologies and RFP Development”, CCEHSA 1996 Annual Conference, Humboldt State University, Arcata, CA, August 2, 1996.

“The Practical Side of Indoor Air Quality Assessments”, California Industrial Hygiene Conference ‘96, San Diego, CA, September 2, 1996.

“ASHRAE Standard 62: Improving Indoor Environments”, Pacific Gas and Electric Energy Center, San Francisco, CA, October 29, 1996.

“Operating and Maintaining Healthy Buildings”, April 3-4, 1996, San Jose, CA; July 30, 1997, Monterey, CA.

“IAQ Primer”, Local 39, April 16, 1997; Amdahl Corporation, June 9, 1997; State Compensation Insurance Fund’s Safety & Health Services Department, November 21, 1996.

“Tracer Gas Techniques for Measuring Building Air Flow Rates”, ASHRAE, Philadelphia, PA, January 26, 1997.

“How to Diagnose and Mitigate Indoor Air Quality Problems”; Women in Waste; March 19, 1997.

“Environmental Engineer: What Is It?”, Monte Vista High School Career Day; April 10, 1997.

“Indoor Environment Controls: What’s Hot and What’s Not”, Shaklee Corporation; San Francisco, CA, July 15, 1997.

“Measurement of Ventilation System Performance Parameters in the US EPA BASE Study”, Healthy Buildings/IAQ’97, Washington, DC, September 29, 1997.

“Operations and Maintenance for Healthy and Comfortable Indoor Environments”, PASMA; October 7, 1997.

“Designing for Healthy and Comfortable Indoor Environments”, Construction Specification Institute, Santa Rosa, CA, November 6, 1997.

“Ventilation System Design for Good IAQ”, University of Tulsa 10th Annual Conference, San Francisco, CA, February 25, 1998.

“The Building Shell”, Tools For Building Green Conference and Trade Show, Alameda County Waste Management Authority and Recycling Board, Oakland, CA, February 28, 1998.

“Identifying Fungal Contamination Problems In Buildings”, The City of Oakland Municipal Employees, Oakland, CA, March 26, 1998.

“Managing Indoor Air Quality in Schools: Staying Out of Trouble”, CASBO, Sacramento, CA, April 20, 1998.

“Indoor Air Quality”, CSOOC Spring Conference, Visalia, CA, April 30, 1998.

“Particulate and Gas Phase Air Filtration”, ACGIH/OSHA, Ft. Mitchell, KY, June 1998.

“Building Air Quality Facts and Myths”, The City of Oakland / Alameda County Safety Seminar, Oakland, CA, June 12, 1998.

“Building Engineering and Moisture”, Building Contamination Workshop, University of California Berkeley, Continuing Education in Engineering and Environmental Management, San Francisco, CA, October 21-22, 1999.

“Identifying and Mitigating Mold Contamination in Buildings”, Western Construction Consultants Association, Oakland, CA, March 15, 2000; AIG Construction Defect Seminar, Walnut Creek, CA, May 2, 2001; City of Oakland Public Works Agency, Oakland, CA, July 24, 2001; Executive Council of Homeowners, Alamo, CA, August 3, 2001.

“Using the EPA BASE Study for IAQ Investigation / Communication”, Joint Professional Symposium 2000, American Industrial Hygiene Association, Orange County & Southern California Sections, Long Beach, October 19, 2000.

“Ventilation,” Indoor Air Quality: Risk Reduction in the 21st Century Symposium, sponsored by the California Environmental Protection Agency/Air Resources Board, Sacramento, CA, May 3-4, 2000.

“Workshop 18: Criteria for Cleaning of Air Handling Systems”, Healthy Buildings 2000, Espoo, Finland, August 2000.

“Closing Session Summary: ‘Building Investigations’ and ‘Building Design & Construction’”, Healthy Buildings 2000, Espoo, Finland, August 2000.

“Managing Building Air Quality and Energy Efficiency, Meeting the Standard of Care”, BOMA, MidAtlantic Environmental Hygiene Resource Center, Seattle, WA, May 23rd, 2000; San Antonio, TX, September 26-27, 2000.

“Diagnostics & Mitigation in Sick Buildings: When Good Buildings Go Bad,” University of California Berkeley, September 18, 2001.

“Mold Contamination: Recognition and What To Do and Not Do”, Redwood Empire Remodelers Association; Santa Rosa, CA, April 16, 2002.

“Investigative Tools of the IAQ Trade”, Healthy Indoor Environments 2002; Austin, TX; April 22, 2002.

“Finding Hidden Mold: Case Studies in IAQ Investigations”, AIHA Northern California Professionals Symposium; Oakland, CA, May 8, 2002.

“Assessing and Mitigating Fungal Contamination in Buildings”, Cal/OSHA Training; Oakland, CA, February 14, 2003 and West Covina, CA, February 20-21, 2003.

“Use of External Containments During Fungal Mitigation”, Invited Speaker, ACGIH Mold Remediation Symposium, Orlando, FL, November 3-5, 2003.

Building Operator Certification (BOC), 106-IAQ Training Workshops, Northwest Energy Efficiency Council; Stockton, CA, December 3, 2003; San Francisco, CA, December 9, 2003; Irvine, CA, January 13, 2004; San Diego, January 14, 2004; Irwindale, CA, January 27, 2004; Downey, CA, January 28, 2004; Santa Monica, CA, March 16, 2004; Ontario, CA, March 17, 2004; Ontario, CA, November 9, 2004, San Diego, CA, November 10, 2004; San Francisco, CA, November 17, 2004; San Jose, CA, November 18, 2004; Sacramento, CA, March 15, 2005.

“Mold Remediation: The National QUEST for Uniformity Symposium”, Invited Speaker, Orlando, Florida, November 3-5, 2003.

“Mold and Moisture Control”, Indoor Air Quality workshop for The Collaborative for High Performance Schools (CHPS), San Francisco, December 11, 2003.

“Advanced Perspectives In Mold Prevention & Control Symposium”, Invited Speaker, Las Vegas, Nevada, November 7-9, 2004.

“Building Sciences: Understanding and Controlling Moisture in Buildings”, American Industrial Hygiene Association, San Francisco, CA, February 14-16, 2005.

“Indoor Air Quality Diagnostics and Healthy Building Design”, University of California Berkeley, Berkeley, CA, March 2, 2005.

“Improving IAQ = Reduced Tenant Complaints”, Northern California Facilities Exposition, Santa Clara, CA, September 27, 2007.

“Defining Safe Building Air”, Criteria for Safe Air and Water in Buildings, ASHRAE Winter Meeting, Chicago, IL, January 27, 2008.

“Update on USGBC LEED and Air Filtration”, Invited Speaker, NAFA 2008 Convention, San Francisco, CA, September 19, 2008.

“Ventilation and Indoor air Quality in New California Homes”, National Center of Healthy Housing, October 20, 2008.

“Indoor Air Quality in New Homes”, California Energy and Air Quality Conference, October 29, 2008.

“Mechanical Outdoor air Ventilation Systems and IAQ in New Homes”, ACI Home Performance Conference, Kansas City, MO, April 29, 2009.

“Ventilation and IAQ in New Homes with and without Mechanical Outdoor Air Systems”, Healthy Buildings 2009, Syracuse, CA, September 14, 2009.

“Ten Ways to Improve Your Air Quality”, Northern California Facilities Exposition, Santa Clara, CA, September 30, 2009.

“New Developments in Ventilation and Indoor Air Quality in Residential Buildings”, Westcon meeting, Alameda, CA, March 17, 2010.

“Intermittent Residential Mechanical Outdoor Air Ventilation Systems and IAQ”, ASHRAE SSPC 62.2 Meeting, Austin, TX, April 19, 2010.

“Measured IAQ in Homes”, ACI Home Performance Conference, Austin, TX, April 21, 2010.

“Respiration: IEQ and Ventilation”, AIHce 2010, How IH Can LEED in Green buildings, Denver, CO, May 23, 2010.

“IAQ Considerations for Net Zero Energy Buildings (NZEB)”, Northern California Facilities Exposition, Santa Clara, CA, September 22, 2010.

“Energy Conservation and Health in Buildings”, Berkeley High School Green Career Week, Berkeley, CA, April 12, 2011.

“What Pollutants are Really There ?”, ACI Home Performance Conference, San Francisco, CA, March 30, 2011.

“Energy Conservation and Health in Residences Workshop”, Indoor Air 2011, Austin, TX, June 6, 2011.

“Assessing IAQ and Improving Health in Residences”, US EPA Weatherization Plus Health, September 7, 2011.

“Ventilation: What a Long Strange Trip It’s Been”, Westcon, May 21, 2014.

“Chemical Emissions from E-Cigarettes: Direct and Indirect Passive Exposures”, Indoor Air 2014, Hong Kong, July, 2014.

“Infectious Disease Aerosol Exposures With and Without Surge Control Ventilation System Modifications”, Indoor Air 2014, Hong Kong, July, 2014.

“Chemical Emissions from E-Cigarettes”, IMF Health and Welfare Fair, Washington, DC, February 18, 2015.

“Chemical Emissions and Health Hazards Associated with E-Cigarettes”, Roswell Park Cancer Institute, Buffalo, NY, August 15, 2014.

“Formaldehyde Indoor Concentrations, Material Emission Rates, and the CARB ATCM”, Harris Martin’s Lumber Liquidators Flooring Litigation Conference, WQ Minneapolis Hotel, May 27, 2015.

“Chemical Emissions from E-Cigarettes: Direct and Indirect Passive Exposure”, FDA Public Workshop: Electronic Cigarettes and the Public Health, Hyattsville, MD June 2, 2015.

“Creating Healthy Homes, Schools, and Workplaces”, Chautauqua Institution, Athenaeum Hotel, August 24, 2015.

“Diagnosing IAQ Problems and Designing Healthy Buildings”, University of California Berkeley, Berkeley, CA, October 6, 2015.

“Diagnosing Ventilation and IAQ Problems in Commercial Buildings”, BEST Center Annual Institute, Lawrence Berkeley National Laboratory, January 6, 2016.

“A Review of Studies of Ventilation and Indoor Air Quality in New Homes and Impacts of Environmental Factors on Formaldehyde Emission Rates From Composite Wood Products”, AIHce2016, May, 21-26, 2016.

“Admissibility of Scientific Testimony”, Science in the Court, Proposition 65 Clearinghouse Annual Conference, Oakland, CA, September 15, 2016.

“Indoor Air Quality and Ventilation”, ASHRAE Redwood Empire, Napa, CA, December 1, 2016.

Exhibit C



WI #24-002.07

April 8th, 2023

Ms. Marjan Kris Abubo
Lozeau | Drury LLP
1939 Harrison Street, Suite 150
Oakland, CA 94612

**SUBJECT: Lockwood III Apartments
Oxnard, California
Review and Comment on Noise Study**

Dear Mr. Abubo,

Per your request, Wilson Ihrig has reviewed the information and noise impact analysis in the Initial Study/Mitigated Negative Declaration (IS/MND) for the Lockwood III apartments, with an emphasis on the Appendix I, the Noise Study, developed by Meridian Consultants and dated September 2023. The Proposed Project is construction of a 5-story approximately 234-unit multi-family residential building on undeveloped land in the City of Oxnard. The projected is surrounded by sensitive uses, including the California Lutheran University Satellite Campus at 2201 Outlet Center Drive, as well as medical office buildings at 1900, 1901, and 2024 Outlet Center Drive

Wilson Ihrig, Acoustical Consultants, has practiced exclusively in the field of acoustics since 1966. During our 57 years of operation, we have prepared hundreds of noise studies for Environmental Impact Reports and Statements. We have one of the largest technical laboratories in the acoustical consulting industry. We also utilize industry-standard acoustical programs such as Roadway Construction Noise Model (RCNM), SoundPLAN, and CADNA. In short, we are well qualified to prepare environmental noise studies and review studies prepared by others.

Adverse Effects of Noise¹

Although the health effects of noise are not taken as seriously in the United States as they are in other countries, they are real and, in many parts of the country, pervasive.

Noise-Induced Hearing Loss. If a person is repeatedly exposed to loud noises, he or she may experience noise-induced hearing impairment or loss. In the United States, both the Occupational Health and Safety Administration (OSHA) and the National Institute for Occupational Safety and

¹ More information on these and other adverse effects of noise may be found in *Guidelines for Community Noise*, eds B Berglund, T Lindvall, and D Schwela, World Health Organization, Geneva, Switzerland, 1999. (<https://www.who.int/docstore/peh/noise/Comnoise-1.pdf>)

Health (NIOSH) promote standards and regulations to protect the hearing of people exposed to high levels of industrial noise.

Speech Interference. Another common problem associated with noise is speech interference. In addition to the obvious issues that may arise from misunderstandings, speech interference also leads to problems with concentration fatigue, irritation, decreased working capacity, and automatic stress reactions. For complete speech intelligibility, the sound level of the speech should be 15 to 18 dBA higher than the background noise. Typical indoor speech levels are 45 to 50 dBA at 1 meter, so any noise above 30 dBA begins to interfere with speech intelligibility. The common reaction to higher background noise levels is to raise one's voice. If this is required persistently for long periods of time, stress reactions and irritation will likely result.

Sleep Disturbance. Noise can disturb sleep by making it more difficult to fall asleep, by waking someone after they are asleep, or by altering their sleep stage, e.g., reducing the amount of rapid eye movement (REM) sleep. Noise exposure for people who are sleeping has also been linked to increased blood pressure, increased heart rate, increase in body movements, and other physiological effects. Not surprisingly, people whose sleep is disturbed by noise often experience secondary effects such as increased fatigue, depressed mood, and decreased work performance.

Cardiovascular and Physiological Effects. Human's bodily reactions to noise are rooted in the "fight or flight" response that evolved when many noises signaled imminent danger. These include increased blood pressure, elevated heart rate, and vasoconstriction. Prolonged exposure to acute noises can result in permanent effects such as hypertension and heart disease.

Impaired Cognitive Performance. Studies have established that noise exposure impairs people's abilities to perform complex tasks (tasks that require attention to detail or analytical processes) and it makes reading, paying attention, solving problems, and memorizing more difficult. This is why there are standards for classroom background noise levels and why offices and libraries are designed to provide quiet work environments.

Construction Noise Threshold is Misinterpreted

The Noise Memo in Appendix I errs by using the Federal Transit Administration (FTA) detailed assessment methodology with the contradictory and less stringent general assessment threshold. Appendix I states on page 11 that "a construction-related noise level threshold is adopted from the FTA Construction Noise Handbook for General Assessment Construction Noise Criteria" and that "The construction noise criteria threshold for residential uses is 90 dBA (Leq-1hour) during the daytime." This is correctly cited from the manual.

Additionally, on Page 15, the Noise Appendix states that in order to "calculate construction noise levels, hourly activity or utilization factors ... are estimated based on the temporal characteristics of other previous and current construction projects." These values are then given as an input in Table 6, which affects the construction noise source level used in the model (and thus the final modeled construction noise level).

However, it should be noted that the FTA advises assuming a usage factor of 1 when using a general assessment in the Transit Noise and Vibration Impact Assessment Manual.² The same document notes that usage factors are only utilized in the detailed assessment. Included usage factors in a general assessment underestimates noise by as much as 7 decibels for pieces of equipment that are used in the analysis, such as cranes. This difference is baked into the different criteria. The general assessment will almost always have higher levels than the detailed assessment since there is no usage factor adjustment, and thus has a higher criterion of 90 dBA. The detailed assessment is the inverse; typically lower modeled construction noise levels with a lower criterion of 80 dBA. The document's approach of using FTA general assessment criteria while incorporating usage factors significantly underestimates the potential impact of construction noise, especially since the modeled noise for the Site Preparation and Grading phases are 7 dBA over the 80 dBA threshold. This error should be fixed in an updated EIR, with more attention paid to consistency different construction noise modeling methodologies and thresholds.

On-Site Operational Noise Analysis is Incomplete

The Noise Analysis does not study impacts generated by noise produced by this project on nearby receivers. As such, it's possible the rooftop mechanical equipment, among other things, would raise nearby ambient levels over impact thresholds. This is especially a concern at night since HVAC systems can run at any hour.

There are no calculations nor any evidence provided that demonstrates mechanical equipment used in the Project will not be potentially significant at nearby sensitive receivers. Typical noise levels associated with mechanical equipment can be placed in a noise model with distance attenuation and project geometry to determine if there is an impact that would require mitigation. To confirm a less than significant impact, the Project Applicant should demonstrate in an Environmental Impact Report that the level generated by these sources is below reasonable significance thresholds.

The Potential for Building Damage Caused by Construction Vibration is Not Studied

Table 8 presents modeled construction vibration annoyance levels along with associated thresholds for applicable sensitive receivers. The FTA guidance manual states on Page 182 that "Buildings founded on the soil near the construction site [can] respond to these [construction] vibrations with ... slight damage at the highest [vibration] levels." As such, it is imperative that all nearby sensitive receivers are analyzed for construction vibration damage to nearby structures, as such levels are within the realm of possibility. This should be included in an Environmental Impact Report.

Off-Site Operational Noise Analysis is Incomplete

Table 9 in the Noise Analysis presents Existing Plus Project Noise Levels with and without the project traffic and compares this difference to significance thresholds. However, the analysis only considers Rice Avenue, Gonzales Road, and Rose Avenue. This means that potential traffic noise increases on Lockwood Ave and Outlet Center Drive are not considered.

This is particularly egregious for Lockwood Street, which is the main access road in and out of the site. Current traffic levels are presumably low, and even slight increases may double traffic, which

² https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf page 177

could increase noise levels by 3 dBA³. As such, there is a potential for significant impacts, and the issue should be studied in an Environmental Impact Report.

Conclusion

The IS/MND includes several errors, including an improper interpretation of construction noise guidelines, and little to no analysis on rooftop mechanical noise, construction vibration damage to buildings, and off-site noise on Lockwood Ave and Outlet Center Drive. These error and omissions should be corrected in a revised IS/MND or in an Environmental Impact Report.

Please feel free to contact me with any questions on this information.

Very truly yours,
WILSON IHRIG

A handwritten signature in blue ink, appearing to read "John Meighan", is written over a horizontal line.

John Meighan
Associate

lockwood 3 apartments mnd - comments on noise analysis - j meighan.docx

³Since 3dBA represents a doubling of sound energy <https://www.nps.gov/subjects/sound/mapfaq.htm>



JACK MEIGHAN

Associate

Jack joined Wilson Ihrig in 2021 and works out of our Los Angeles office. He is an experienced acoustical engineer with expertise in projects involving rail transit systems, highways, CEQA analysis, environmental noise reduction, mechanical drawing reviews, and construction noise and vibration mitigation. He has hands-on experience with project management, including client coordination and presentations, as well as in designing, developing, and testing MATLAB code used in acoustics applications. His expertise includes field measurements, developing test plans and specifying, purchasing, setting up and repairing acoustic measurement equipment. He has experience in using Traffic Noise Model (TNM), CadnaA, EASE, Visual Basic, LabView, and CAD software.

Education

- B.S. in Mechanical Engineering, University of Southern California, Los Angeles, CA

Project Experience

LA Metro Regional Connector, Los Angeles CA

Planned, took, and processed measurements as part of a team to determine the effectiveness of floating slab trackwork for a new subway in downtown Los Angeles that travels below the Walt Disney Concert Hall and the Colburn School of Music.

Rodeo Credit Enterprise CEQA Analysis for New Construction, Palmdale, CA

Wrote an accepted proposal and executed it for a noise study project to determine noise mitigation requirements on a new housing development. Led all aspects of the project and managed the budget during all phases of project completion. Completed five separate projects of this type for this company.

Blackhall Studios, Santa Clarita, CA

Led the vibration measurement effort for a new soundstage directly adjacent to an existing freight and commuter rail line. Tested equipment, processed data, and analyzed results to determine the vibration propagation through the soil to the proposed soundstage locations, and was part of the team that developed mitigation techniques for the office spaces directly next to the rail line.

Octavia Residential Condos CEQA Study, San Francisco, CA

Calculated the STC ratings for the proposed windows to meet Title 24 requirements, modeled the acoustic performance of floor and ceiling structures, researched noise codes, helped with a mechanical design review, and wrote a report summarizing the results for a new Condominium project being developed in San Francisco.

ARRIVE San Diego Airport Terminal 1 Replacement, CA

Conducted interior noise and vibration measurements, analyzed measurement data to help determine project criteria, modeled the existing and future terminals in CadnaA, and was part of a team that did a complete HVAC analysis of the entire terminal, as part of a CEQA analysis where a new terminal for the airport is being designed.

Five Points Apartments Noise Study, Whittier, CA

Conducted measurements, researched sound data and solutions, and recommended mitigation for a new apartment complex that was located next to an existing car wash, as part of a CEQA review.

USC Ellison Vibration Survey, Los Angeles, CA

Conducted vibration measurements as part of a survey to determine the effectiveness of vibration isolation platforms that are used to insulate cell growth in a cancer research facility. Determined the effectiveness and presented this information to the client. Researched and recommended a permanent monitoring system so the client could view data in real time.

TEN50 Condos Noise Investigation, Los Angeles, CA

Was part of a team that investigated the noise source of an unwanted popping noise in luxury condominiums in Downtown Los Angeles. Helped isolate the noise source location with accelerometers to determine where vibrations were occurring first and used an acoustic camera to determine where in the condo the noise was coming from.

2000 University Mixed-Use Building, Berkely, CA

Wrote a construction noise monitoring plan based on environmental noise calculations, as required by CEQA, wrote a report summarizing the results, and attended a client meeting to discuss options.

Bay Area Rapid Transit (BART) On-Track, CA, San Francisco Bay Area, CA*

Day to day project manager, responsible for meetings, presentations, and coordination with the client for an ongoing noise study on the BART system. Developed MATLAB code to process measurements and determine areas where high corrugation was present, contributing to excessively high in-car noise levels. Performed noise measurements inside both the right of way and the vehicle cabin, in addition to rail corrugation measurements.

California I-605/SR-60 Interchange Improvement, Los Angeles, CA*

Developed a noise model of the area that predicted sound levels for abatement design, in addition to conducting noise measurements and analysis. Led the Team in use of the FHWA Traffic Noise Model Software for the project, involving three major highways and two busy interchanges extending over 17 miles in southern California.

Sound Transit On-Track, Seattle, WA*

Took measurements, fixed equipment, and developed software in MATLAB to process Corrugation Analysis Trolley measurements as part of an ongoing noise study on the Sound Transit Link system. Tested vibration data to determine the best measurement and processing techniques to store the data in an online database for in-car measurements.

LA Metro CRRC Railcar Testing, Los Angeles, CA*

Led the effort to plan the measurements, determine measurement locations and finalize the test plan. Formulated a method to capture speed data directly from legacy train vehicles. Executed noise and vibration specification measurements for new rail cars delivered by CRRC.

City of Los Angeles, Pershing Square Station Rehabilitation Noise Monitoring, CA*

Built noise models, wrote a construction noise plan, and assisted in on-site construction noise issues as they arose for a renovation of the Pershing Square metro station in downtown Los

** Work done prior to working for Wilson Ihrig*

Angeles. Trained construction personnel in techniques for noise reduction and how to conduct noise monitoring measurements to meet project specifications.

City of Orange Metrolink Parking Garage Construction Monitoring, CA*

Wrote an adaptive management vibration monitoring plan, set up equipment to monitor live vibration levels, and generated weekly reports as part of an effort to build a new parking garage. Designed, planned, and completed measurements to predict and mitigate pile driving construction impacts at three historic building locations adjacent to the construction site. Coordinated with the client whenever an on-site problem arose.

LA Metro Westside Subway Construction, Los Angeles, CA*

Planned, organized, and processed noise measurements for the Purple Line extension construction. Implemented both long term microphones to measure noise levels and accelerometers to measure vibration levels in existing subway tunnels. Oversaw noise monitoring at sensitive construction sites for the project and worked with the contractor to find ways to reduce construction noise levels by approximately 10dB.

Montreal Réseau Express Métropolitain, Canada*

Conducted vibration propagation measurements used to create models to predict operational vibration levels for an under-construction transit line. Managed equipment, solved problems in the field, and wrote parts of the report summarizing the findings of the acoustic study.

NCHRP Research Report 882 & 886, Multiple Locations (Dayton and Columbus, OH)

Took on-highway measurements and wrote, designed, developed, and tested MATLAB code to identify specific spectrograms to use for analyses for a project evaluating barrier reflected highway traffic noise differences in the presence of a single absorptive or reflective noise barrier.

Siemens Railcar Testing for Sound Transit, Seattle, WA*

Measured in-car noise and vibration for new rail cars delivered by Siemens. Developed new internal techniques for measurements based on the written specifications. Contributed to the team that helped identify issues that new cars had in meeting the Sound Transit specifications for noise and vibration. Participated in developing the test plan and specified then acquired new equipment for the measurement.

Toronto/Ontario Eglinton Crosstown Light Rail, Final Design, Canada*

Assisted in vibration propagation measurements, analysis, and recommendations for mitigation for a 12-mile light-rail line both on and under Eglinton Avenue. Set up and ran equipment for at-grade measurements with an impact hammer for underground measurements with an impact load cell that was used during pre-construction borehole drilling.

** Work done prior to working for Wilson Ihrig*

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL ADOPTING A MITIGATED NEGATIVE DECLARATION 24-01 TO ALLOW FOR THE CONSTRUCTION OF A NEW FIVE-STORY, 234-UNIT, MIXED-INCOME, MULTI-FAMILY APARTMENT BUILDING AND RELATED IMPROVEMENTS LOCATED ON THE EXISTING, VACANT 5.17-ACRE PROPERTY AT 2151 LOCKWOOD STREET (APN: 213-0-090-275). FILED BY MARK ROSS – MANAGER, SVM DEVELOPMENT, 1534 MOORPARK ROAD #337, THOUSAND OAKS, CALIFORNIA 91360 (THE “APPLICANT”) ON BEHALF OF SUNBELT ENTERPRISES, LLC, 5715 MESMER AVENUE, LOS ANGELES, CALIFORNIA 90230 (THE “PROPERTY OWNER”).

WHEREAS, on November 2, 2022, Mark Ross (the “Applicant” and/or “Permittee”) submitted a request to approve Planning and Zoning Permit No. 22-500-04 (Special Use Permit), Planning and Zoning Permit No. 22-535-03 (Density Bonus), and Planning and Zoning Permit No. 22-570-01 (Zone Change), to allow for the construction of a new five-story, 234-unit, mixed-income, multi-family apartment building and related improvements located on the existing, vacant 5.17-acre property at 2151 Lockwood Street (“the Project”). The Special Use Permit allows for the development of mixed-income housing on the property; the Zone Change adopts the Affordable Housing Discretionary (-AHD) Additive Zone; and the Density Bonus Permit allows the project to exceed the base unit density; and

WHEREAS, the City is the lead agency for purposes of the project pursuant to Public Resources Code section 21067; and

WHEREAS, the City determined that the Project and its associated actions are subject to the environmental review requirements of the California Environmental Quality Act (“CEQA”); and

Whereas, the Development Advisory Committee (DAC) reviewed the plans on December 14, 2022, and March 1, 2023, and provided conditions of approval for the project that are incorporated within the recommended permits; and

WHEREAS, Pursuant to provisions of the California Environmental Quality Act and CEQA Guidelines, Section 15063, and following an Initial Study and environmental assessment of possible adverse impacts, the project will not have a significant effect on the environment because of the inclusion of certain mitigation measures for which lessened potential adverse impacts to a level of less than significant. Therefore, the Planning Division has prepared a Mitigated Negative Declaration with mitigation measures and monitoring program in accordance with the provisions of CEQA, including, without limitation CEQA Guidelines Sections 15070, 15071, 15072, and 15073, which have been incorporated as conditions; and

WHEREAS, a Notice of Intent to Adopt an Initial Study and Draft Mitigated Negative Declaration (IS/MND) for the Project was published and posted on March 18, 2024, at the State Office of Planning and Research (OPR) website and at the Ventura County Recorder’s Office pursuant to CEQA Guidelines Sections 15072 and 15073; and

WHEREAS, the public comment period on the Draft IS/MND ran for thirty (30) days commencing on March 18, 2024 and ending on April 17, 2024; and

WHEREAS, after the close of the comment period on the IS/MND, the IS/MND was

modified as set forth in Chapter 4 of the Response to Comment document; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines, the City has prepared Final IS/MND 24-01 containing all comments received on the Draft IS/MND 24-01, written responses to all substantive comments, and necessary changes to the text of the Draft IS/MND 24-01; and

WHEREAS, on August 1, 2024, the Planning Commission of the City of Oxnard conducted a duly noticed public hearing, and received and reviewed all written and oral evidence related to the Final IS/MND 24-01 and made a recommendation to City Council; and

WHEREAS, on September 17, 2024, the City Council of the City of Oxnard conducted a duly noticed public hearing, and received and reviewed all written and oral evidence related to the Final IS/MND 24-01; and

WHEREAS, the City Council has carefully reviewed Planning Commission Resolution No. 2024-18 recommending approval of IS/MND 24-01 for the subject project; and

WHEREAS, the City Council finds after due study and deliberation that the public interest and general welfare require the adoption of the Final IS/MND 24-01; and

WHEREAS, the comments of the Councilmembers, agencies, interested groups, and members of the public have received adequate responses.

WHEREAS, the Applicant agrees as a condition of this Resolution that at its own expense, to indemnify and defend the City of Oxnard and its agents, officers and employees from and against any claims, actions or proceedings to attack, set aside, void or annul the approval of this Resolution or any actions or proceedings, acts or determinations taken, done or made before the approval of this Resolution that were part of the approval process.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OXNARD:

SECTION 1. The Recitals above are true and correct and incorporated herein by this reference.

SECTION 2. The Final IS/MND has been completed in compliance with the California Environmental Quality Act (California Public Resources Code Section 21000 – 21189).

SECTION 3. The Final IS/MND was presented to the City Council, which, at a hearing before the public, reviewed and considered the information contained in the Initial Study/Mitigated Negative Declaration prior to taking action regarding the Project and its associated development entitlements.

SECTION 4. Based on the entire record before the City Council and all written and oral evidence presented, including the City Council Staff Report and all attachments thereto, the City Council finds pursuant to CEQA Guidelines §15074, the Final MND reflects the City's independent judgment and analysis. The City Council has independently reviewed and analyzed the Final IS/MND 24-01 prepared for the Project. The Final IS/MND 24-01 is an accurate and complete statement of the potential environmental impacts of the project. The Final IS/MND 24-01 was prepared under the direction of the City of Oxnard Planning Division and reflects its

independent judgment and analysis of the environmental impacts.

SECTION 5. The City Council hereby adopts of the Final IS/MND 24-01, set forth attached hereto and incorporated herein by reference, and based thereon and on the Record as a whole, the City Council hereby finds that all potentially significant environmental effects of the Project its associated development entitlement actions have been reduced to a less-than-significant level in that all significant environmental effects have been eliminated or substantially lessened as set forth in the IS-MND. Based upon the foregoing, the City Council determines that the Project and its associated actions will not have a significant effect upon the environment.

SECTION 6. The City Council hereby adopts of the mitigation measures set forth in the Final IS/MND 24-01 and its accompanying Mitigation, Monitoring, and Reporting Program (“MMRP”), pursuant to Public Resources Code Section 21081.6, which is a program design to ensure compliance with the mitigation measures imposed to avoid or substantially lessen the significant effects identified in the Mitigated Negative Declaration/Initial Study and said mitigation measures are described in the MMRP included therein and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oxnard hereby adopts an Final IS/MND 24-01, attached to the staff report and incorporated by reference.

PASSED AND ADOPTED this 17th day of September 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSED:

ATTEST:

Rose Chaparro, City Clerk

John C. Zaragoza, Mayor

APPROVED AS TO FORM:

Resolution No. _____
City Council Hearing Date: September 17, 2024
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Stephen M. Fischer, City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD UPHOLDING PLANNING COMMISSION APPROVAL OF PLANNING AND ZONING PERMIT NO. 22-500-04 (SPECIAL USE PERMIT) AND 22-535-03 (DENSITY BONUS) TO ALLOW FOR THE CONSTRUCTION OF A NEW FIVE-STORY, 234-UNIT, MIXED-INCOME, MULTI-FAMILY APARTMENT BUILDING AND RELATED IMPROVEMENTS AND TO AUTHORIZE A MINISTERIAL DENSITY BONUS ON THE EXISTING, VACANT 5.17-ACRE PROPERTY AT 2151 LOCKWOOD STREET (APN: 213-0-090-275). FILED BY MARK ROSS – MANAGER, SVM DEVELOPMENT, 1534 MOORPARK ROAD #337, THOUSAND OAKS, CALIFORNIA 91360 (THE “APPLICANT”) ON BEHALF OF SUNBELT ENTERPRISES, LLC, 5715 MESMER AVENUE, LOS ANGELES, CALIFORNIA 90230 (THE “PROPERTY OWNER”).

WHEREAS, on November 2, 2022, Mark Ross (the “Applicant” and/or “Permittee”) submitted a request to approve Planning and Zoning Permit No. 22-570-01 (Zone Change), Special Use Permit (PZ 22-500-04), and Planning and Zoning Permit No. 22-535-03 (Density Bonus); and

WHEREAS, if the aforementioned entitlement applications are collectively approved by the City of Oxnard, the project would be permitted to develop a new five-story, 234-unit, mixed-income, multi-family apartment building and related improvements located on the existing, vacant 5.17-acre property at 2151 Lockwood Street (APN: 213-0-090-275) (“Project”); and

WHEREAS, the City of Oxnard as the Lead Agency, has prepared Final IS/MND 24-01 in accordance with the requirements of the California Environmental Quality Act (CEQA, Public resources Code § 21000, et seq.), the regulations promulgated thereunder (14 California Code of Regulations, §15000, et seq., CEQA Guidelines), and the City’s Environmental Review Guidelines; and

WHEREAS, pursuant to provisions of the California Environmental Quality Act and CEQA Guidelines, Section 15063, and following an Initial Study and environmental assessment of possible adverse impacts, the project will not have a significant effect on the environment because of the inclusion of certain mitigation measures for which lessened potential adverse impacts to a level of less than significant. Therefore, the Planning Division has prepared a Mitigated Negative Declaration with mitigation measures and monitoring program in accordance with the provisions of CEQA, including, without limitation CEQA Guidelines Sections 15070, 15071, 15072, and 15073, which have been incorporated as conditions; and

WHEREAS, a Notice of Intent to Adopt an Initial Study and Draft Mitigated Negative Declaration (IS/MND) (MND 24-01) for the Project was published and posted on March 18, 2024, at the State Office of Planning and Research (OPR) website and at the Ventura County Recorder’s Office pursuant to CEQA Guidelines Sections 15072 and 15073; and

WHEREAS, the public comment period on the Draft IS/MND ran for thirty (30) days commencing on March 18, 2024 and ending on April 17, 2024; and

WHEREAS, after the close of the comment period on the IS/MND, the IS/MND was modified as set forth in Chapter 4 of the Response to Comment document; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines, the City has prepared Final IS/MND 24-01 containing all comments received on the Draft IS/MND 24-01, written responses to all substantive comments, and necessary changes to the text of the Draft IS/MND 24-01; and

WHEREAS, pursuant to CEQA Guidelines §15074, the Final MND reflects the City's independent judgment and analysis. The Planning Commission has independently reviewed and analyzed the Final IS/MND 24-01 prepared for the Project. The Final IS/MND 24-01 is an accurate and complete statement of the potential environmental impacts of the project. The Final IS/MND 24-01 was prepared under the direction of the City of Oxnard Planning Division and reflects its independent judgment and analysis of the environmental impacts.

WHEREAS, in accordance with the California Environmental Quality Act, the Planning Commission considered the proposed Final IS/MND 24-01 before making its recommendation, on the basis of the whole record before it found, there is no substantial evidence that the project will have a significant effect on the environment, and recommends that the City Council adopt the Final IS/MND 24-01; and

WHEREAS, the Planning Commission is concurrently recommending the City Council approve a Zone Change requests to amend the City's Zoning Ordinance Map to change the zoning of the subject project site from Business Research Park (BRP) to Business Research Park - Affordable Housing Discretionary (BRP-AHD); and

WHEREAS, on August 1, 2024, the Planning Commission conducted a duly noticed public hearing to consider the Applicant's request to approve Planning and Zoning Permit No. 22-500-04 (Special Use Permit) and Density Bonus Permit (22-535-03) for the construction of a new five-story, 234-unit, mixed-income, multi-family apartment building and related improvements, in accordance with Sections 16-530 through 16-553 (Special Use Permit) of the Oxnard City Code and to allow for a parking modification to allow for 1) a parking modification to allow for 75 of the parking spaces to be compact parking spaces in accordance with Section 16-651 of the OCC; and

WHEREAS, Sections 16-531, 16-410F, and 16-651 of the Oxnard City Code authorizes the Planning Commission to approve a Special Use Permit, Density Bonus Permit, and relief from parking requirements, respectively; and

WHEREAS, as a result of the request, the project shall be conditioned to enter into an agreement and record a restriction, requiring that a minimum of 24% of the residential units be

affordable at the low-income level in compliance with Section 65915 for a period of at least 55 years.

WHEREAS, the Planning Commission found, after due study, deliberation and public hearing, that the project meets the criteria set out in the City's Affordable Housing -AHD Additive Zones (Division 7C, OCC Section 16-420); and

WHEREAS, the Planning Commission found, after due study, deliberation and public hearing, that the project meets the criteria set out in California Government Code § 65915 to § 65918 and to the City's Density Bonus and Related Incentives and Concessions Program (Division 7A, OCC Section 16-410A to 16-410V, inclusive); and

WHEREAS, the Planning Commission found that the Project meets all necessary criteria of OCC Section 16-420, 16-410, and Government Code Section 65915 to be considered eligible for the requested concessions and waivers; and

WHEREAS, the Planning Commission found that the concessions and waivers are not contrary to any federal, state or local law; and

WHEREAS, the Project has been reviewed by the Development Advisory Committee (DAC) and the DAC has prepared conditions of approval that are incorporated within the recommended permits; and

WHEREAS, the Planning Commission found that the Project conforms to the City of Oxnard 2030 General Plan elements thereof and the Oxnard City Code for the reasons set forth in the Planning Commission Staff Report; and

WHEREAS, the Planning Commission found, after due study, deliberation and public hearing, that the project meets the criteria set out in the City's Affordable Housing -AHD Additive Zones (Division 7C, OCC Section 16-420); and

WHEREAS, the comments of the Planning Commissioners, members of the public, and interested groups and agencies have been adequately responded to; and

WHEREAS, the Planning Commission found after due study and deliberation that it is a reasonable exercise of the City's police powers to condition the project to ensure the continued health, safety, and welfare of the public by providing housing opportunities inclusive of affordable housing units for the residents of the City of Oxnard; and

WHEREAS, the Special Use Permit and Density Bonus are consistent with the policies and directives in the 2030 General Plan and Zoning Ordinance to allow development to those areas that can be served by existing or planned utilities, transportation, and service systems; and

WHEREAS, the Planning Commission found that the Applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this Resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of

the citizenry in general and the persons who work, visit or live in this development in particular;
and

WHEREAS, the Commission considered Final IS/MND 24-01 prior to taking action on the Project; and

WHEREAS, the Planning Commission found that the Project conforms to the City of Oxnard 2030 General Plan elements thereof, and the Oxnard City Code for the reasons set forth in the Planning Commission Staff Report, subject to City Council approval of the Zone Change (PZ 22-570-01); and

WHEREAS, the Planning Commission found after due study and deliberation that the applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this Resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work, visit or live in this development in particular.

WHEREAS, on August 1, 2024, the Planning Commission voted 4-0 (with three Commissioners absent), to adopt Resolution No. 2024-20 to approve the Project; and

WHEREAS, Appellant has appealed the Planning Commissions approval of Planning and Zoning Permit No. 22-500-04 (Special Use Permit) and associated Density Bonus (PZ 22-535-03) to the City Council; and

WHEREAS, on September 17, 2024, the City Council conducted a duly noticed public hearing to consider the Appellant's Appeal of the Planning Commission's decision to approve Planning and Zoning Permit No. 22-500-04 (Special Use Permit) and associated Density Bonus (PZ 22-535-03) in accordance with Oxnard City Code Sections 16-530 through 16-553 of the Oxnard City Code; and

WHEREAS, the City Council finds that the Project conforms to the City of Oxnard 2030 General Plan elements thereof and the Oxnard City Code for the reasons set forth in the City Council Staff Report; and

WHEREAS, pursuant to provisions of the California Environmental Quality Act and CEQA Guidelines, Section 15063, and following an Initial Study and environmental assessment of possible adverse impacts, the project will not have a significant effect on the environment because of the inclusion of certain mitigation measures for which lessened potential adverse impacts to a level of less than significant. Therefore, the Planning Division has prepared a Mitigated Negative Declaration with mitigation measures and monitoring program in accordance with the provisions of CEQA, including, without limitation CEQA Guidelines Sections 15070, 15071, 15072, and 15073, which have been incorporated as conditions; and

WHEREAS, the City Council has held a public hearing at which it received and

considered oral and written testimony on Final IS/MND 24-01 for the proposed project, the IS/MND documents are incorporated by reference in this resolution; and

WHEREAS, on September 17, 2024, the City Council reviewed all of the information provided in the staff report and considered the testimony given at the public hearing, including all written communications to the Planning Commission and City Council, as well as other pertinent information and appeal; and

WHEREAS, the City Council finds that the Applicant agrees as a condition of this Resolution that at its own expense, to indemnify and defend the City of Oxnard and its agents, officers and employees from and against any claims, actions or proceedings to attack, set aside, void or annul the approval of this Resolution or any actions or proceedings, acts or determinations taken, done or made before the approval of this resolution that were part of the approval process.

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

SECTION 1. Based on the entire record before the Planning Commission and all written and oral evidence presented, including the Staff Report and all attachments thereto, pursuant to Section 16-531 of the Oxnard City Code, the Planning Commission finds with respect to the Special Use Permit:

- 1. The proposed use is in conformance with the General Plan and other adopted policies of the City of Oxnard.**

As described in the Staff Report, development of mixed-income multi-family housing on the existing, underutilized site located in a transitional industrial zone is consistent with General Plan goals and policies, which promote increasing the City's housing supply, locating new housing near transportation routes, expanding the property tax base, and improving the urban environment.

- 2. The nature, condition and development of adjacent uses, buildings and structures shall be considered, and no proposed special use permit shall be granted if the approval body finds such use will adversely affect or be materially detrimental to such adjacent uses, buildings or structures or to the public health, safety or general welfare.**

The project proposes to construct the third phase of a new multi-family housing development. The previously approved two phases are currently under construction near the subject project site. The area also contains commercial and service uses. The proposed project, including uses and structures, is in alignment with the neighboring uses, buildings, and structures, and therefore will not adversely affect or be materially detrimental to such uses, buildings, or structure, nor to the public health, safety and general welfare.

- 3. The site that is subject to the special use permit shall be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and items which may be required by Section 16-532.**

The size and shape of the project site allows for the development of yards, walls, fences, parking, courtyards, terraces, recreational facilities, storage, and utilities, as required by the project. Proposed exceptions to front yard setback, building height, interior yard space, balcony size, landscape planter size, and first-story residential space reflect the specific requirements of the mixed income, multi-family residential development project. Given these circumstances, the site for the proposed use is adequate in size and shape.

- 4. The site that is subject to the special use permit shall be served by highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use would generate.**

As described in the Staff Report, the project will be accessed via two driveways taking access from Lockwood Street to the south. The site will be served by streets and highways adequate in width and structure to carry the kind and quantity of traffic the proposed project is anticipated to generate.

- 5. The site that is subject to the special use permit shall be provided with adequate sewerage, water, fire protection and storm drainage facilities.**

As a condition of approval for the special use permit, the applicant shall be required to construct a new, upgraded sewer line along Lockwood Street, which is necessary to provide adequate service to meet the cumulative needs of the subject project as well as other previously approved residential projects in the vicinity of the subject project. The new, upgraded sewer line shall be required to meet City specifications. The applicant shall also be required to construct a new sewer connection to the proposed project. In addition, the project will construct on-site storm drainage facilities. Other existing services are adequate to provide for the proposed project.

Division 7C. Affordable Housing -AHP and -AHD Additive Zones Findings
(Oxnard City Code Section 16-420L- Findings)

- 6. Community-level environmental review as defined in the California Public Resources Code, Section 21159.20, has been adopted or certified, and the development consistent with the project evaluated in the environmental document, or the development is otherwise exempt from the California Environmental Quality Act.**

Pursuant to the California Environmental Quality Act (CEQA) Section 15060, the City of Oxnard as the Lead Agency, prepared an Initial Study/Mitigated Negative Declaration (IS/MND) in accordance with the requirements of CEQA (Public resources Code § 21000, et seq.), the regulations promulgated thereunder (14 California Code of Regulations, §15000, et seq., CEQA Guidelines), and the City's Environmental Review Guidelines. The IS/MND identified and discussed potential impacts, mitigation measures, monitoring requirements, and residual impacts for identified subject areas. The IS/MND (State Clearinghouse No. 2024030528) was available for public review from March 18, 2024, to April 17, 2024. The City of Oxnard received comment letters on the IS/MND from agencies, organizations, and interested parties. The written comments and responses to each of those comments received during the public review period of the Administrative Draft of the IS/MND are included in the Final IS/MND.

The IS/MND did not identify any potentially significant and unavoidable impacts (impacts that cannot be reduced to a less than significant level). The IS/MND identifies Less than significant impacts with mitigation incorporated (impacts that can be reduced to a less than significant level with mitigation measures) and less than significant impacts (impacts that do not require mitigation measures because the proposed project will not have a significant impact). The IS/MND concludes that after implementation of standard conditions and mitigation measures, all less than significant impacts associated with the proposed project would be reduced to less than significant levels. The IS/MND includes a Mitigation Monitoring and Reporting Program (MMRP) that details the process to implement the required mitigation measures.

Therefore, staff has determined that there is no substantial evidence that the Project will have a significant effect on the environment and recommends that the Final IS/MND has been completed in compliance with CEQA; that the Final IS/MND was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the Final IS/MND prior to approving the project; and that the Final IS/MND reflects the lead agency's independent judgment and analysis.

- 7. The development and other projects approved prior to the approval of the development can be adequately served by existing utilities, and the project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.**

As a condition of approval for the special use permit, the applicant shall be required to construct a new, upgraded sewer line along Lockwood Street, which is necessary to provide adequate service to meet the cumulative needs of the subject project as well as other previously approved residential projects in the vicinity of the subject project. The new, upgraded sewer line shall be required to meet City specifications. The applicant shall also be required to construct a new sewer connection to the proposed project.

- 8. The development does not have a significant effect on historical resources pursuant to Section 21084.1 of the Public Resources Code.**

The project site is not known to contain any existing or potential historical, cultural, or paleontological resources. Recommended conditions of approval/mitigation measures for the proposed project require monitoring during construction, and appropriate consultation and disposition of any potential resources which may be discovered on site. Therefore, the project would avoid having a significant effect on any historical, cultural, or paleontological resource.

- 9. The development site does not have an unusually high risk of fire or explosion from materials stored or used on nearby properties.**

The development site, which was historically used for agriculture, and which is currently vacant, is not known to have stored or used any materials that have an unusually high risk of fire or explosion. Nearby uses include commercial, service, and residential, which do not store or use any materials that have an unusually high risk of fire or explosion.

- 10. The development site does not present a risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.**

As a condition of approval for the special use permit, the applicant shall be required to install, inspect, and maintain residential ventilation systems (MERV 14 or better), which would mitigate for potential adverse air quality-related health impacts resulting from proximity to the US-101/Ventura Freeway.

As a design feature of the proposed project, existing noise generators (US-101/Ventura Freeway) are mitigated at outdoor residential living areas (patios and balconies), by railings variously designed as open metal, solid, and/or solid with

glazed panel, as necessary to provide sound attenuation; such that all patios and/or balconies comply with City noise standards.

11. The development is not located on a site that is any of the following:

- (1) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.**
- (2) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW2 (June 21. 1993).**
- (3) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.**
- (4) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.**
- (5) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.**
- (6) Within a floodplain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a flood plain development permit pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.**
- (7) Within a floodway as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has received a**

no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.

- (8) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.**
- (9) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).**
- (10) Lands under conservation easement.**

The project site does not contain any of the above-referenced conditions.

- 12. The development is not located on a site where any of the following apply: The development would require the demolition of the following types of housing:**
- a. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.**
 - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.**

The project site does not contain any existing housing.

SECTION 4. The City Council, in accordance with the California Environmental Quality Act (CEQA), determines that the Project will not have a significant impact on the environment as identified and discussed in MND 24-01. Pursuant to the California Environmental Quality Act (CEQA) Section 15060, the City of Oxnard as the Lead Agency, has prepared an IS/MND (State Clearinghouse No. 2024030528) in accordance with the requirements of the California Environmental Quality Act (CEQA, Public resources Code § 21000, et seq.), the regulations promulgated thereunder (14 California Code of Regulations, §15000, et seq., CEQA Guidelines), and the City's Environmental Review Guidelines. The IS/MND identifies and discusses potential impacts, mitigation measures, and monitoring requirements.

SECTION 5. This Resolution shall not become effective unless and until the City of Oxnard City Council adopts the Final IS/MND 24-01 and approves the associated Zone Change (PZ No. 22-570-01). If the City Council fails to approve any of these permits, then this Resolution shall become null and void and be of no further force and effect.

SECTION 6. Based on the findings set forth herein, the City Council hereby approves Planning and Zoning Permit No. 22-500-04 (Special Use Permit) and associated Density Bonus (PZ 22-535-03), subject to the attached conditions of approval.

SECTION 7. The decision of the City Council shall be final.

SECTION 8. The City Clerk shall certify the adoption of this Resolution.

CONDITIONS OF APPROVAL

Note: The abbreviations below identify the City department or division responsible for determining compliance with these standard conditions. The first department or division listed has responsibility for compliance at plan check, the second during inspection and the third at final inspection, prior to issuance of a certificate of occupancy, or at a later date, as specified in the condition. If more than one department or division is listed, the first will check the plans or inspect the project before the second confirms compliance with the condition. The italicized code at the end of each condition provides internal information on the source of each condition: Some are standard permit conditions (e.g. *G-1*) while some are taken from environmental documents (e.g. *MND-S2*).

DEPARTMENTS AND DIVISIONS			
CA	City Attorney	PL	Planning Division
DS	Dev Services/Eng Dev/Inspectors	TR	Traffic Division
PD	Police Department	B	Building Plan Checker
SC	Source Control	FD	Fire Department
PK	Landscape Design	CE	Code Compliance

GENERAL PROJECT CONDITIONS

1. This permit is granted for the property described in the application on file with the Planning Division and may not be transferred from one property to another. (PL, *G-1*).
2. This permit is granted for the plans approved August 1, 2024 (“the plans”) on file with the Planning Division. The project shall conform to the plans, except as otherwise specified in these conditions, or unless a minor modification to the plans is approved by the Planning and Environmental Services Manager (“Planning Manager”) or a major modification to the plans is approved by the Planning Commission. A minor modification may be granted for minimal changes or increases in the extent of use or size of structures or of the design, materials or colors of structures or masonry walls. A major modification shall be required for substantial changes or increases in such items. (PL, *G-2*)
3. This permit shall automatically become null and void 36 months from the date of its issuance, unless Developer has diligently developed the proposed project, as shown by the

issuance of a grading, foundation, or building permit and the construction of substantial improvements. (PL, G-3)

4. All required off-site and on-site improvements for the project, including structures, paving, and landscaping, shall be completed prior to occupancy unless the Development Services Manager allows the Developer to provide security or an executed agreement approved by the City Attorney to ensure completion of such improvements. (DS, G-4)
5. By commencing any activity related to the project or using any structure authorized by this permit, Developer accepts all of the conditions and obligations imposed by this permit and waives any challenge to the validity of the conditions and obligations stated therein. (CA, G-5)
6. Developer agrees, as a condition of adoption of this resolution, at Developer's own expense, to indemnify, defend and hold harmless the City and its agents, officers and employees from and against any claim, action or proceeding to attack, review, set aside, void or annul the approval of the resolution or any condition attached thereto or any proceedings, acts or determinations taken, done or made prior to the approval of such resolution that were part of the approval process. (CA, G-6)
7. Any covenants, conditions, and restrictions (CC&Rs) applicable to the project property shall be consistent with the terms of this permit and the City Code. If there is a conflict between the CC&Rs and the City Code or this permit, the City Code or this permit shall prevail. (CA, G-7)
8. Developer shall complete the "Notice of Land Use Restrictions and Conditions" form, using the form provided by the City, for recording with the Ventura County Recorder. Before the City issues building permits, Developer shall submit the original completed, signed and notarized document, together with the required fees to the Planning Manager. (PL, G-8)
9. Developer shall provide off-street parking for the project, including the number of spaces, stall size, paving, striping, location, and access, as required by the City Code. (PL/B, G-9)
10. Before placing or constructing any signs on the project property, Developer shall obtain a sign permit from the City. Except as provided in the sign permit, Developer may not change any signs on the project property. (PL/B, G-10)
11. Developer shall obtain a building permit for any new construction or modifications to structures, including interior modifications, authorized by this permit. (B, G-11)
12. Developer shall not permit any combustible refuse or other flammable materials to be burned on the project property. (FD, G-12)

13. Developer shall not permit any materials classified as flammable, combustible, radioactive, carcinogenic or otherwise potentially hazardous to human health to be handled, stored or used on the project property, except as provided in a permit issued by the Fire Chief. (FD, G-13)
14. If Developer, owner or tenant fails to comply with any of the conditions of this permit, the Developer, owner or tenant shall be subject to a civil fine pursuant to the City Code. (CA, G-14)
15. Prior to issuance of building permits, Developer shall correct all violations of the City Code existing on the project property for which the Code Compliance Division has open cases. (PL, G-15).

LANDSCAPE STANDARD CONDITIONS

16. Prior to submittal of landscape and irrigation plans, Developer shall obtain approval of the Planning Manager or designee of a plan showing on the project property all existing trees and identifying the trees to be saved, transplanted or removed. (PK, PK-1)
17. Prior to issuance of building permits or the proposed use is initiated, whichever comes first, Developer shall submit two copies of landscape and irrigation plans, along with the appropriate permit application and fees, to the Development Services Division and obtain approval of such plans. (PK/DS, PK-2)
18. Prior to issuance of a certificate of occupancy, Developer shall install landscape and automatic irrigation systems that have been approved by the City's Landscape Architect. (PK, PK-3)
19. Developer shall properly maintain landscape planting and all irrigation systems as required by the City Code and as specified by this permit. Failure of Developer to do so may result in the revocation of this permit and initiation of legal proceedings against Developer to ensure compliance. (PK, PK-4)
20. Prior to the issuance of City issues a certificate of occupancy, Developer shall provide a watering schedule to the building owner or manager and to Planning Division or designee. The irrigation system shall include automatic rain shut-off devices, or instructions on how to override the irrigation system during rainy periods. (PK, PK-5)
21. All trees planted or placed on the property by Developer shall be at least 24-inch-box size. All shrubs and vines shall be at least five-gallon size, except as otherwise specified by this permit. (PK, PK-6)

22. At the time of landscape plan check submittal, the landscape planting and irrigation plans shall comply with the current title 23 Model Water Efficient Landscape Ordinance (MWELO). (PK, PK-7.1)
23. Consistent with the City Council Resolution 15,569 which declared a continuance of the Stage 2 water shortage condition within the City of Oxnard, the project is required to implement and maintain the mandatory water conservation requirements for as long as City Council Resolution 15,569 is in effect or is amended/replaced by the City of Oxnard.

RESIDENTIAL

24. Developer shall provide an automatic irrigation controller and a written seasonal watering schedule for all front yard and street side yard landscaping. The watering schedule shall include variations for seasonal changes, sun and shade exposure of plants, type of plants, duration and frequency of irrigation, and suggestions as to how to conserve water. As part of the landscape plan check submittal process, the City's Landscape Architect shall review the sufficiency of instructions for the operation of the irrigation controller and the watering schedule cycles. (PK, PK-11)
25. Developer shall review with and provide instructions to the buyer or property manager concerning the irrigation controller operation and the watering schedules.
26. Developer shall install sod or other alternative drought tolerant and California native friendly landscaping in the lawn areas of all front yards and street side yards. (PK, PK-13)

UNDEVELOPED LAND

27. Developer agrees that the project has aesthetic impacts arising from conversion of undeveloped land to developed land, which the landscaping improvements for the project are intended to mitigate. Developer further agrees that the landscaping improvements must be maintained in order to continue to mitigate such impacts. In order to provide for such maintenance, Developer has agreed to enter into an agreement with the City to cast a ballot in favor of formation of an assessment district to fund such maintenance and in favor of assessments on the project property. Before or during escrow for the sale of property within the project, Developer shall provide each buyer with a document disclosing, in large type, that the project property is subject to annual assessments for landscape maintenance, and stating the probable range of dollar amounts of such assessments for the next fiscal year. To confirm that the buyer has read the document, Developer shall require the buyer to sign the document. Developer shall retain all such documents for at least three years and shall allow the City to inspect and copy all such documents upon reasonable request. (PK, PK-18)

WATER CONSERVATION

28. Developer shall install an irrigation system that includes a water sensor shut off device as a water conservation measure. (PK, PK-22)
29. At time of submittal to the Building and Engineering Division for plan check, Developer's Landscape Architect or Architect shall provide the City with written confirmation that they have reviewed the civil engineering construction drawings and that the NPDES requirements are not in conflict with meeting the City's landscape requirements. (PK, PK-23)
30. Developer shall include a note on the Landscape Plans submitted to the Building and Engineering Division for a building permit that "all landscaping and irrigation comply with Ordinance No. 2822, which adopted the City of Oxnard Landscape Water Conservation Standards, and applicable water conservation requirements of the State of California". (PK, PK-24)
31. At the time of Plan Check submittal, the landscape plans shall contain an exhibit titled "Tree Tabulation Chart". The Tree Tabulation Chart shall contain a listing of all existing trees on site and shall refer to them by number as identified in the Arborist's Tree Report. The Tree Tabulation Chart shall clearly list all trees to remain, be removed or transplanted. The Chart shall contain the Arborist's economic appraisal value of each tree(s) removed as well as computations and calculations showing how the value of the removed tree(s) was put back into new tree sizes for the project that are in addition to meeting the City's minimum tree size of 24" box. (PK)

PLANNING DIVISION STANDARD CONDITIONS

32. Plans submitted by Developer with building permit applications shall show on the building elevation sheets all exterior building materials and colors, including product and finish manufacturer name, color name and number, and surface finish type (such as: stucco with sand finish, plaster with smooth finish) to be used in construction. (PL/B, PL-1)
33. Any application for a minor modification to the project shall be accompanied by four copies of plans reflecting the requested modification, together with applicable processing fees. (PL, PL-2)
34. Before the City issues building permits, Developer shall include a reproduction of all conditions of this permit as adopted by resolution of the Planning Commission and/or the City Council in all sets of construction documents and specifications for the project. (PL, PL-3)
35. Before the City issues building permits, Developer shall provide to the Planning Division Manager color photographic reductions (8 1/2" by 11") of full-size colored elevations and any other colored exhibit approved by the Planning Commission. Developer may retain the full-size colored elevations after the reductions are so provided. (PL, PL-4)

36. Developer may not modify any use approved by this permit unless the Planning Division Manager determines that Developer has provided the parking required by the City Code for the modified use. (PL, *PL-7*)
37. During the plan check review process, the Developer shall provide a lighting plan that provides design details (light standards, bollards, wall mounted packs, etc.) and illumination site information within alleyways, pathways, streetscapes, and open spaces proposed throughout the development. An electrical engineer shall prepare the site lighting plan demonstrating that adequate lighting ranges will be provided throughout the development without creating light spillover, light pollution, or conflicts with surrounding factors such as tree locations, off-site or adjacent lighting. (PL)
38. Prior to issuance of building permits, Developer shall demonstrate that light standards illustrated on conceptual lighting plan do not conflict with tree locations. Developer shall submit a plan showing both the lighting and landscape on the same sheet.
39. Project on-site lighting shall be of a type and in a location that does not constitute a hazard to vehicular traffic, either on private property or on adjoining streets. To prevent damage from vehicles, standards in parking areas shall be mounted on reinforced concrete pedestals or otherwise protected. Developer shall recess or conceal under-canopy lighting elements so as not to be directly visible from a public street. Developer shall submit a lighting plan showing standard heights and light materials for design review and approval of the Planning Division Manager. (PL/B, *PL-8*)
40. In order to minimize light and glare on the project property, all parking lot and exterior structure light fixtures shall be high cut-off type that divert lighting downward onto the property and shall not cast light on any adjacent property or roadway. (PL, *PL-9*)
41. Developer shall provide graphic site directories at principal access walkway points. (PL/B, *PL-10*)
42. Developer shall provide for dust control at all times during project property preparation and construction activities. (B/DS, *PL-13*)
43. Developer agrees to participate in a water conservation program that includes refitting water fixtures existing on the project property with water conserving devices within residences or businesses in the City's water service area, if such a program is in effect when building permits are issued for this project. Among the requirements of such a program might be refitting existing toilets, faucets, shower heads, landscaping irrigation or other fixtures and items that consume water within the structure. (PL, *PL-14*)

44. Because of water limitations placed upon the City by its water providers, approval of this permit does not guarantee that the City will issue building permits. Issuance of building permits may be delayed as a result of implementation of a water conservation or allocation plan. (PL, *PL-15*)
45. Prior to issuance of building permits, Developer shall pay a document imaging fee for the planning files in an amount calculated by planning staff at the time of building permit review based on fees then in effect. (PL/B, *PL-16*).
46. Developer shall provide elevators in structures of three stories or more, except where the third story consists entirely of upper levels of residence that have entrances at the first or second story. (PL/B, *PL-17*)
47. Developer shall pay applicable impact fees, including but not limited to the fees authorized by City Council Resolution 15,329 (Growth Requirement Capital Fee, Park and Recreation Fee, Traffic Circulation Fee, Storm Drainage Fee, Mobility Fee, Public Art Program Fee, and Utility and Undergrounding in-Lieu Fee) and for wastewater, water system, water service and meter, storm drain, traffic (City and County), growth capital, park, public art, and General Plan maintenance connection and/or impact fees before issuance of building permits.
48. Developer shall participate in the City's Public Art Program by paying the Public Art fee prior to issuance of building permits, in accordance with City Council Resolution No. 14,124. (PL, *PL-50*)

RESIDENTIAL

49. Developer shall install all roof and building rain gutters and downspouts to integrate as closely as possible with building design elements, including matching adjacent building colors as closely as possible. Developer shall submit a plan and scheme for approval by the Planning Division Manager prior to issuance of building permits. (PL, *PL-18*)
50. Developer shall provide utility meters, mailboxes and address directories, placed in decorative cabinets and clustered for efficient access for residents and service persons. Developer shall coordinate placement and design of such items accordingly, with the Planning Division Manager, the appropriate utility service provider and the United States Postal Service, prior to issuance of building permits. (PL, *PL-19*)
51. Developer shall provide a powered gate operating system with fob entry access automatic garage door openers for all driveway gates or garages.
52. Prior to issuance of fine grading plans, Developer shall provide at least two types of driveway finishes or decorative designs. The details of the driveways shall be to the satisfaction of the Planning Division Manager. (PL, *PL-22*)

53. Railings and enclosures for patios and balconies shall provide at least 50 percent enclosure for screening and privacy. Developer shall include details of the railings and enclosures on the construction documents. (PL/B, PL-24)
54. Walls separating the patio areas of different units shall be of solid construction, such as masonry, stucco, or wood over wood. Ground level patios shall be enclosed by walls not less than five feet high, except as otherwise approved by this permit. (PL/B, PL-25)
55. Additions and patio covers shall conform to the requirements of the applicable setbacks required for the Affordable Housing -AHP and -AHD Additive Zone, or as otherwise approved by this permit, and match the materials and style of the residence. (PL/B, PL-27)
56. Light standards illuminating interior walkways shall be no more than eight feet high. Light shall not intrude into private living or patio areas. Light standards serving recreational areas held in common shall be no more than 15 feet high. Light shall be directed away from dwelling units. (B, PL-30)
57. Developer shall provide masonry walls and/or iron style picket fences, or a combination of both on street side yards and along project perimeter property lines. Developer shall install interior lot line fences, to be constructed of wood or other material, subject to the approval of the Planning Division Manager.

PLANNING DIVISION SPECIAL CONDITIONS

58. Applicant shall deposit \$5,000 for mitigation monitoring and reporting associated with development project, PZs 22-500-04 (Special Use Permit), 22-570-01 (Zone Change), and 22-535-03 (Density Bonus). Such funds shall be deposited prior to submission of plans for building or grading permits. (PL).
59. Applicant shall submit a check made out to the City of Oxnard for payment of outstanding discretionary permit and environmental processing fees associated with the development project. Funds shall be deposited prior to issuance of a grading permit.
60. These conditions of approval impose specific fees, dedications, reservations and/or other exactions. Pursuant to Government Code Section 66020, the 90-day period in which the Developer or applicant has to protest the imposed fees, dedications, reservations and/or other exactions has begun as of the date that the conditions of approval are approved.
61. Developer shall remove any and all graffiti from the project premises, including but not limited to graffiti on or within the building and/ or any structures, within 24 hours of its appearance. The surface of such affected areas shall be matched to blend in with the underlying colors and/or design and shall not look like a paint patch. (PL)

62. Before the City issues building permits, Developer shall provide a Graffiti Deterrent Plan, subject to the approval the Planning Division Manager. Such plan shall include such elements as clear film on windows and/or mirrors, as well as washable paint and sealers on the building and perimeter walls. (PL)
63. This permit is granted subject to the approval of Planning and Zoning Permit No. 22-570-01 (Zone Change) for the project property. (PL)
64. During all excavation and grading on site, the project contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers, consistent with manufactures' standards.
65. Construction activities should be limited to 7:00 a.m. and 6:00 p.m. weekdays and Saturday, but not on national holidays, in accordance with the Oxnard City Code and the General Plan policies restricting construction times, whichever is more restrictive.
66. The project shall comply with all standards and codes except as approved by Density Bonus Application/ Concessions and Waivers under Oxnard City Code.
67. As bicycle parking is not visible from the street, directional signage to bicycle parking shall be included at the main building entrance. The signage shall be in the form of either a directory not exceeding six (6) square feet and or up to ten (10) individual directional signs not exceeding 1 square-foot each. The plans shall be altered prior to the project being submitted to the initial plan check submittal to Building & Engineering.
68. The applicant shall provide a notice to potential residents clearly outlining the issues associated with living in a mixed-use environment. The language for this disclosure shall be drafted by the applicant and submitted to the Community Development Director. The final language shall be approved to the satisfaction of the Community Development Director. Copies of each signed disclosure shall be made available for review upon written request by the City.
69. The multifamily development is within 500 feet of US 101 or industrially zoned property. The project is required to install high efficiency Minimum Efficiency Reporting Value (MERV) filters of MERV 14 or better in the intake of residential ventilation systems. Heating, air conditioning and ventilation (HVAC) systems shall be installed with a fan unit power designed to force air through the MERV 14 filter. To ensure long-term maintenance and replacement of the MERV 14 filters in the individual units, the following shall occur:
 - a. The developer, sale, and/or rental representative shall provide notification to all affected tenants/residents of the potential health risk from US 101 and industrial zones for all affected units.
 - b. For rental units within 500 feet of the US 101 or any industrially zoned property, the owner/property manager shall maintain and replace MERV 14 filters in

accordance with the manufacturer's recommendations. The property owner shall inform renters of increased risk of exposure to diesel particulates from US 101 and industrially zoned properties when windows are open.

70. The multifamily dwellings shall be constructed and designed in accordance with the minimum noise standards. An acoustical report addressing exterior noise sources shall be submitted with the dwelling construction plans for approval by the Building Official. The acoustical report shall address construction and operational phases.
 - a. Construction: The acoustical report shall describe if the construction will involve vibration-intensive construction activities, such as pile drivers, jack hammers, and vibratory rollers, occurring near sensitive-receptors shall be evaluated for potential vibration impacts. Developments are required to implement construction techniques which result in construction-related vibration that is less than the Federal Transit Administration vibration-annoyance criteria of 78 VdB during the daytime (7:00am-10:00pm) and not allowed during the nighttime (10:01pm-6:59am)
 - b. Operations: The applicant shall submit evidence to the satisfaction of the Director that all units with patios and/or balconies meet the 65 dBA CNEL.
71. Standpipe systems required by the Fire Department shall be designed to be located within building areas, such as staircase or tuck under parking areas that will lend to visually screen. (PL)
72. No rooftop equipment shall be installed unless screened from all sides by a designed parapet or building element that extends above the height of the tallest part of such equipment. (PL)
73. Developer shall remove any and all graffiti from the project premises, including but not limited to graffiti within the building, such as in restrooms or fitting rooms, within 24 hours of its appearance. The surface of such affected areas shall be matched to blend in with the remaining area.
74. Street side yard walls shall be set back 10 feet from any public sidewalk, or as otherwise approved by this permit.
75. Developer shall ensure that all construction equipment is maintained and tuned to recommended manufacturer's specifications.
76. At all times during construction activities, Developer shall minimize the area disturbed by clearing, grading, earth moving, or excavation operations to prevent excessive amounts of dust.
77. During construction, Developer shall water the area to be graded or excavated prior to commencement of grading or excavation operations. Such application of water shall be at

least twice per day and shall penetrate sufficiently to minimize fugitive dust during grading activities.

78. During construction, Developer shall control dust by the following activities:
 - a. All trucks hauling graded or excavated material offsite shall be required to cover their loads as required by California Vehicle Code §23114, with special attention to Sections 23114(b)(F), (e)(2) and (e)(4) as amended, regarding the prevention of such material spilling onto public streets and roads.
 - b. All graded and excavated material, exposed soils areas, and active portions of the construction site, including unpaved onsite roadways, shall be treated to prevent fugitive dust. Treatment shall include, but not necessarily be limited to, periodic watering, application of environmentally-safe soil stabilization materials, and/or roll-compaction as appropriate. Watering shall be done as often as necessary and reclaimed water shall be used whenever possible.
79. During construction, Developer shall post and maintain onsite signs, in highly visible areas, restricting all vehicular traffic to 15 miles per hour or less.
80. During periods of high winds (i.e. wind speed sufficient to cause fugitive dust to impact adjacent properties), Developer shall cease all clearing, grading, earth moving, and excavation operations to prevent fugitive dust from being a nuisance or creating a hazard, either onsite or offsite.
81. The Permittee shall comply with the provisions of applicable VCAPCD Rules and Regulations, which include but are not limited to, Rule 50 (Opacity), Rule 51 (Nuisance), Rule 55 (Fugitive Dust), and Rule 55.1 (Removal of Visible Roadway Accumulations).
82. Developer shall mitigate air quality emissions associated with development of the subject site through a contribution to the City's Transportation Demand Management (TDM) program. Such fee shall be calculated at the time of building permit issuance in accordance with the Ventura County Air Quality Assessment Guidelines, as amended. Such fee shall be collected in full prior to building permit issuance.
83. Prior to grading permit approval, Developer shall include on the grading plans a reproduction of all conditions of this permit pertaining to dust control requirements. (PL)

Biological Resources

84. Mitigation Measure BIO-1: If construction activities occur within the bird nesting season (generally defined as February 15 through September 15), a qualified biologist shall conduct a nesting bird survey within 7 days prior to the start of construction. If an active nest is observed within 500 feet of the proposed construction, the nest shall be avoided, and a suitable buffer zone shall be delineated in the field such that no impacts shall occur until the

nest has been determined to be inactive by a qualified biologist. Construction buffers are generally 300 feet for passerines and up to 500 feet for raptor species; however, avoidance buffers may be reduced at the discretion of the biologist, depending on the location of the nest and species tolerance to human presence and construction-related noise.

If activities must take place within an established buffer, steps shall be taken to reduce indirect effects to nesting activity by actively reducing construction noise within proximity to a presumed nest location and/or installing temporary construction noise barriers. If the reduction of noise is not feasible, construction activities shall be postponed until the nest is deemed inactive and/or the breeding season has concluded.

Cultural Resources

85. **Workers Environmental Awareness Program.** Prior to the start of construction activities, all construction personnel shall be trained regarding identification and treatment protocol for inadvertent discoveries of resources (archaeological and tribal) and human remains. A basic presentation and handout or pamphlet shall be prepared to ensure proper identification and treatment of inadvertent discoveries of cultural resources and human remains. The purpose of the training is to provide specific details on the kinds of materials that may be identified during ground disturbing activities and explain the importance of and legal basis for the protection of human remains and significant cultural resources. Each worker shall also be trained in the proper procedures to follow in the event that cultural resources or human remains are uncovered during ground disturbing activities. These procedures include but are not limited to work curtailment or redirection, and the immediate contact of the site supervisor and a Qualified Archeologist per Mitigation Measure CUL-2. (MND, CUL-1)
86. **Inadvertent Discovery Clause.** In the event that potential archaeological resources are unearthed, ground-disturbing activities shall be halted or diverted away from the vicinity of the find (at least 100 feet) and a Qualified Archaeologist shall be notified immediately to assess the significance of the find and determine whether or not additional study is warranted. An appropriate buffer area shall be established by the Qualified Archaeologist. Reasonable assumptions regarding the potential for additional discoveries in the vicinity, and safety considerations for those making an evaluation and potential recovery of the discovery shall be provided by the Qualified Archaeologist. This buffer area shall be established around the find where construction activities shall not be allowed to continue until the evaluation is completed. Grading activities shall be allowed to continue outside of the buffer area, and an archaeological monitor shall be provided during these grading activities outside the buffer area, if determined necessary by the Qualified Archaeologist. All resources unearthed by Project construction activities shall be evaluated by the Qualified Archaeologist. If a resource is determined by the Qualified Archaeologist to constitute an archeological resource pursuant to the CEQA Guidelines Section 15064.5, the

Qualified Archaeologist shall coordinate with the Applicant and the City to develop a formal treatment plan that would serve to reduce impacts to the resource. Preservation in place (i.e., avoidance) is the preferred manner of treatment. If in coordination with the City, it is determined that preservation in place is not feasible, appropriate treatment of the resource shall be developed by the Qualified Archaeologist in coordination with the City and may include implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis. Any archaeological material collected shall be curated at a public, non-profit institution with a research interest in the materials, if such an institution agrees to accept the material. If no institution accepts the archaeological material, they shall be donated to a local school, Tribe, or historical society in the area for educational purposes. (MND, CUL-2)

87. Paleontological Resources. In the event that potential paleontological resources are unearthed, ground-disturbing activities shall be halted or diverted away from the vicinity of the find (at least 50 feet) and a Qualified Paleontologist shall be notified immediately to assess the significance of the find and determine whether or not additional study is warranted. All paleontological resources shall be identified, handled, and treated in accordance with the applicable provisions of the Society of Vertebrate Paleontology (SVP) standards.

An appropriate buffer area shall be established by the Qualified Paleontologist around the find where construction activities shall not be allowed to continue. Work shall be allowed to continue outside of the buffer area. Grading activities shall be allowed to continue outside of the buffer area, and a paleontological monitor shall be provided during these grading activities outside the buffer area, if determined necessary by the Qualified Paleontologist. At the Qualified Paleontologist's discretion, and to reduce any construction delay, the grading and excavation contractor shall assist in removing rock/sediment samples for initial processing and evaluation. If preservation in place is not feasible, the Qualified Paleontologist shall implement a paleontological salvage program to remove the resources from their location. Any fossils encountered and recovered shall be prepared to the point of identification and catalogued before they are submitted to their final repository. Any fossils collected shall be curated at a public, non-profit institution with a research interest in the materials, such as the Museum of Ventura County, if such an institution agrees to accept the fossils. If no institution accepts the fossil collection, they shall be donated to a local school or historical society in the area for educational purposes. (MND, CUL-3)

88. If human remains are encountered, the Applicant or its contractor shall halt work in the vicinity (within 100 feet) of the discovery and contact the Ventura County Coroner in accordance with Public Resources Code Section 5097.98 and Health and Safety Code Section 7050.5, which requires that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code Section 5097.98. If the remains are determined to be of Native American

descent, the coroner has 24 hours to notify the NAHC. The NAHC shall then identify the person(s) thought to be the Most Likely Descendent (MLD). The MLD may, with the permission of the landowner, or his or her authorized representative, inspect the site of the discovery of the Native American remains and may recommend to the owner or the person responsible for the excavation work means for treating or disposing of, with appropriate dignity, the human remains and any associated grave goods. The MLD shall complete his or her inspection and make his or her recommendation within 48 hours of being granted access by the landowner to inspect the discovery. The recommendation may include the scientific removal and nondestructive analysis of human remains and items associated with Native American burials. Upon the discovery of the Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and conferred, as prescribed in this mitigation measure, with the MLD regarding their recommendations, if applicable, taking into account the possibility of multiple human remains. The landowner shall discuss and confer with the MLD on all reasonable options regarding their preferences for treatment. (MND, CUL-4)

POLICE DEPARTMENT STANDARD CONDITIONS

Exterior Lighting

89. A condition of approval requires compliance with the Outdoor Lighting Code & Guideline
- a. Outdoor lighting shall comply with Title 24, Part 6, of the California Code of Regulations: California's Energy Efficiency Standards for Residential and Nonresidential Buildings.
 - b. Unless approved as a specific exception to this guideline, all outdoor lighting shall be flat lens, full cut-off fixtures with the light source fully shielded with the exceptions:
 - c. Luminaires with a maximum output of 260 lumens per fixture, regardless of number of bulbs (equal to one 20-watt incandescent light), may be left unshielded provided the fixture has an opaque top to keep light from shining directly up.
 - d. Luminaires that have a maximum output of 1,000 lumens per fixture, regardless of number of bulbs (equal to one 60-watt incandescent light) may be partially shielded provided the bulb is not visible, and the fixture has an opaque top to keep light from shining directly up.
 - e. Oxnard City Code 16-320: Lighting within physical limits of the area required to be lighted shall not exceed seven foot-candles, nor be less than one foot-candle at any point. A light source shall not shine upon, or illuminate directly any surface other than the area required to be lighted. No lighting shall be of a type or in a location that constitutes a hazard to vehicular traffic, either on private property or on the abutting streets. The height of light standards shall not exceed 26 feet. To prevent damage from automobiles, standards shall be mounted on reinforced concrete pedestals or otherwise protected.

90. Exterior lighting of the site, including parking areas, shall be between 1 and 7-foot candles and shall be in harmony with existing adjacent lighting schemes. Lighting bollards shall not be used as part of the foot candle calculation on photometric sheets.
91. All exterior lighting shall operate from dusk to dawn.
92. LED or similar in nature and spectrum (3,000K to 20,000K Correlated Color Temperature).
93. Lighting instruments shall be full cut-off and installed so that light does not directly illuminate property outside the project site. Instruments shall not create glare for motorists or pedestrians. Lenses shall be flat and parallel to the ground/floor. Wall packs and other luminaires that throw light laterally are not allowed unless specifically approved by Planning and Police.
94. Outdoor lighting instruments shall not be placed in close proximity to trees. In the event outdoor lighting instruments and trees are in close proximity an additional sheet will be required illustrating light and tree placement showing trees with a 20-year maturity.
95. Integrated landscape/lighting/photometric plan shall be submitted illustrating a 20-year tree maturity. This plan shall include all outdoor areas as well as the parking facility. This is to ensure that tree growth will not adversely impact future lighting and therefore site safety as the project matures. Integrated landscape/lighting/photometric plan shall be submitted illustrating a 20-year tree maturity. This plan shall include all outdoor areas as well as the parking facility. This is to ensure that tree growth will not adversely impact future lighting and therefore site safety as the project matures. Plan sheet shall include:
 - a. Tree species table which shows canopy bottom, top, and broadest diameter at a 20-year maturity. Bottom of tree canopies shall not be less than 15'-above any drive area to provide clearance for Fire and Solid Waste Vehicles.
 - b. Pole mounted luminaires shall be placed to illuminate under tree canopies at a 20-year maturity. Pole and arm instruments should be considered in areas between landscape finger-planters.
 - c. Areas where walkways exist opposite from parking stalls, Pole and arm instruments should be placed directly opposite from finger-planters.

Luminaires used in the photometric calculations shall only include those instruments mounted 8-feet or more above walking/driving surface. This plan shall be submitted to specialprojects@oxnardpd.org and approved prior to the issuance of building permits.

96. Interior tuck under and garage parking facilities shall be illuminated between 5 and 15 foot-candles utilizing LED or similar luminaires with a spectrum 3,000K to 20,000K Correlated Color Temperature.
97. Parking stalls shall be enumerated with painted numbers on the surface of the parking

98. stall. However, the stall numbers shall not correspond to the residential unit assigned the stall.

Security Camera Systems

99. Security camera system shall be operated 24 hours a day to monitor the activity at the site. The system shall be designed to capture images of all persons and all vehicles that enter the site. Cameras shall also be distributed throughout the site to capture general activities. The camera system shall comply with these minimum standards:
- a. The camera system shall be cloud based to facilitate off-site and mobile monitoring.
 - b. Access to the cloud based camera system may be made accessible to the Oxnard Police Department for specific areas of the property and adjacent areas that are either public, or, semi-public that include: adjacent public street, alleys, sidewalks, and within the private property the parking facility and paseo. Contact specialprojects@oxnardpd.org to participate in this program.
 - c. If the Police Department is provided access to the cloud based camera system, privacy of residents shall be taken into consideration.
 - d. Cameras and supporting equipment shall supply digital color images under normal lighting conditions. Greyscale images are expected for infra-red lighting.
 - e. Cameras shall be made by a reputable manufacturer and maintained to current industry standards.
 - f. Cameras shall have low light capability to facilitate the later identification of persons involved in criminal or problem activities.
 - g. The video system shall utilize a Digital Video Recorder (DVR). VHS and other formats are prohibited.
 - h. The video system shall allow recording, live viewing and playback of recorded video for a period of a period of at least 30 days.
 - i. Recorded images shall bear a date and time stamp that cannot be altered.
 - j. All entry doorways to the premises shall be monitored by a camera or cameras that are strategically mounted for face capture of persons who enter. Such cameras shall be mounted no higher than 7-feet above the floor/ground. Face capture images shall be determined as those images where the clarity of a person's facial image is sufficient for later identification.
 - k. All vehicular entrances to the parking facilities shall be monitored by a camera or cameras that are placed to capture images of sufficient quality where the vehicle's license plate, make, model and color can be easily identified.
 - l. Cameras in domed casings are highly encouraged as their area of focus is not easily determined by a casual observer.
 - m. A camera shall be dedicated to face capture image of any person accessing the call system at the exterior of the primary entrance.
 - n. Site management shall provide in a timely manner any digital records of security camera or access control systems requested pursuant to a police investigation or for the periodic inspection of equipment required under these conditions.

- o. Security cameras shall be installed to monitor activity around each side of the building's exterior.

Access Control Systems

- 100. The site shall be equipped with an access control system that shall restrict human and vehicle access to semi-public areas of the site. The areas considered "semi-public" shall include: parking areas restricted to residents, the building lobby, mailroom, shared hallways, laundry rooms, activity rooms, pool and physical fitness facilities.
- 101. The access control system shall utilize instruments such as cards, fobs, QR decals or other devices that can be individually programmed to provide access, as appropriate, for an individual user. The system shall have the capability to add or subtract an access instrument assigned to a particular residential unit, employee, or service provider.
- 102. The access control system shall include a call system at the exterior of the site's primary entrance that allows guests to contact residents or the managers to request access. The access control point at this entrance shall be enabled to open by a resident from their unit or from a remote digital device.
- 103. The access control system shall record each permitted access and the authorizing individual and the instrument/method used to facilitate the access.
- 104. "Click-To-Enter" access technology shall be installed at each pedestrian and vehicular entrance to a semi-public area to provide access to first responders.

Security Plan

- 105. A Security Plan shall be submitted to specialprojects@oxnardpd.org and approved prior to the issuance of building permits. The purpose of the Security Plan is to align the applicant's need to secure the development site for its end users with current security standards and to provide the Police Department an understanding of the layout of the site in the event of a critical incident. The Security Plan, when submitted directly to the Police Department, is considered a confidential document. The plan shall include:
 - a. The Security Plan Sheet will identify the location of each security camera, camera recording/support equipment, all elements of an access control system, and any safe or secure room or rooms designed to maintain valuable assets or records.
 - b. The Security Plan shall include a chart identifying each camera by an alpha-numeric, the scope of their capture area, and placement of the camera above the floor/ground.
 - c. The Security Plan shall identify all doors with an alpha-numeric (e.g. D-1, D-2, etc.) that serve passage between public & semi-public, semi-public to semi-public and similar access points where tenants and their guests routinely pass without needing specific permission from a resident or property

- manager/responsible party or resident. This would include access to the lobby, parking garage, laundry room, mailroom, emergency exits, etc. When a camera is positioned for face capture it shall be noted on the camera chart.
- d. The Security Plan shall identify any area which is served by an intrusion/burglary alarm system.
 - e. The Security Plan shall identify all the components of the access control system their location and a chart that identifies each instrument with an alpha-numeric with the device name, make and model. The access control system shall provide site access to tenants and persons authorized by the site management. The access control sites shall include areas deemed semi-public such as the lobby, parking garage, laundry room, mailroom and any shared facility such as an activity room or community kitchen.
 - f. Click-to-Enter technology shall be installed to provide access for first responders to all entrances to the facility that serve as an interface between public and semi-public areas. All such access points shall be identified on the Security Plan.
 - g. The permittee/property manager/owner shall maintain all security features in good working condition and consistent with industry standards.
106. Site management is encouraged to have an active and cooperative relationship with their neighbors and the Oxnard Police Department. To facilitate this effort these elements shall be established by the site management:
- a. Site management should establish a dedicated email address for the site (ie: acmeapartments@acme.com). Once the email address has been established, site management should send an email to specialprojects@oxnardpd.org identifying the site address, management company, phone number, dedicated email address, and the person managing the site.
 - b. A sign shall be posted so it is readable from the public right of way and placed at or near the primary entrance which identifies the management company name, phone number and the dedicated email address.
 - c. Site management should participate in crime prevention programs designed for multi-unit residential housing facilities.
 - d. The property owner should inform the Oxnard Police Department of changes in site management and/or the dedicated email address by sending an email to specialprojects@oxnardpd.org.
107. Any digital records from the security camera system or access control system shall be made available to any representative of the Oxnard Police Department in a timely manner upon request related to any official police investigation. If requested, the site manager shall upload or email any digital records at the request of a representative of the Oxnard Police Department.

108. A Security Plan shall be submitted to and approved by the Police Department prior to the issuance of building permits. The submission shall be made in a PDF format and sent to specialprojects@oxnardpd.org. The email subject line shall have the 7-digit Planning PZ number and the site's address to identify the project. The plan shall include the security features at the site consistent with the Security Plan Requirements document provided during the development review process. The Security Plan shall not be submitted with other development documents or plan sheets. This is done to maintain a level of confidentiality of the security features of the site between the developer/end user of the development and the Oxnard Police Department.

Alarms

109. Any intrusion alarm system installed at the site shall utilize motion and infrared technology or similar technology to differentiate between human and non-human motion. The alarm system shall be compliant with Oxnard City Code 11-95 through 11-100.

Landscape

110. Landscape elements shall be arranged and maintained to provide clear lines of sight and eliminate potential places of concealment.
111. Trees shall not be located where they would conflict with lighting instruments. Appropriate proximity is based on a tree's canopy size at twenty-year maturity.
112. Creeping fig or similar climbing vine shall be used to dissuade the application of graffiti on CMU walls.
113. Natal Plum or similar hedge shrub shall be used as a "defensive barrier to protect against unhoused habitation in areas prone to such activities.
114. Trees shall be maintained so that the canopies do not interfere with pedestrian or vehicular traffic and safe sightlines are maintained.
115. Landscape elements shall be arranged to provide clear lines of sight and eliminate potential places of concealment and dissuade the application of graffiti. Through the life of the project, the property shall be maintained to address these issues.

Site Management

116. Parking stalls shall be enumerated. However, the stall numbers shall not correspond to the residential unit assigned the stall.
117. Graffiti shall be removed or painted over within 48-hours of application. Site management shall maintain a supply a paint to match the building's exterior color scheme.

118. Developer/owner/site manager shall inform owners and renters via tenant rules, the provisions of Oxnard City Ordinance 7-100 through 7-106 as it applies to hosting loud parties or events. And, that should Police respond to a disturbance multiple times, a service charge may be incurred up to \$500.

Signage

119. All vehicular entrances to the parking area shall be posted in compliance with California Vehicle Code 22658(a). Persons in lawful possession of the property may then cause the removal of a vehicle parked on the property to the nearest public garage if parked without the owner's permission. (PD)
120. A sign shall be posted at or near the primary entrance to the site that identifies the management company name, phone number and the email address dedicated to the site management office.
121. A sign shall be posted at each entrance to the site stating: "No loitering, trespassing or drinking alcoholic beverages. Pursuant to State Law & City Ordinance".
122. Courtyard area signage & tenant rules – Amplified music shall not be audible beyond the confines of the Courtyard area.

Mail Delivery

123. Mail and parcel delivery shall be in a room controlled by the building's access control system. This room shall be configured so that only tenants, USPS and parcel delivery services have access. Building guests shall not have access to this area. This area shall also be monitored by the site's security camera system. This area shall have these features:
- a. Prior to the issuance of building permits the developer shall contact the Oxnard Postmaster to ensure that the mail and parcel delivery system for the site will meet the requirements of the USPS.
 - b. A secure mailbox shall be provided for each residential unit.
 - c. A secure system for receiving parcel deliveries shall be established and maintained. (PD/USPS)

FIRE DEPARTMENT STANDARD CONDITIONS

124. Developer shall construct all vehicle access driveways on the project property to be at least 26 feet wide. Developer shall mark curbs adjacent to designated fire lanes in parking lots to prohibit stopping and parking in the fire lanes. Developer shall mark all designated fire lanes in accordance with the California Vehicle Code. (FD/B, F-I)

125. All roof covering materials on the project property shall be of non-combustible or fire retardant materials approved by the Fire Chief and in compliance with the City Code. (FD, F-2)
126. Before the City issues building permits, Developer shall obtain the Fire Chief's approval of a plan to ensure fire equipment access and the availability of water for fire combat operations to all areas of the project property. The Fire Chief shall determine whether or not the plan provides adequate fire protection. (FD/DS, F-3)
127. At Developer's expense, Developer shall obtain two certified fire flow tests for the project property. The first test shall be completed before City approval of building plans and the second shall be completed after construction and prior to the issuance of a certificate of occupancy. A mechanical, civil, or fire protection engineer must certify the tests. Developer shall obtain permits for the tests from the Engineering Division. Developer shall send the results of the tests to the Fire Chief and the City Engineer. (FD/DS, F-4)
128. All structures on the project property shall conform to the minimum standards prescribed in Title 19 of the California Code of Regulations. (FD, F-5)
129. The project shall meet the minimum requirements of the "Fire Protection Planning Guide" published by the Fire Department. (FD, F-6)
130. At all times during construction, developer shall maintain paved surfaces capable of handling loads of 76,000 pounds which will provide access for fire fighting apparatus to all parts of the project property. (FD/DS, F-7)
131. Developer shall identify all hydrants, standpipes and other fire protection equipment on the project property as required by the Fire Chief. (FD, F-8)
132. Developer shall install security devices and measures, including walkway and vehicle control gates, entrance telephones, intercoms and similar features, subject to approval of the Police Chief and the Fire Chief. Vehicle control gates shall be operable by City approved radio equipment. (FD/PD, F-9)
133. Developer shall provide central station monitoring of the fire sprinkler system and all control valves. (FD, F-10)
134. The turning radius of all project property driveways and turnaround areas used for emergency access shall be a minimum of 48 feet outside diameter for a semi-trailer. (FD, F-11)
135. Developer shall provide automatic fire sprinklers as required by the City Code and shall contact the Fire Chief to ascertain the location of all connections. (FD, F-12)

136. Developer shall install in each structure in the project a detection/alarm system with a central station monitor that will automatically notify the Fire Department in the event of a fire in the structure. The alarm system shall include a UL or State Fire Marshal approved device, which shall not exceed design specifications, that reports the location of the fire and allows the central station monitor to inform the Fire Department of the point of entry into the structure that is nearest the fire. (FD, F-13)
137. Developer shall comply with Certified Unified Program Agency (CUPA) requirements regarding the storage, handling and generation of hazardous materials or waste. Prior to the issuance of building permits, Developer shall contact the CUPA division of the Fire Department to ensure that such requirements are followed. (FD, F-16)
138. Developer shall install a carbon monoxide detector on each level of the residence in accordance with the manufacturer's specifications. The detector shall be hardwired with a battery backup. (FD, F-17)

FIRE DEPARTMENT SPECIAL CONDITIONS

139. Areas designated by the Fire Marshal as Fire Lanes shall be identified by a red curb and signage per the California Department of Motor Vehicles.
140. Locate Fire Department Connection and provide a fire hydrant with 50-feet.
141. Class I standpipe is required in each stairwell and within the parking area.
142. Fire sprinkler coverage is required for:
 - a. Covered Parking.
 - b. Patios, overhangs or any other projections that are 48" or more from the structure.
 - c. Open areas beneath stairs that serve a habitable space or when that area is accessible for storage or has mechanical equipment.
 - d. The protection of the forced air unit when located in the attic or other areas that are normally inaccessible.
143. All emergency egress/Fire Department access windows or doors that serve any room that can be utilized for sleeping, shall have access to a public right-of-way without re-entering the structure.
144. Ensure landscape trees do not block bedroom emergency window exits.
145. Before the city issues a certificate of occupancy, the developer shall install a Knox key

vault at a location to be determined by the Fire Department.

146. Gurney size elevators will be required.

ENVIRONMENTAL RESOURCES DIVISION

147. A Construction and Demolition Waste Management Plan (ERDC-1) must be submitted to the Environmental Resources Division for review and approval prior to issuance of a building permit establishing a goal that at least 65% of the waste generated on the project will be diverted from the landfill.
148. After completion of construction and prior to a certificate of occupancy being issued, a Construction and Demolition Waste Management Report (ERDC-2) must be submitted that demonstrates that at least 65% of the waste generated on the project has been diverted from the landfill. This Report must also include legible copies of weight tickets, receipts, or invoices for materials sent to disposal or reuse/recycling facilities.
149. An Occupancy Plan must be submitted to the Environmental Resources Division prior to issuance of a certificate of occupancy. The Plan must clearly state how all three waste streams will comply with all applicable state laws, including AB 939, AB 341, AB 1826, and SB 1383, and any subsequent legislation adopted in the future, will be managed on site in perpetuity.
150. Any/all organic waste that is generated must be diverted from landfill disposal, as material of this type is not allowed in a trash dumpster. If landscaping is performed by an entity other than the City of Oxnard (i.e. self-haul or third party private hauler), the landscape service providers must be informed, in writing, of this condition and the property management must complete and submit an Alternative Services Certification annually.
151. Any new or renovated waste enclosures, including collection rooms, must be sized so that they can accommodate all three waste streams and meet minimum safety and operational requirements, including vehicle path of travel, employee access, and prevention of illegal dumping and/or vandalism. Use the City's approved Standard Plates, but modify dimensions accordingly.
152. Developer shall arrange for materials collection during construction, demolition, and occupancy with the City's Environmental Resources Division or Developer shall arrange for self-hauling. Regardless of hauling methods, all materials collected must be conveyed to the Del Norte Regional Recycling and Transfer Station.
153. Procedures shall be developed for the project to ensure that the property management makes provisions to divert a minimum of 50% while striving for 75% diversion of waste material generated at this location in perpetuity. This can be achieved by subscribing to the City's residential curbside or mandatory commercial recycling services and through annual

tenant education that may include source reduction, recycling, reuse, and organics collection requirements.

154. Developer shall dispose of sewage and solid waste from the project by City's wastewater and solid waste systems in a manner approved by the City Engineer.
155. Developer and operator shall install clearly labeled storage containers in the kitchen base cabinet within each unit to facilitate separate disposal of recyclable and non-recyclable waste typically generated by tenants. The location and specifications (size, materials, etc.) of such storage unit shall be shown on the construction document floor plans submitted to the City for building permits. Recycling guidelines shall be clearly posted on the door of the storage cabinet. The intent of this mitigation measure is to create a situation wherein recycling is as convenient for project guests as disposing of trash.
156. Developer and operator shall provide recycling containers near the point of use in common areas for guests and residents to dispose of their recyclable waste (examples: indoors for newspapers and beverage containers; outdoors for beverage containers). Containers used exclusively for recycling shall be clearly identified as "recycling only" with clear icons or other graphics on each container appropriate to the container's content.
157. Apartment operator (Management) shall provide literature in each apartment (including on the door of the storage cabinet) explaining the importance of recycling, what can be recycled, and providing suggestions for source reduction, as well as water and energy conservation. City contacts for waste reduction, water conservation, and energy savings shall be listed in the literature.
158. Property Owner (Management) shall provide training to the housekeeping/janitorial staff (including visual aids for each housekeeping cart) for separating tenant's refuse into recyclable and disposable trash.
159. Property Owner (Management) shall provide housekeeping/janitorial carts which accommodate separated recyclable and non-recyclable trash. Visual aids for each housekeeping cart shall include a general list of mixed recyclables accepted and the standard 3-arrow recycling symbol on the collection container. (P-11)
160. Property Owner (Management) shall provide sufficient containers to custodial staff to prevent the contamination of recyclables with waste or moisture.
161. The property owner(s) shall provide a source separated three (3) stream waste system by providing separate trash chutes for: (1) refuse, (2) commingled recycling and (3) organic material, generated by the proposed development;
 - a. Alternatively, if the property owner(s) proposes a two (2) stream waste system (no organic material chute) then the property owner(s) shall then provide organic waste

receptacles on each proposed floor for use by the residents on that floor. The organic waste receptacles on each floor, will need to be regularly emptied by the property owner(s) staff and placed into the organic waste bin located in the trash room. The organic waste material bin(s) will then need to be brought out to the designated staging area to be serviced, by the property owner(s) staff.

- b. All materials shall be placed in commercial bins, and brought to the designation staging area.
- 162. The property owner(s) staff shall pull out refuse/recycle/organic bins to the staging area where refuse equipment may access the bins for collection, on the day(s) of service. The refuse/recycle/organic bins shall be moved back to the trash room by the property owner(s) staff immediately after being serviced by the City;
- 163. A designated staging area for the service of refuse/recycle/organic bins shall be located on the property, be accessible by an unobstructed path of at least 16' high and 12' wide to ensure safe access, have a height clearance of 25' (for overhead bin lifting, be improved to withstand refuse equipment weighing up to 62,000 lb and be at a location approved by the Environmental Resources Division.

DEVELOPMENT SERVICES DIVISION STANDARD CONDITIONS

- 164. Developer shall pay plan check and processing fees in effect at the time of construction plan submittal and shall pay development fees, encroachment permit fees, and other applicable fees in effect at permit issuance. (DS-1)
- 165. Developer's Engineer shall design parking lot structural sections based on an analysis of the soils R-value and a traffic index (T.I.) approved by the City Engineer. The minimum structural section for parking lots is two inches of asphalt on four inches of base material. Developer shall indicate the proposed structural section and design T.I. on the site improvement plans. (DS-2)
- 166. Developer shall have the site improvement plans prepared using standard Building and Engineering Division format(s) by a civil engineer licensed in the State of California. The plans shall incorporate recommendations from soil engineering and geology reports. Prior to issuance of a grading permit, improvement plans must be approved by the City Engineer and ink-on-mylar plans filed with the Building and Engineering Division. (DS-3)
- 167. Developer shall submit improvement plans and drainage calculations demonstrating that storm drain runoff from the project property and all upstream areas will be safely conveyed to an approved drainage facility. The design and conveyance route shall be compatible with the City's Master Plan of Drainage and shall be approved by the City Engineer prior to approval of improvement plans. (DS-4)

168. Developer shall protect building pads from inundation during a 1% chance (100-year) storm. (DS-5)
169. Developer shall replace all broken, uplifted, or missing curb, gutter, or sidewalk along the street frontage(s) of the project. (DS-6)
170. Before connecting the project to existing sewer and water service laterals, Developer shall conduct an inspection (pothole or video) of the existing lateral(s) and arrange for City staff to view inspection results. Developer shall make repairs to such facilities as determined necessary by City staff. Developer shall bring all existing water services into compliance with current City standards including removal of unused water or sewer laterals by disconnection at the main. (DS-7)
171. Each structure shall be served by separate sewer and water services in accordance with City Code. (DS-8)
172. Curb cut widths and design shall conform to City ordinances, standards, and policies in effect at the time City issues an encroachment permit. (DS-9)
173. Developer's site improvement plans shall include an on-site sewer plan. (DS-10)
174. Developer shall provide fire hydrants such that all points of all structures are within one hundred fifty (150) feet of a fire hydrant, or as otherwise approved by the Fire Department. Fire hydrant line improvements shall be designed in accordance with City standards and shown on the civil site improvement plans prior to issuance of a site improvement/grading permit. Developer shall provide the City with an easement over onsite waterlines using standard City format. (DS-11)
175. Developer shall install all new on-site electric, cable, telephone and similar utility service laterals underground. Services shall be installed underground to the nearest suitable riser pole as determined by the appropriate utility service provider. (DS-12)
176. Developer shall enter into an agreement, approved as to form by the City Attorney, to install and construct all public improvements and grading required by this permit and by the City Code. Developer shall post security satisfactory to the Finance Director, guaranteeing the installation and construction of all required improvements within the time period specified in the agreement or any approved time extension. (DS-14)
177. A California licensed civil engineer shall prepare the public/site improvement plans and documents for this project in accordance with City standards and shall submit all such plans to the City Engineer. Submittal shall include, but not necessarily be limited to, grading, street, drainage, sewer, water and other appurtenant improvement plans, construction cost estimates, soils reports, and all pertinent engineering design calculations. City will not approve a parcel map or final map nor issue a grading, site

- improvement or building permit until the City Engineer has approved all improvement plans. (DS-15)
178. Prior to issuance of a site improvement permit, Developer shall provide to the Building and Engineering Division digital copies of all project maps, address map, and/or civil improvements drawings in DWG format. Prior to improvement bond release, Developer shall provide updated digital files containing all changes that occur during construction. (DS-16)
179. Developer shall provide all necessary easements for streets, highways, alleys, sidewalks, parkways, landscaping, utilities, drainage facilities, or other improvements as required by City. If such easements cannot be obtained from the property owner by negotiation, City may acquire them at the expense of Developer by exercise of the power of eminent domain. Developer shall bear all costs of eminent domain proceedings, including appraisal, acquisition, attorney's fees, and court costs. Before City issues a site improvement permit, Developer shall dedicate all required easements to City. (DS-19)
180. Developer shall remove graffiti from the project, including graffiti on offsite public infrastructure under construction by Developer, within 24 hours of its appearance. If Developer fails to remove graffiti in accordance with this condition, the City may at the discretion of the City Engineer issue a stop work order until such time as the graffiti is removed. (DS-20)
181. The conditions of this resolution shall prevail over all omissions, conflicting notations, specifications, dimensions, typical sections, and the like, that may or may not be shown on the improvement plans. (DS-21)
182. Developer shall pay the cost of all inspections of on-site and off-site improvements. (DS-22)
183. Developer shall be responsible for all project-related actions of Developer's employees, contractors, subcontractors, and agents until City accepts the improvements. (DS-23)
184. Prior to beginning construction, Developer shall designate in writing an authorized agent who shall have complete authority to represent and to act for Developer. The authorized agent shall be present at the work site whenever work is in progress. Developer or the authorized agent shall make arrangements acceptable to City for any emergency work. When City gives orders to the authorized agent to do work required for the convenience and safety of the general public because of inclement weather or any other cause, and the orders are not immediately acted upon by the authorized agent, City may do or have such work done by others at Developer's expense. (DS-24)
185. "Standard Specifications for Public Works Construction" latest edition (including modifications thereto by City) and applicable City Standard Plates and Design Criteria

shall be the project specifications, except as noted otherwise on the approved improvement plans. City reserves the right to upgrade, add to, or revise these specifications and plans and all other City ordinances, policies, and standards. If the improvements required of this project are not completed within 12 months from the date of City's approval of the improvement plans, Developer shall comply with and conform to any and all upgraded, additional or revised specifications, plans, ordinances, policies and standards. (DS-27)

186. Prior to issuance of a grading/site improvement permit, Developer shall obtain City Engineer approval for any proposed construction phasing. The improvement plans (and associated phasing plans) shall clearly indicate any interim or off-site improvements required by City. (DS-28)
187. Developer shall retain a California licensed Civil Engineer to ensure that the construction work conforms to the approved improvement plans and specifications and to provide certified "as-built" plans after project completion. Developer's submittal of certified "as-built" plans is a condition of City's final acceptance of the project and release of any associated security. (DS-29)
188. All grading shall conform to City's standard grading notes, City Code, and recommendations of Developer's soils engineer as approved by the City Engineer. (DS-30)
189. Developer shall construct sufficient drainage facilities concurrent with rough grading operations to mitigate any potential flooding or erosion affecting adjacent properties and public rights-of-way. (DS-31)
190. Developer shall design all slopes steeper than 5 (horizontal) to 1 (vertical) with a minimum 18-inch wide level area (at both top and bottom of slope) where it adjoins a wall, fence, sidewalk, trail, curb or similar improvement. (DS-32)
191. Storm drain, sewer and water facilities shall conform to applicable City Master Plans. Developer shall prepare plans for these facilities in accordance with City's engineering design criteria in effect at the time of improvement plan submittal. Developer shall submit plans with pertinent engineering analyses and design calculations for review and approval by the City Engineer prior to issuance of a site improvement permit. (DS-34)
192. Developer shall design project grading to convey stormwater to a street, alley, or approved drain so that there are no undrained depressions. (DS-35)
193. Prior to issuance of a site improvement permit, Developer shall provide to the City Engineer easements or written consent (as determined appropriate by the Development Services Director) from all affected landowners for any diversion of historical flows or change in drainage conditions caused by the project. (DS-36)

194. Developer shall dispose of sewage and solid waste from the project by City's wastewater and solid waste systems in a manner approved by the City Engineer. (DS-38)
195. Developer shall install water mains, fire hydrants and water services in conformance with City standard plates, design criteria and specifications as directed by the City Engineer. (DS-41)
196. Developer shall install adequately sized water services and meters to each lot or unit in accordance with City standards in effect at the time of building permit issuance. There shall be no interconnections between structures. (DS-42)
197. Developer shall install City approved backflow prevention devices for water connections if so ordered by the City Engineer. (DS-45)
198. Prior to designing the water system for the project, Developer shall have a certified fire flow test performed to determine existing water pressure and flow characteristics with a minimum of two flowing hydrants. The water system for the building fire sprinkler shall be designed to allow for a 10 psi drop in the static water pressure measured during the fire flow test. After construction and before City issues a certificate of occupancy, the City Engineer may require a second test. Developer shall obtain permits from the City Engineer prior to performing tests. Developer shall have all tests certified by a mechanical, civil, or fire protection engineer and provide written results of all tests to the City Engineer. (DS-47)
199. Developer shall improve all streets, alleys, sidewalks, curbs, and gutters adjacent to the project in accordance with City standards, as necessary to provide safe vertical and horizontal transitions. (DS-52)
200. Developer shall install all water, gas, sewer, storm drain, electrical, cable television, and telephone lines before any paving is placed. (DS-54)
201. Developer shall submit a landscape irrigation plan prepared by a licensed professional, showing proper water meter size, backflow prevention devices, and cross-connection control. (DS-59)
202. Developer shall be responsible for and bear the cost of replacement of all existing survey monumentation (e.g., property corners) disturbed or destroyed during construction, and shall file appropriate records with the Ventura County Surveyor's Office. (DS-64)
203. Developer shall construct a concrete apron along the length of the trash bin staging area opening that extends a minimum of 15 feet from the face of the trash bin staging area into the driveway aisle.
204. Developer shall provide adequate vehicle sight distance as specified by CalTrans specifications at all driveways and intersections. (TR-71)

205. Developer shall install bike racks in accordance with City standards at locations approved by City Traffic Engineer. (TR-73)
206. Developer shall design project to minimize degradation of stormwater quality by complying with the applicable sections of the Los Angeles Regional Water Quality Control Board's municipal separate storm sewer system ("MS4") permit (Order R4-2010-0108 including all revisions) for new development and redevelopment projects. Developer shall submit stormwater quality calculations and associated construction plans demonstrating compliance with the MS4 permit. Calculations shall generally be organized to follow the steps outlined in Chapter 2 of the 2011 Technical Guidance Manual for Stormwater Control Measures ("2011 TGM"). (DS-78)
207. Developer's stormwater quality calculations shall include site specific analysis and recommendations from a geotechnical engineer, and if applicable, a landscape architect for design and implementation of stormwater treatment and infiltration devices. Geotechnical Engineering analysis and recommendations shall include, but not necessarily be limited to, determination of site specific soil infiltration rates, depth to permeable soil layers, methods to reach permeable soil layers, appropriate compaction rates, recommendations to enhance infiltration, and other requirements of the 2011 TGM. Landscape architectural recommendations shall include, but not necessarily be limited to, suggestions regarding appropriate vegetation and soil amendments for vegetated infiltration devices. Project plans shall implement approved design recommendations. (DS-81)
208. Using forms provided by the Building and Engineering Division, Developer shall submit a stormwater quality control measures maintenance and operations plan ("the Plan") for this project. If the BMPs implemented with this project include proprietary products that require regular replacement and/or cleaning, Developer shall provide proof of a contract with an entity qualified to provide such periodic maintenance. The property owner is responsible for the long-term maintenance and operation of all BMPs included in the project design. Upon request by City, property owner shall provide written proof of ongoing BMP maintenance operations. No grading or building permit shall be issued until the City Engineer approves the Plan and Developer provides an executed copy of the City's stormwater covenant with the Plan included as an exhibit for recordation by the City. (DS-82)
209. Developer's stormwater quality control measures maintenance and operations plan shall include: 1) Requirement to clean on-site storm drains at least twice a year; once immediately before the first of October (the beginning of the rainy season) and once in January. The City Engineer may require additional cleaning; 2) Requirement to maintain parking lots free of litter and debris. Developer shall sweep sidewalks, drive aisles, and parking lots regularly to prevent the accumulation of litter and debris. When swept or cleaned, debris must be trapped and collected to prevent entry into the storm drain system. Developer may not discharge any cleaning agent into the storm drain system; 3)

Requirement to label all on-site storm drain inlets with the message "Don't Dump - Drains to Ocean" in accordance with City standards. (DS-83)

210. Developer's engineer shall submit written confirmation that the project landscape drawings comply with the landscape requirements of the Technical Guidance Manual for Stormwater Quality Control Measures for all landscape-based stormwater quality best management practices. (DS-84)
211. Developer shall provide pre-treatment for all infiltration-based stormwater quality Best Management Practices ("BMPs"). Pre-treatment devices must effectively reduce sediment load entering infiltration BMPs to minimize occlusion of underlying soils and reduce long term maintenance requirements and thereby maintain the infiltration capacity of the BMP. 2011 TGM compliant pre-treatment such as vegetated swales are an approved form of pre-treatment. Proprietary pre-treatment devices must be capable of removing 80% of 50 micron particles to be considered adequate pre-treatment. Typical catch basin inserts do not provide the sufficient sediment storage to provide pre-treatment. (DS-85)
212. Prior to issuance of a grading, building or demolition permit and prior to commencement of any clearing, grading or excavation, Developer shall provide evidence of assignment of a permit identification number by the California State Water Resources Control Board indicating submittal of a Notice of Intent (NOI) by the Developer in accordance with the NPDES Construction General Permit. Developer shall comply with all requirements of the General Permit and the Ventura Countywide MS4 Permit, including preparation of a Stormwater Pollution Prevention Plan (SWPPP). Developer shall keep the SWPPP updated to reflect current site conditions and a copy of the SWPPP shall be kept onsite and available for City or designated representative to review upon request. (DS-86)
213. Developer shall construct proposed walkways that cross vehicular drive aisles of enhanced concrete. The concrete color shall contrast with the parking lot paving material to clearly identify pedestrian areas. (DS-101)
214. Developer shall pay to the County of Ventura a road mitigation fee in accordance with the agreement between the City and the County of Ventura. Proof of payment shall be provided to the Building and Engineering Division prior to issuance of a building permit. (DS-105)

DEVELOPMENT SERVICES DIVISION SPECIAL CONDITIONS

215. Driveway gates shall be located at a minimum distance of 40-feet measured from the back of the walk. (DS)
216. The drive aisle width shall be 26-feet minimum unless approved otherwise by the Fire Department. (DS)

217. The design and construction of the new driveway approaches on Lockwood Street shall not alter any portions of the existing bioswales. If alteration of the bioswale is needed, the design and calculations shall be submitted to the City Engineer for review and approval, demonstrating full compliance with the previous design parameters and the latest applicable stormwater requirements. (DS)
218. The onsite sidewalks and walkways shall provide a 5-foot minimum unobstructed width. At the discretion of the City Engineer, the width may be reduced to 4-feet for specific locations proven infeasible to maintain the 5-foot clear requirement. If affected by vehicle overhang, the width of the sidewalk shall be increased. (DS)
219. Americans with Disabilities Act (ADA) and Electric Vehicle (EV) parking spaces not affecting sidewalks shall be 18-feet deep minimum without wheel stops, and those affecting sidewalks shall be 19-feet deep with wheel stops placed at the 17-foot mark. (DS)
220. Standard parking stalls shall be 19-feet deep or 17-feet with a 2-foot overhang. Where the 17-foot deep parking stall depth is used, the entire parking stall shall be kept clear from all obstructions, including landscape curbing. (DS)
221. Compact parking stalls shall be 17-feet by 8-feet minimum plus 2-feet of overhang. Except stalls 68, 69 & 89, which shall be 17-feet by 8-feet minimum plus 1'-3" of overhang, as approved by this permit. (DS)
222. Onsite infrastructure improvements, including pavement, sidewalks, and underground utilities such as storm drainage and sanitary sewer systems, shall be privately owned and maintained. Any improvements that need to be owned by the City, such as the water system, shall be clearly labeled as 'Public' on the project improvement plans. (DS)
223. Developer shall review the Title Report and show on a stand-alone exhibit all existing easements, agreements, covenants, and deed restrictions recorded on the property and identify how they affect the project. The exhibit shall clearly identify if any recorded documents need to be vacated or quitclaimed, subject to review and approval of the City Engineer. (DS)
224. Prior to issuance of a site improvement permit, the Developer shall provide (or update as appropriate) the City Engineer with a 100-scale base map for addressing purposes. The map shall be drawn on 18-inch by 24-inch mylar and shall show the standard address map title block, north arrow, street names, Tract number, phase boundary and lot numbers. The City will assign all addresses. (DS)

Stormwater

225. The proposed underground stormwater detention and retention facilities shall be located at a minimum of 10-feet away from the property line and structural facilities. (DS)

226. Developer's Geotechnical Engineer shall perform percolation tests on the exposed bottom of all infiltration chambers immediately prior to facility construction and provide the City with an opinion that the exposed soil layer is suitable for the proposed infiltration facility based on the review of the existing geotechnical reports, percolation tests, infiltration facility design, and characteristics of the exposed soil layer. This requirement shall be clearly noted on the improvement plans. The report shall be reviewed and approved by the Project Civil Engineer. (DS)
227. Stormwater runoff from this project site shall be limited to a post-development discharge of 1 cubic foot per second (CFS)/acre for all events up to a 100-year event and onsite detention shall be provided in conformance with the "Agreement for Storm Water Retention within Rice Road Drain Watershed" and the approved drainage report for Tract 4881. The analysis for the detention and stormwater discharge shall account for the entire project site, including the adjacent street frontages to the street centerline. The detention basin(s) shall be designed in accordance with Public Works standards and policies. Developer shall include a hydrograph exported from the software or Excel for use in the detention system sizing in accordance with the latest Ventura County Design Hydrology Manual. (DS)
228. The Developer shall provide an executed City Standard Declaration of Restrictive Covenant for Detention Basin Perpetual Maintenance by the property owner prior to the approval of the grading/site improvement plans. (DS)
229. The Developer shall demonstrate to the satisfaction of the City Engineer the flow control design and hydrograph analysis to capture the required retention and detention volumes. The Developer shall demonstrate that the detention basin discharges or infiltrates the detention volume in 24 hours or less. The retention volume shall be infiltrated in 72 hours or less. If the retention volumes are used for detention purposes, all the retention and detention volumes shall be emptied in 24 hours or less. (DS)
230. The stormwater retention volume shall be computed using the weighted composite C-value and account for the entire project or tributary area. (DS)
231. The onsite stormwater pipeline system, including the final discharge line from the detention system, shall be sized hydraulically to handle the 100-year storm event that accounts for the downstream tailwater elevation or hydraulic grade line from Lockwood Street. The drainage report shall include as-built plans showing the previously established hydraulic grade line. (DS)
232. The onsite drain inlets shall be designed with a 50% clogging factor at depressed locations. (DS)
233. The drainage report for the project shall include an assessment of the upstream stormwater run-on from Freeway 101 into the project and demonstrate how that run-on is handled consistent with the original intent of Tract 4881. (DS)

234. Developer shall install 'Full Capture System Devices' ("Devices") certified by the State Water Resources Control Board Executive Director in compliance with the Statewide Trash Amendments ("Amendments") in the flow control structures discharging stormwater runoff offsite from any portion of this project that meets the definition of 'Priority Land Use' as defined by the Amendments at the time of issuance of a grading/site improvement permit. The Devices shall be sized to treat the 1-year 1-hour storm event and designed in accordance with requirements of the Amendments and the Technical Guidance Manual for Stormwater Quality Control Measures ("TGM"). (DS)

Wastewater:

235. Developer shall coordinate with Lockwood 1 and 2 projects (also known as PZ 21-500-01 and PZ 21-500-10) to construct the required downstream sewer improvements outlined in the memo entitled "City of Oxnard Sewer Recommendations – Lockwood 1, 2, and 3" dated February 27, 2024. The required downstream sewer improvements are required due to the additional sewer discharge that will be generated by the Lockwood 1, 2, and 3 projects beyond the previously permitted land use designation. The required sewer improvements identified in the memo include: 1) Upgrading the existing 18-inch vitrified clay pipe (VCP) to 21-inch polyvinyl chloride pipe (PVC) from the sewer manhole MH-R21-100 to MH-R21-103 and 2) upgrading the overcapacity pipes with the ratio flow depth to internal pipe diameter above 0.6 from manhole MH-1 to MH-118. The sewer improvements shall be completed prior to building occupancy. (DS)
236. The sewer system shall be designed with sewer manholes, mains, and laterals located a minimum of 10-feet from all detention and retention basins unless approved otherwise by the City Engineer. The private sewer system shall be labeled clearly on the improvement plans. (DS)

Water:

237. In accordance with City Code, the Developer shall provide separate services and water meters for: 1) residential uses; 2) commercial facilities; and 3) landscape irrigation systems. The Developer shall properly abandon all existing sewer and water laterals currently extended to the site that will not be used in the final design. Abandonment shall occur at the City main. (DS)
238. Unless there is an existing property owners association with executed Covenants, Conditions & Restrictions (CC&Rs), the Developer shall be responsible for providing irrigation to all proposed trees and landscaping in the parkway. (DS)
239. Developer shall dedicate a 15-foot water easement to the City that encompasses the onsite water system as required by Public Works Standards and as directed by the City Engineer. The easement shall encompass all fire hydrants, water meters, water mains, and valves. Unless otherwise approved by the City Engineer, water service lines after the meters and privately owned backflow devices shall be located outside the water easement. Except

where the City Engineer approves incidental crossings, all other utilities shall be located outside the water easement. (DS)

240. A water system hydraulic report shall be prepared using fire flow data to demonstrate that the required fire flow rate and pressure will be provided to the site fire hydrants. The water system shall provide a minimum of 2,500 gallons per minute (unless the Fire Department requires a higher flow) while still meeting the 20-psi residual pressure while supplying full domestic water demands for the project site. The size of the public water main shall be 8-inches minimum unless the hydraulic calculations dictate a larger main. (DS)
241. Prior to site improvement/grading permit issuance, Developer shall demonstrate to the satisfaction of the City Engineer that the water proposed water demands for the project and associated improvements are within the appropriate ranges for the land use designation originally established under Tract 4881. If the projected water demands exceed the previously established demands, the project shall design and construct water conservation elements for both indoor and outdoor water use to reduce the water demands to the maximum extent feasible consistent with the City's Water Neutrality Policy. (DS)

Trash Enclosure/Waste Collection Rooms:

242. Developer shall construct all trash rooms to include: a) A floor that is substantially level (2% max slope); b) a raised concrete curb on the inside similar to the curb shown on the City Standard trash enclosure; c) a minimum of 11-feet of vertical clearance (to accommodate open and closing of bin covers and chutes); d) a layout design of sufficient size to accommodate the number of storage bins determined necessary by the Environmental Resources Division; e) sufficient unobstructed aisle width to allow for removal of each individual bin; f) vented trash room with electric-powered rollup doors or approved equal. The final design of the trash rooms is subject to the approval of the Environmental Resources Division. (DS)
243. Prior to occupancy, Developer shall submit a proposed trash enclosure/waste room operation plan to the Environmental Resources Division for review and approval, and provide the City Engineer with an approved copy. At a minimum, the proposal shall require onsite maintenance staff who will be responsible for managing the trash rooms, setting out the containers on collection day, rotating the food waste containers, and returning the bins and containers according to the collection schedule. (DS)
244. The property management is responsible for setting out the refuse containers on collection day; the City will not offer push service and will not be responsible for setting out the containers. (DS)
245. The trash servicing and staging areas shall be constructed out of reinforced concrete with a maximum surface slope of 2% in any direction. The design of the service pad shall allow the trucks to service the bins in the site's general circulatory driveway aisle without the

need to drive into the trash enclosure driveway throat. The staging area for the refuse bins shall be outside the 26-foot driveway aisle. (DS)

HOUSING DEPARTMENT CONDITIONS:

Density Bonus Requirements

246. Prior to, or concurrently with, final map recordation or, where the qualified housing development does not include a map, prior to issuance of a building permit for any structure on the site Owner/Developer shall enter into a Density Bonus agreement with the City in a form approved by the Housing Director and City Attorney ensuring the continued affordability of the thirty-eight (38) units which qualified the applicant for a 50% Density Bonus increase above base density of one hundred and fifty-six (156) units and three (3) Density Bonus Concessions.
247. The Density Bonus agreement shall be recorded in the Office of the Ventura County Recorder. The term of the agreement shall be for a minimum of fifty-five (55) years, the term shall commence upon occupancy of the first unit in the development.
248. The Density Bonus Agreement shall, among other things, specify the number of affordable units by number of bedrooms, level of affordability, collection of an annual report, standards for qualifying household incomes or other qualifying criteria. Owner/Developer hereby agree that fees may be charged to the developer for monitoring, staff time expended for preparation of the Density Bonus agreement and subsequent compliance with said agreement.
249. Pursuant to the Owner/Developer's Density Bonus requirements, Owner/Developer must make thirty-eight (38) units available for rent to households with annual incomes at or below 80% the Area Median Income (AMI) for Ventura County. (Lower Income)
250. The thirty-eight (38) affordable units must include a mixture of unit types by bedroom count that is proportionate to the same percentage ratio as the market rate units. In order to comply with Density Bonus requirements as well as the City of Oxnard Additive Zone Ordinance 2999 and Inclusionary Housing Ordinance 2980, one (1) studio, three (3) one-bedroom units, three (3) two-bedroom units, and one (1) three-bedroom units must be offered for rent to very-low income households with annual incomes that do not exceed 50% of the AMI for Ventura County, as set forth in California Health and Safety Code 50105. The remaining thirty (30) affordable units must be offered for rent to low income households with annual incomes that do not exceed 80% of the AMI for Ventura County, as set forth in California Health and Safety Code 50079.5, and must include two (2) studios, eleven (11) one-bedroom units, fourteen (14) two-bedroom units, and three (3) three-bedroom units.

251. Prior to offering the affordable units for rent, the Owner/Developer must submit to the Housing Director the proposed rental amounts for the affordable units for review and approval.
252. For Low-Income Households, “Affordable Rent” shall be inclusive of a reasonable utility allowance and not exceed one-twelfth (1/12) times the product of thirty percent (30%) times sixty percent (60%) of area median income adjusted for family size appropriate to the Affordable Unit for households earning less than or equal to sixty percent (60%) of the AMI for Ventura County Metropolitan Statistical Area as set forth in the sections 6918 and 6932 of Title 25 of the California Code of Regulations and as Affordable Rent is defined in California Health and Safety Code 50053 (b)(4), unless another subsidy program is used, in which case the stricter requirement shall be applied. In adjusting rents for household size for this purpose, it shall be assumed that one person will occupy a studio unit, two persons will occupy a one-bedroom unit, three persons will occupy a two-bedroom unit, and four persons will occupy a three-bedroom unit.
253. For Very-Low Income Households, “Affordable Rent” shall be inclusive of a reasonable utility allowance and not exceed one-twelfth (1/12) times the product of thirty percent (30%) times fifty percent (50%) of area median income adjusted for family size appropriate to the Affordable Unit for households earning less than or equal to fifty percent (50%) of the AMI for Ventura County Metropolitan Statistical Area as set forth in the sections 6918 and 6932 of Title 25 of the California Code of Regulations, unless another subsidy program is used, in which case the stricter requirement shall be applied. In adjusting rents for household size for this purpose, it shall be assumed that one person will occupy a studio unit, two persons will occupy a one-bedroom unit, three persons will a two-bedroom unit, and four persons will occupy a three-bedroom unit.
254. Prior to issuance of a certificate of occupancy, Owner/Developer shall obtain written approval from the Housing Department certifying that the required number of affordable units are being provided at Affordable Rents and that a Management Plan, prepared by the Owner/Developer, for the operation and management of the Affordable Rental Units has been submitted to the Housing Department and approved by the Housing Director. Owner/Developer shall provide a copy of the written approval issued by the Housing Department to the City’s project planner prior to issuance of the certificate of occupancy.

Affordable Housing Additive Zone Requirements

255. Prior to, or concurrently with, final map recordation or, where the qualified housing development does not include a map, prior to issuance of the first building permit for any structure on the site Owner/Developer shall enter into an Affordable Housing Agreement with the City in a form approved by the Housing Director and City Attorney ensuring the continued affordability of at least thirty-two (32) units (20% of the development’s base density), as set forth in Section 16-420E.(A) of the City of Oxnard Additive Zone Ordinance 2999.

256. The Affordable Housing agreement shall be recorded in the Office of the Ventura County Recorder. The term of the agreement shall be for a minimum of 55 years, the term shall begin upon occupancy of the first unit in the development.
257. The 20% affordability requirement shall also comply with the City of Oxnard Inclusionary Housing Ordinance 2980, which requires that eight (8) of the affordable units be made available for rent to very-low income households with incomes at or below 50% of the AMI for Ventura County, as set forth in California Health and Safety Code 50105. The remaining twenty-four (24) affordable units must be made available for rent to low income households with incomes at or below 80% of the AMI for Ventura County, as set forth in California Health and Safety Code 50079.5 and Section 16-420E.(B) of the City of Oxnard Additive Zone Ordinance 2999.
258. The rent for Very-Low and Low-Income Households shall be calculated as described in conditions 252 and 253 above.
259. The thirty-two (32) affordable units must include a mixture of unit types by bedroom count that is proportionate to the same percentage ratio as the market rate units. In order to comply with the City of Oxnard Additive Zone Ordinance 2999 and Inclusionary Housing Ordinance 2980, one (1) studio unit, three (3) one-bedroom units, three (3) two-bedroom units, and one (1) three-bedroom unit must be offered for rent to very-low income households with annual incomes that do not exceed 50% of the AMI for Ventura County, as set forth in California Health and Safety Code 50105. The remaining twenty-four (24) affordable units must be offered for rent to low income households with annual incomes that do not exceed 80% of the AMI for Ventura County, as set forth in California Health and Safety Code 50079.5, and must include two (2) studio units, nine (9) one-bedroom units, eleven (11) two-bedroom units, and two (2) three-bedroom units.
260. Oxnard Preference. To the maximum extent permitted by applicable law, Owner/Developer will establish a preference for the rental of the affordable units to qualified and otherwise eligible households, subject to other restrictions related to funding sources. Preference will be established as follows:
 - a. Households that live and work in the City of Oxnard.
 - b. Households that live or work in the City of Oxnard; and
 - c. All other households. Developer will prepare and implement a marketing plan intended to offer a first view of housing opportunities of all affordable units to be developed to Oxnard residents and workers. Such a marketing plan will offer such a first view for at least sixty days.

PASSED, APPROVED, AND ADOPTED this 17th day of September 2024, by the following vote:

Resolution No. _____ (Planning and Zoning Permit No. 22-500-04 (Special Use Permit) and
22-535-03 (Density Bonus))
City Council Date: September 17, 2024
Page 49 of 49

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSED:

John Zaragoza, Mayor

ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

ORDINANCE OF THE CITY OF OXNARD

ORDINANCE NO. 3050

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 22-570-01 (ZONE CHANGE) TO ALLOW THE ZONE CHANGE OF THE PROPERTY AT 2151 LOCKWOOD STREET (APN: 213-0-090-275) FROM BUSINESS RESEARCH PARK (BRP) TO BUSINESS RESEARCH PARK - AFFORDABLE HOUSING DISCRETIONARY (BRP-AHD). FILED BY MARK ROSS – MANAGER, SVM DEVELOPMENT, 1534 MOORPARK ROAD #337, THOUSAND OAKS, CALIFORNIA 91360 (THE “APPLICANT”) ON BEHALF OF SUNBELT ENTERPRISES, LLC, 5715 MESMER AVENUE, LOS ANGELES, CALIFORNIA 90230 (THE “PROPERTY OWNER”).

WHEREAS, on November 2, 2022, Mark Ross (the “Applicant” and/or “Permittee”) submitted a request to approve Planning and Zoning Permit No. 22-570-01 (Zone Change), Special Use Permit (PZ 22-500-04), and Planning and Zoning Permit No. 22-535-03 (Density Bonus); and

WHEREAS, if the aforementioned entitlement applications are collectively approved by the City of Oxnard, the project would be permitted to develop a new five-story, 234-unit, mixed-income, multi-family apartment building and related improvements located on the existing, vacant 5.17-acre property at 2151 Lockwood Street (APN: 213-0-090-275) (“Project”); and

WHEREAS, the proposed Zone Change requests that the City’s Zoning Ordinance Map change the zoning of the subject project site from Business Research Park (BRP) to Business Research Park - Affordable Housing Discretionary (BRP-AHD); and

WHEREAS, the City of Oxnard as the Lead Agency, has prepared Final IS/MND 24-01 in accordance with the requirements of the California Environmental Quality Act (CEQA, Public resources Code § 21000, et seq.), the regulations promulgated thereunder (14 California Code of Regulations, §15000, et seq., CEQA Guidelines), and the City’s Environmental Review Guidelines; and

WHEREAS, pursuant to provisions of the California Environmental Quality Act and CEQA Guidelines, Section 15063, and following an Initial Study and environmental assessment of possible adverse impacts, the project will not have a significant effect on the environment because of the inclusion of certain mitigation measures for which lessened potential adverse impacts to a level of less than significant. Therefore, the Planning Division has prepared a Mitigated Negative Declaration with mitigation measures and monitoring program in accordance with the provisions of CEQA, including, without limitation CEQA Guidelines Sections 15070, 15071, 15072, and 15073, which have been incorporated as conditions; and

WHEREAS, a Notice of Intent to Adopt an Initial Study and Draft Mitigated Negative Declaration (IS/MND) (MND 24-01) for the Project was published and posted on March 18, 2024, at the State Office of Planning and Research (OPR) website and at the Ventura County Recorder’s Office pursuant to CEQA Guidelines Sections 15072 and 15073; and

WHEREAS, the public comment period on the Draft IS/MND ran for thirty (30) days commencing on March 18, 2024 and ending on April 17, 2024; and

WHEREAS, after the close of the comment period on the IS/MND, the IS/MND was modified as set forth in Chapter 4 of the Response to Comment document; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines, the City has prepared Final IS/MND 24-01 containing all comments received on the Draft IS/MND 24-01, written responses to all substantive comments, and necessary changes to the text of the Draft IS/MND 24-01; and

WHEREAS, Section 16-581 of the Oxnard City Code authorizes the Planning Commission to recommend the action to be taken by the City Council on the application for a Zone Change; and

WHEREAS, the City Council has carefully reviewed Planning Commission Resolution No. 2024-19 recommending approval of a Zone Change for the subject project site; and

WHEREAS, the City Council is concurrently approving Special Use Permit (PZ 22-500-04) and Density Bonus Permit (22-535-03) develop a new five-story, 234-unit, mixed-income, multi-family apartment building and related improvements located on the existing, vacant 5.17-acre property at 2151 Lockwood Street (APN: 213-0-090-275) subject to approval of the related actions within the Special Use Permits and Density Bonus Permits conditions of approval, respectively; and

WHEREAS, on September 17, 2024, the City Council conducted a duly noticed public hearing to consider the Applicant's request to approve Planning and Zoning Permit No. 22-570-01 (Zone Change) in accordance with the City's 2030 General Plan and Oxnard City Code (Sections 16-575 through 16-590 (Zone Change)); and

WHEREAS, the City Council finds, after due study, deliberation and public hearing, that the project meets the criteria set out in the Oxnard City Code; and

WHEREAS, the City Council considered Final IS/MND 24-01 prior to taking action on the Project; and

WHEREAS, the Development Advisory Committee (DAC) reviewed the plans on December 14, 2022, and March 1, 2023, and provided conditions of approval for the project that are incorporated within the recommended permits; and

WHEREAS, the City Council finds after due study and deliberation that the public interest and general welfare require the approval of a Zone Change amending the City's Zoning

Ordinance Map to change the zoning of the project site from Business Research Park to Business Research Park - Affordable Housing Discretionary (BRP-AHD); and

WHEREAS, the pursuit of the Zone Change is a reasonable exercise of the City's police powers to ensure the continued health, safety, and welfare of the public by providing housing opportunities for the residents of the City of Oxnard; and

WHEREAS, the proposed Zone Change is consistent with the policies and directives in the 2030 General Plan, if the Zoning Ordinance to allow orderly development to those areas that can be served by existing or planned utilities, transportation, and service systems. The proposed Zone Change does not represent a significant change in the 2030 General Plan and Zoning Ordinance nor does it result in significant new environmental impacts that have not been previously evaluated; and

WHEREAS, the Applicant agrees that at its own expense, to indemnify and defend the City of Oxnard and its agents, officers and employees from and against any claims, actions or proceedings to attack, set aside, void or annul the approval of this resolution or any actions or proceedings, acts or determinations taken, done or made before the approval of this resolution that were part of the approval process.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OXNARD:

SECTION 1. The Recitals above are true and correct and incorporated herein by this reference.

SECTION 2. The City Council finds that the Zone Change is internally consistent with all other provisions of the City of Oxnard 2030 General Plan.

SECTION 3. The City Council finds that the Zone Change will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

SECTION 4. The City Council finds that the project site associated with the Zone Change is physically suitable in terms of design, location, operating characteristics, shape, size, topography, and the provision of public and emergency vehicle access, and public services and utilities and is served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate, to ensure that the proposed use(s) and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

SECTION 5. The City Council determines that the proposed Zone Change from Business Research Park to Business Research Park - Affordable Housing Discretionary (BRP-AHD) is the best use for the subject project site.

SECTION 6. The City Council determines that the Zone Change is in the best interests and welfare of the City and its residents.

SECTION 7. In adopting this ordinance for the Zone Change, the City Council finds and determines the project is in compliance with the California Environmental Quality Act because an Mitigated Negative Declaration was considered by the City Council, in accordance with the California Environmental Quality Act (CEQA), determines that the Project will not have a significant impact on the environment as identified and discussed in MND 24-01. Pursuant to the California Environmental Quality Act (CEQA) Section 15060, the City of Oxnard as the Lead Agency, has prepared an IS/MND (State Clearinghouse No. 2024030528) in accordance with the requirements of the California Environmental Quality Act (CEQA, Public resources Code § 21000, et seq.), the regulations promulgated thereunder (14 California Code of Regulations, §15000, et seq., CEQA Guidelines), and the City’s Environmental Review Guidelines. The IS/MND identifies and discusses potential impacts, mitigation measures, and monitoring requirements. With implementation of mitigation measures, there is no substantial evidence that the proposed project will have a significant effect upon the environment.

SECTION 8. Except as expressly amended herein, the City’s Zoning Ordinance Map shall remain in full force and effect and shall apply to the property affected by this Resolution.

SECTION 9. 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 the Ordinance was posted in the Office of the City Clerk a minimum of five days before the City Council’s adoption of the Ordinance.

SECTION 10. 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 September 17, 2024, and finally adopted on _____ to become effective thirty days thereafter.

PASSED AND ADOPTED this ____ day of September 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Ordinance No. _____ (Planning and Zoning Permit No. 22-570-01 – Zone Change)
City Council Date: September 17, 2024
Page 5 of 5

Rose Chaparro, City Clerk

John C. Zaragoza, Mayor

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

Lockwood III Apartments

Planning & Zoning Permit Nos.

- 22-500-04 (Special Use Permit)
- 22-535-03 (Density Bonus Permit)
- 22-570-01 (Zone Change)

Joe Pearson II, AICP, Planning and Environmental Services Manager
Community Development Department

City Council
September 17, 2024

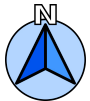
Project Description

- The overall project includes a request for the following actions:
 - **PZ 22-500-04 - (Special Use Permit)**
 - 5-story, 234 unit apartment building
 - Mixed income, multi-family
 - 5.17 acre site
 - **PZ 22-535-03 – (Density Bonus)**
 - 50% density bonus increase over maximum allowable residential density for qualified affordable housing development.
 - Concessions and Waivers to modify development standards related to open space requirements, balconies, bedroom locations, setbacks, parking design, and parking reductions.
 - **PZ 22-570-01 – (Zone Change)**
 - Proposed zone change to Affordable Housing Discretionary (AHD) Additive Zone.

Project Location

Aerial-View

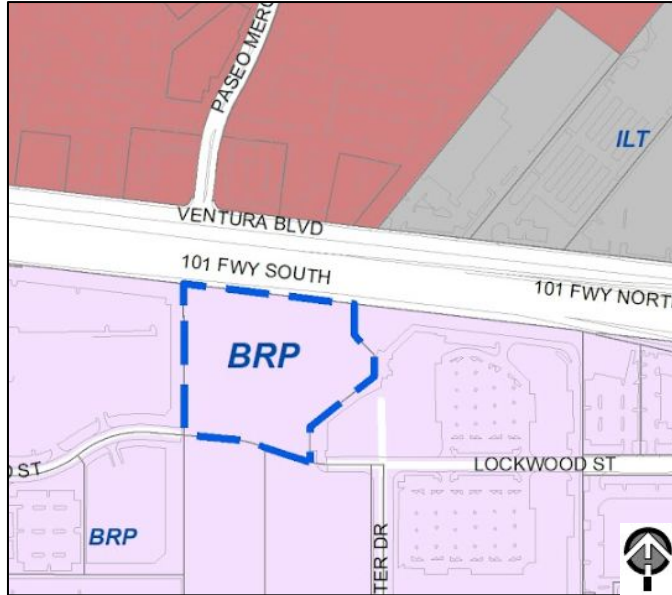
Subject Site: 2151 Lockwood Street



Reference North

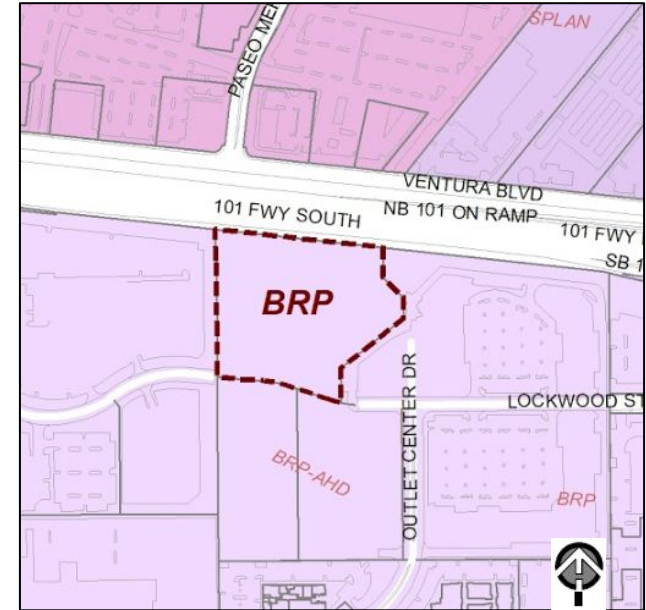
General Plan & Zoning Maps

General Plan Land Use Designation



Business Research Park Land Use Designation

Zoning Designation



Business Research Park (BRP)

Background: Planning Commission Hearings

August 1, 2024:

- Public hearing held to consider the following applications:
 - 22-500-04 (Special Use Permit)
 - 22-535-03 (Density Bonus Permit)
 - 22-570-01 (Zone Change)
 - Final Initial Study/Mitigated Negative Declaration (Final IS/MND) No. 24-01
- Pursuant to Oxnard City Code the Planning Commission is the final decision maker for the Special Use Permit and the associated Density Bonus request.
- Planning Commission is the recommendation body for the Zone Change.
- Staff recommended approval of all project components.

Background: Planning Commission Hearings (continued)

August 1, 2024 (Cont.):

- At the public hearing, the Commission heard public testimony, deliberated, and made a Motion to approve the project as they could make all of the Findings required to grant the Special Use Permit and associated Density Bonus. They also recommended that the City Council approve the Zone Change and Final IS/MND.

August 15, 2024

- While, the Zone Change and Final IS/MND were already required to come before the City Council and therefore not subject to appeal, the Appellant filed a timely Appeal application with the City, appealing the Commission's approval of the Special Use Permit, which could be appealed. Therefore, the entirety of the Project is now before the City Council.

Proposed Site Plan



PRELIMINARY LANDSCAPE PLAN - Ground Level



Reference
North

Renderings of Proposed Project



Southeast Elevation

General Plan Consistency

- The development of the proposed Project furthers many of the policies identified in the 2030 General Plan, as identified in the staff report. Some of the key policies are:
 - Sustainable Community Policy 3.1 - New Residential Development
 - Community Development Policy 1.2 - Infill Development
 - Community Development Policy 1.4 – Transportation Choices
 - Community Development Policy 1.5 – Housing Variety
 - Community Development Policy 8.5 - Impact Mitigation
 - Community Development Policy 16.6 - Provide for a Variety of Housing Choices

Zone Change Request

- Property currently zoned as Business Research Park (BRP):
 - Intended for professional, administrative, research, limited manufacturing, & supporting commercial activities.
- Request for zone change to Affordable Housing Discretionary additive zone:
 - Retains underlying BRP zone but allows residential development up to 30 units per acre.
- Affordable Housing Additive Zones:
 - City-initiated to promote affordable residential developments.
 - Aimed at meeting the City's Regional Housing Needs Allocation (RHNA).
 - City currently in compliance with RHNA goals, with capacity for additional 9,167 units.
- Impact of Zone Change:
 - Maintains BRP zone but allows residential development, affecting intended uses like office and limited industrial spaces.
 - Considers trade-offs between residential development and tax-generating business and job opportunities.
 - Project would provide for additional workforce housing, which would serve many of the existing businesses by providing for an expanded employee base.

Zoning Code Compliance

- The Project would be developed under the Business Research Park - Affordable Housing Discretionary (BRP-AHD) zone district, subject to approval of the Zone Change.
- Development tables were incorporated into the staff report showing and comparing applicable development standards for this project.
 1. Affordable Housing Discretionary (OCC §16-420A to 16-420I)
 - Height- up to 5 stories
 - Density- 30 units/acre
 2. Attached Dwelling Unit Development Standards (OCC §16-360 to §16-363)
 3. BRP Multiple-Family Zone (OCC §16-43 to 16-48)

Zoning Code Compliance - Density Bonus

Density Bonus Concession (3)	1. Remove requirement for useable spaces along parking structure at ground floor level. 2. Interior Yard Space (IYS) reduction 19% (30% required). 3. Patio & Deck minimum size (10 feet X 10 feet required) reduction.
Density Bonus Waivers (3)	1. Allow for building height to increase from a maximum of 56 feet to 68 feet. 2. Allow for a reduction of the front setback 30 feet to approximately 6.5 feet. 3. Allow for landscape planter overhang to be less than 5 feet, but no less than 2 feet.
State Bonus Density Parking Reductions	Provide 351 parking spaces onsite (300 parking spaces Required). 1. 1 spaces per unit for 1 bedroom and 1.5 spaces for 2 or 3 bedrooms. (1 space/1 bedroom & 2 space/2 bedrooms or more required by the OCC). 2. Allow uncovered parking (Garage required by the OCC). 3. Allow for Tandem parking. 4. 0 Visitor parking reduction (one covered space for the first 30 units; 0.5 spaces after 31st unit required by the OCC).

Environmental Review

- In accordance with Section 15060, the City of Oxnard as the Lead Agency, prepared a Mitigated Negative Declaration (MND) in accordance with CEQA and the CEQA Guidelines.
- The MND:
 - Identified and discussed potential impacts, mitigation measures, monitoring requirements, and residual impacts for identified subject areas.
 - Was available for public review from March 18, 2024 to April 17, 2024.
 - Comment Letters were received during public review period and are included in the Final Draft of the IS/MND, along with responses to each of the comments.
- Staff has determined that there is no substantial evidence that the Project will have a significant effect on the environment.
- The IS/MND includes a Mitigation Monitoring and Reporting Program that details the process to implement the required mitigation measures.

Summary of the Appeal

The Appellant filed an appeal with two primary grounds of appeal:

1. “SAFER believes that the City cannot proceed with the Project as Proposed because it fails to meet the City’s required minimum affordability requirement (OMC 16-420).
2. “Additionally, SAFER has submitted substantial evidence of a fair argument that the Project may have potentially significant environmental effects and the MND prepared for the Project does not adequately analyze or mitigate the potentially significant impacts from the Project.”

These grounds are further detailed in the 7 grounds discussed in the following slides.

Appellant's Grounds of Appeal 1 and Staff Responses

Ground of Appeal 1: “The Project Fails to Satisfy the Minimum Affordable Housing Requirement under the City’s Affordable Housing Additive Zone”

Staff Response:

1. The language in the code, which references “all units,” is in reference to the units allowed under the Affordable Housing Discretionary (AHD) Additive zone.
2. This is consistent with the current interpretation of the Inclusionary Ordinance and Density Bonus sections of the OCC, and other prior City approvals of other development projects.

Appellant's Grounds of Appeal 2 and Staff Responses

Ground of Appeal 2: “The IS/MND Fails to Adequately Describe the Project’s Environmental Setting”

Staff Response:

1. Staff disagrees with Ground of Appeal 2, as the Project’s Environmental Setting was appropriately established pursuant to CEQA. As it relates to biological resources which is the focus of this Ground of Appeal, the setting was established via a review of resource inventory databases and various publications, as well as a site survey by the City’s CEQA consultant’s biologist.
2. These topics discussed in this Ground of Appeal are addressed in the Final IS/MND in the response to Comments A-7 through A-11 and A-24 located in Appendix L to the Final IS/MND.

Appellant's Grounds of Appeal 3 and Staff Responses

Ground of Appeal 3: “There is Substantial Evidence of a Fair Argument that the Project May Have Significant Biological Resource Impacts”

Staff Response:

1. The City's CEQA consultant conducted a review of resource inventory databases and various publications, as well as conducted a site survey performed by the consultant's biologist.
2. The Final IS/MND adequately analyzed all potential Biological Resource impacts pursuant to CEQA and determined that all impacts were less than significant with mitigation incorporated.
3. These topics discussed in this Ground of Appeal are addressed in the Final IS/MND in the response to Comments A-6, A-12, and A-25 located in Appendix L to the Final IS/MND.

Appellant's Grounds of Appeal 4 and Staff Responses

Ground of Appeal 4: “There is Substantial Evidence of a Fair Argument that the Project May Have Potentially Significant Air Quality Impacts”

Staff Response:

1. An Air Quality and Health Risk Assessment was prepared for this project which adequately analyzes all potential air quality impacts pursuant to CEQA and determined that all impacts were less than significant.
2. These topics discussed in this Ground of Appeal are addressed in the Final IS/MND in the response to Comments A-17 and A-18 located in Appendix L to the Final IS/MND.

Appellant's Grounds of Appeal 5 and Staff Responses

Ground of Appeal 5: “There is Substantial Evidence of a Fair Argument that the Project May Have Significant Health Risks from Indoor Air Quality Emissions”

Staff Response:

1. An Air Quality and Health Risk Assessment was prepared for this project which adequately analyzes all potential air quality impacts pursuant to CEQA and determined that all impacts were less than significant.
2. These topics discussed in this Ground of Appeal are addressed in the Final IS/MND in the response to Comments A-14, and A-27 through A-35 located in Appendix L to the Final IS/MND.

Appellant's Grounds of Appeal 6 and Staff Responses

Ground of Appeal 6: “Installation of Filters to Reduce Significant Impact to a Level Below Significance Constitutes a Mitigation Measure. Use of this Mitigation Measure Must be Reflected in the Mitigation Monitoring and Reporting Program”

Staff Response:

1. Air filters are already required for this project pursuant to OCC. The requirement has been incorporated into the project and the requirement is included in the project conditions of approval.
2. Therefore, the filters are part of the project and not required as a mitigation, as the impact would be less than significant with the project, as designed.
3. These topics discussed in this Ground of Appeal are addressed in the Final IS/MND in the response to Comments A-14, A-17, A-28, A-29, A-32, and A-33 located in Appendix L to the Final IS/MND.

Appellant's Grounds of Appeal 7 and Staff Response

Ground of Appeal 7: “There is Substantial Evidence of a Fair Argument that the Project May Have Significant Noise Impacts that were inadequately Addressed”

Staff Response:

1. A noise study was prepared for this project and noise impacts were analyzed in the Final IS/MND and it was determined that all impacts were less than significant.
2. These topics discussed in this Ground of Appeal are addressed in the Final IS/MND in the response to Comments A-19, A-20, and A-36 through A-42 located in Appendix L to the Final IS/MND.

Recommendation: That the City Council:

- a) Adopt a Resolution adopting Final Initial Study/Mitigated Negative Declaration (Final IS/MND) No. 24-01 for the 2151 Lockwood Street (Lockwood 3) Apartments Project (Governor's Office of Planning and Research State Clearinghouse No. 2024030528); and
- b) Introduce an Ordinance (by title only, waiving further reading) approving Planning and Zoning Permit No. 22-570-01 (Zone Change), subject to certain findings and conditions; and
- c) Adopt a Resolution denying the appeal and upholding the Planning Commission's decision to grant Planning and Zoning Permit No. 22-500-04 (Special Use Permit) and Planning and Zoning Permit No. 22-535-03 (Density Bonus), subject to certain findings and conditions.





CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. N.1

DATE: September 17, 2024

TO: City Council

FROM: Javier Chagoyen-Lazaro, Chief Financial Officer, (805) 200-5400, javier.chagoyenlazaro@oxnard.org

SUBJECT: Fifth Amendment to Tyler Technologies Software as an ERP Service Agreement (A-8767), Extending the Contract for Five-Year Term, Expiring October 31, 2029. (10 minutes)

RECOMMENDATION

That the City Council approve and authorize the City Manager to execute a Fifth Amendment with Tyler Technologies, Inc. for an Enterprise Resource Planning (ERP) Software as a Service (SaaS) Agreement for a First Renewal for a Five-Year Term for an Amount Not to Exceed \$5,800,000 for a New Ten-Year Contract Total of \$11,500,000.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/UJEE4f8u35o>

BACKGROUND

On October 1, 2019, staff brought to Council a five-year Software as a Service (“SaaS”) Agreement with Tyler Technologies, Inc (Tyler) for a new Enterprise Resource Planning (ERP) system that commenced November 1, 2019 and expires on October 31, 2024. The original agreement was approved by the City Council in the amount of \$9,117,985 as part of a total \$14,893,817 project cost (including \$5,775,832 in additional implementation and hardware costs not payable to Tyler) for a five-year term. The agreement includes the SaaS maintenance fees, implementation fees, and contingency for the purchase and implementation of the ERP system that will continue to modernize the City’s systems.

On November 17, 2020, staff brought to Council the first amendment to the contract, as well a recommendation that Council delegate authority to the City Manager for future Tyler Technologies deductive amendments. Since the original agreement was approved, there have been four amendments to date with a net impact reducing the contract total by just over \$700,000, with the most recent amendment approved by Council on July 27, 2023. Staff projects that the City will spend approximately \$5.7 million of the original \$9.1 million contract value.

Staff recommends a new five-year term with Tyler Technologies to enable the City to continue to use this essential software for modules that have been implemented within the last five years, as well as complete the implementation, and make use of the remaining modules that are at various stages of development and configuration. The original SaaS agreement between the City and Tyler is 762 pages and can be read in full at oxnard.org/ERP. The four previous amendments are attached to this report.

DISCUSSION

An Enterprise Resource Planning system is the central nervous system of any organization, and the City of Oxnard is reliant on the tools and functionality of Tyler Munis, Executime to manage and report all of the city’s financial information including all invoice payments, budgetary control, fixed asset management, grant management, project accounting, general billing, financial reporting and very soon, the calculation and payment of all payroll for all employees (HCM). Furthermore, the City is at various stages of configuration and implementation of additional Tyler modules, provided under this agreement, to update and enhance the city’s planning and licensing operations (EPL), asset

management (EAM) and utility billing functions (UB).

Originally approved in 2019 at \$9.1 million, it was anticipated that the City would implement all these modules within the first five year term, however, as staff has communicated to Council in prior Tyler contract amendments, project management contracts and annual ERP reports, the initial assumptions have been updated over the years as the City has learned more about the scope and magnitude of the changes necessary, and during this period, the COVID-19 pandemic significantly impacted all City function, projects, not least the ERP project.

These modifications to the timeframe, project management structure and phasing of implementation had the effect of reducing the amount of resources required under this agreement with Tyler resulting in an anticipated cost of \$5.7 million compared to the original contract total of \$9.1 million, a reduction in anticipated spending of \$3.4 million. Much of this reduction in spend is due to reducing the amount of Tyler consulting services and extending the timelines for the implementation of later phases as the City's understanding of the complexity of the project evolved. In September 2021, the City hired Kreative Core Technologies (KCT) to provide an assessment of the overall ERP project and provide recommendations on how best to deliver the needed improvements. This report provided a new strategy to which the City has made significant progress, delivering Core Financials in October 2022, and KCT continues to be key strategic partners assisting the City to design solutions for the remaining modules, supporting staff to implement the solutions, as well as providing key IT support. On April 16, 2024 Council unanimously approved a seventh amendment with KCT to continue these services for the City under contract number 9431-21-FN.

At the time of this report, The City has implemented two major phases of the multi-phase project, Core Financials and Executime, with the Human Capital Management (HCM) / Payroll system due to launch in the coming weeks. This amendment is required for the City to continue to operate and record and report financial transactions as is required to ensure accurate and timely information and meet external audit and grant reporting requirements. All three of the remaining phases are underway and anticipated to be implemented within the term of this amendment.

Therefore staff recommends a new five-year term not to exceed \$5.45 million for a new contract total of approximately \$11.5 million (ten year total) with Tyler to include implementation consulting services, project management, conversion support, hardware and annual software licensing costs. The current agreement sets out a maximum increase that can apply for any extension term of five percent (5%) for the largest portion of the contract, Software as a service (SaaS) fees. Other aspects of the contract are based upon time and materials with current estimates based upon the latest information and progress for the remaining phases to be implemented. Staff anticipates continuing implementation consulting services and Tyler project management over the duration of the implementation phases of the remaining modules; HCM, EAM, EPL and UB anticipated to be completed by September 2027 when the current plan projects the final phase to be live and stable.

The proposed fifth amendment is attached along with all previous amendments. In addition, staff will return to Council for the ERP Annual Update early in calendar year 2025.

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.

FINANCIAL IMPACT

Funding for the first year of this amendment is included in the Fiscal Year 2024-25 and staff will include the necessary appropriations for future fiscal years as part of those future budgets. Implementation costs are part of a Capital Improvement Program project C2034, funded currently by the General Fund via transfer to the Capital Outlay Fund due to the Aaron Starr lawsuit that prevents the City from issuing bonds. Council had approved a second set of ERP bonds for approximately \$9.1 million in October 2022 that would have provided more funding for the ERP project. The Court ruled in favor of the City during its review of this case, however the case is currently under appeal, meaning the City is still unable to issue bonds at this time.

Software licensing fees for modules that have been implemented are charged to the City's Information Technology

Department in Fund 731, whereby they are subsequently recharged to operating departments via Internal Service Fund recharges as is the case with all enterprise wide software products.

Fiscal Year & Item Cost	2024-25	2025-26	2026-27	2027-28	2028-29	As needed	Total
Saas Fees	841,090	841,090	841,090	841,090	841,090		4,205,450
Proj Mgt	90,000	78,000	72,000	18,000	0		258,000
Implementation Consulting	234,000	280,800	243,360	60,840	0		819,000
Travel/ Conversion / Hardware Contingency	75,925					434,000	509,925
Total	1,241,015	1,199,890	1,156,450	919,930	841,090	434,000	5,792,373

The table above shows anticipated timings for services including the annual licensing fees (Saas). The implementation of remaining modules is anticipated to be completed by FY2027-28 and as with previous phases, staff anticipate there may be the need to amend plans as implementation begins and staff learn more about the functionality of the remaining modules. It is sensible therefore to carry a contingency that will only be used as needed and directed by project leadership. Staff were in final negotiations with the software vendor at the time of the Finance and Governance Committee on July 23, 2024, and so these details have changed as part of that process. The final agreement is anticipated to be \$361,124 higher due to final costs for the licensing, partially offset by a reduction in requested contingency amounts. Staff will return to council should any future additive amendments be necessary.

COMMITTEE OUTCOME

At their July 23, 2024 meeting, the Finance and Governance Committee unanimously approved this item to move forward to City Council at an anticipated contract amendment of \$5,431,251.

Prepared by: Mark Sewell, Assistant City Treasurer / Assistant Chief Financial Officer

ATTACHMENTS

1. 8767-19-IT 1st amendment
2. 8767-19-IT 2nd amendment
3. 8767-19-IT 3rd amendment
4. 8767-19-IT 4th amendment
5. 8767-19-IT 5th amendment
6. Fifth Amendment - Tyler ERP Contract Presentation



FIRST AMENDMENT TO SOFTWARE AS A SERVICE AGREEMENT
(AGREEMENT NO. 8767-19-IT)

This first amendment ("Amendment") is effective as of the date of signature of the last party to sign as indicated below ("Amendment Effective Date"), by and between Tyler Technologies, Inc. with offices at One Tyler Drive, Yarmouth, Maine 04096 ("Tyler") and the City of Oxnard, California, with offices at 305 W. 3rd Street, Oxnard, California 93030 ("Client").

WHEREAS, Tyler and Client are parties to an agreement dated October 2, 2019 ("Agreement"); and

WHEREAS, Tyler and Client desire to amend the terms of the Agreement as provided herein.

NOW THEREFORE, in consideration of the mutual promises hereinafter contained, Tyler and Client agree as follows:

1. The following Tyler Software as a Service (SaaS) is hereby removed from the Agreement as of November 1, 2020:

Bid Management

2. As of such date, Client's right to access the above-listed software is terminated, as are Tyler's obligations to maintain, support, host and update such software.
3. The table in Exhibit B Section 1 of the Agreement is hereby modified as follows:

Payment Due Date	SaaS Fees
12/1/2019	\$48,916.50 [paid]
9/1/2020	\$1,036,156.25
9/1/2021	\$1,019,850.75
9/1/2022	\$1,019,850.75
9/1/2023	\$1,019,850.75

4. This Amendment shall be governed by and construed in accordance with the terms and conditions of the Agreement.
5. Except as expressly indicated in this Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below.

CITY OF OXNARD

Carmen Ramirez 11/18/2020
for Mayor Date

TYLER TECHNOLOGIES, INC.

Chris Webster Date
President, ERP Division

Abigail Diaz Date
Chief Legal Officer, Secretary

ATTEST:

Michelle Scerif 11/18/2020
City Clerk (only if Mayor signs) Date

APPROVED AS TO FORM:

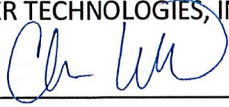
[Signature] 11/16/2020
City Attorney (always required) Date

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below.

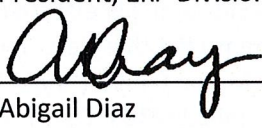
CITY OF OXNARD

Mayor Date

TYLER TECHNOLOGIES, INC.



Chris Webster Date
President, ERP Division



Abigail Diaz Date
Chief Legal Officer, Secretary

ATTEST:

City Clerk (only if Mayor signs) Date

APPROVED AS TO FORM:

City Attorney (always required) Date



SECOND AMENDMENT TO SOFTWARE AS A SERVICE AGREEMENT
(AGREEMENT NO. 8767-19-IT)

This second amendment ("Amendment") is effective as of the date of signature of the last party to sign as indicated below ("Amendment Effective Date"), by and between Tyler Technologies, Inc. with offices at One Tyler Drive, Yarmouth, Maine 04096 ("Tyler") and the City of Oxnard, California, with offices at 305 W. 3rd Street, Oxnard, California 93030 ("Client").

WHEREAS, Tyler and Client are parties to an agreement dated October 2, 2019 ("Agreement") and a subsequent amendment to the Agreement dated November 18, 2020 ("First Amendment"); and

WHEREAS, Tyler and Client desire to amend the terms of the Agreement as provided herein.

NOW THEREFORE, in consideration of the mutual promises hereinafter contained, Tyler and Client agree as follows:

1. As of the Amendment Effective Date, the Business Process Consulting services set forth below shall no longer include Custom Desktop Procedure Manuals. Accordingly, the fees set forth in Exhibit A of the Agreement are reduced as follows:

	Original Unit Price	Amended Unit Price
Business Process Consulting – Accounts Payable	\$17,500	\$8,750
Business Process Consulting – Budget	\$17,500	\$8,750
Business Process Consulting – Contract Management	\$10,500	\$5,250
Business Process Consulting – Capital Assets	\$17,500	\$8,750
Business Process Consulting – General Billing	\$26,250	\$13,125
Business Process Consulting – General Ledger	\$17,500	\$8,750
Business Process Consulting – Misc. Cash	\$10,500	\$5,250
Business Process Consulting – Project/Grant Accounting	\$26,250	\$13,125
Business Process Consulting – Purchasing & Requisitions	\$17,500	\$8,750
Business Process Consulting – Cash Management	\$17,500	\$8,750
Total:	\$178,500	\$89,250

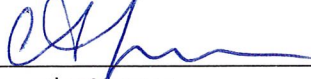
2. Due to the changes made to the Agreement pursuant to this Amendment, the total amended fees above will be invoiced upon Client's acceptance of the Best Practices Recommendations, by module.
3. This Amendment shall be governed by and construed in accordance with the terms and conditions of the Agreement.
4. Except as expressly indicated in this Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.

[SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below.

CITY OF OXNARD



Alexander Nguyen
City Manager

1/25/2021

Date

TYLER TECHNOLOGIES, INC.

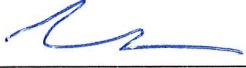
Chris Webster
President, ERP Division

Date

Abigail Diaz
Chief Legal Officer, Secretary

Date

APPROVED AS TO FORM:



City Attorney (always required)

1/20/2021

Date

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below.

CITY OF OXNARD

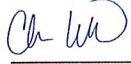


Alexander Nguyen
City Manager

1/25/2021

Date

TYLER TECHNOLOGIES, INC.



Chris Webster
President, ERP Division

01/26/2021

Date



Abigail Diaz
Chief Legal Officer, Secretary

01/26/2021

Date

APPROVED AS TO FORM:



City Attorney (always required)

1/29/2021

Date



THIRD AMENDMENT TO SOFTWARE AS A SERVICE AGREEMENT
(AGREEMENT NO. 8767-19-IT)

This third amendment ("Amendment") is effective as of the date of signature of the last party to sign as indicated below ("Amendment Effective Date"), by and between Tyler Technologies, Inc. with offices at One Tyler Drive, Yarmouth, Maine 04096 ("Tyler"), and the City of Oxnard, California, with offices at 305 W. 3rd Street, Oxnard, California 93030 ("Client").

WHEREAS, Tyler and Client are parties to an agreement dated October 2, 2019 ("Agreement") and two subsequent amendments to the Agreement dated November 18, 2020 ("First Amendment") and January 26, 2021 ("Second Amendment"); and

WHEREAS, Tyler and Client desire to amend the terms of the Agreement as provided herein.

NOW THEREFORE, in consideration of the mutual promises hereinafter contained, Tyler and Client agree as follows:

1. The Data & Insights Open Data Platform, Support Program–Basic, and Education Program–Standard, (collectively the "Data & Insights solutions") are hereby added to the Agreement as of January 1, 2023, as set forth in the Investment Summary, attached as Exhibit A to this Amendment
 - a. Year one of the Software as a Service ("SaaS") subscription term for the Data & Insights solutions shall begin on January 1, 2023 and end on October 31, 2024 ("initial term"). Thereafter, the SaaS subscription term, including any renewals thereto, shall conform to Section F(1) of the Agreement.
 - b. With respect to the Data & Insights solutions, SaaS Fees are invoiced on an annual basis, beginning on the initial term.
2. Exhibit A is hereby added to the Agreement and incorporated herein by reference.
3. The Client's use of the Data & Insights solutions is subject to the Terms of Use – Socrata Open Finance, attached as Exhibit A-1 to the Agreement, as further amended in Appendix 1 to this Amendment.
4. Appendix 1 is hereby added to the Agreement and incorporated herein by reference.
5. Support for the Data & Insights solutions is subject to the Data & Insights Support Policy: <https://support.socrata.com/hc/en-us/articles/216962648-Support-Policy>
6. This Amendment shall be governed by and construed in accordance with the terms and conditions of the Agreement and if the Agreement terminates, so does Client's access to the Data & Insights solutions set forth in Exhibit A.

7. In the event of a conflict between any term or provision in the Amendment and any term or provision in the Agreement, the terms of this Amendment shall govern. The Agreement shall otherwise remain and continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below.

TYLER TECHNOLOGIES, INC.

By: Hannah May

Name: Hannah May

Title: Senior Corporate Attorney

Date: December 16, 2022

CITY OF OXNARD, CALIFORNIA

By: Jennifer Yates

Name: Jennifer Yates

Title: Purchasing Manager

Date: 12/21/2022



EXHIBIT A – INVESTMENT SUMMARY

The following Amendment Investment Summary details the software, products, and services to be delivered by us to you under the Agreement. This Amendment Investment Summary is effective as of the Amendment Effective Date. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.



Sales Quotation For:
City of Oxnard
305 W. 3rd Street
Oxnard CA 93030-5730

Quoted By: Brett Nalder
Quote Creation: 12/15/22
Quote Expiration: 4/14/23
Quote Name: City of Oxnard - ODP
Contract Start Date: 1/1/23
Contract End Date: 10/31/24

Services: N/A
Tyler Entity / Tax ID: Tyler Technologies, Inc. / 75-2303920
Payment Terms: Net 45
Frequency: Annual

	Year 1	Year 2
	1/1/23 - 12/31/23	1/1/24 - 10/31/24
Recurring Costs	\$ 24,000	\$ 20,000
One-Time Cost	\$ 0	\$ 0
Total	\$ 24,000	\$ 20,000

Total Contract Value: \$ 44,000

Tyler Software and Related Services - Annual

Description	SKU	Monthly Term	Quantity	Total Price
Data & Insights				
Software				
Open Data Platform (50k - 150k)	SOC-OD-3	22	1	\$ 44,000
Support				
Support Program - Basic	SOC-PS-SUP-B	22	1	\$ 0
Education				
Education Program - Standard	SOC-PS-EDU-S	22	1	\$ 0
TOTAL				\$ 44,000

Maintenance / Uplift Schedule

Description	SKU	Start Date	End Date	Year 1	Year 2
Data & Insights					
Software					
Open Data Platform (50k - 150k)	SOC-OD-3	1/1/23	10/31/24	\$ 24,000	\$ 20,000
Support					
Support Program - Basic	SOC-PS-SUP-B	1/1/23	10/31/24	\$ 0	\$ 0
Education					
Education Program - Standard	SOC-PS-EDU-S	1/1/23	10/31/24	\$ 0	\$ 0

Product Descriptions

SOC-OD-3 -	Open Data (currently called Publica) Socrata Open Data enables governments to publish data, in a variety of intuitive and interactive forms, for use and reuse by the public. Open Data Includes: Publishing Services: APIs, a web interface, and utilities to publish data, automate the update of published data, and design metadata. Discovery: Catalog and search experience used to find data on the open data site via keyword, category, or other parameters. Includes support for the DCAT and data.JSON standards. Site Analytics: Dashboard providing insight into the usage of data, APIs, and other assets on the open data site. Includes support for Google Analytics integration and data export. Site Administration: Controls to manage user access and other basic settings of the open data site. Lenses & Expressions: Tools to create and explore interactive data visualizations, such as charts, Socrata Data Lens, and maps. Includes Socrata Data Player, an embed frame for including most Socrata visualizations on third-party sites. Federation Services: Service enabling cross-site sharing of open data site assets with other open data sites (e.g. nearby cities). Socrata Open Data API: Programmatic interface and supporting documentation for all datasets published on the open data site. Open Data Network: Connection to community of data publishers and consumers to enrich aspects of the data consumption experience. Includes federation of public data to www.opendatanetwork.com Unlimited consumption via mobile, desktop web, API Unlimited users
SOC-PS-SUP-B -	Support Program - Basic
SOC-PS-EDU-S -	Education Program - Standard: Unlimited attendance and access to virtual instructor led interactive online learning sessions and OnDemand education content.



APPENDIX 1

The Terms of Use – Socrata Open Finance, Exhibit A-1 of the Agreement, is supplemented as follows:

1. The following definitions are hereby added to Exhibit A-1:
 - **“Active Account”** means an account where the User was invited to the site, accepted the invitation, and where the account has not been deactivated.
 - **“Guest User”** means a user that is outside of the organization invited by a User to collaborate on the Client’s site.
 - **“Site”** means single domain or instance of the Open Data platform, Socrata Connected Government Cloud (also known as the Enterprise Data Platform) Site and the number of Sites is defined in the Investment Summary.
 - **“User” or “Monthly Active User”** (used interchangeably) means any Active Account added to the Client’s Site that is not a Guest User.

2. Section 1(c), Restrictions, is hereby supplemented to read as follows:

Client acknowledges and understands that the SaaS Services are not designed to serve as the system of record and shall not be used in a manner where the interruption of the SaaS Services could cause personal injury (including death) or property damage. The SaaS Services are not designed to process or store data protected under the Family Education Rights and Privacy Act (“FERPA”), data from Criminal Justice Information Services (“CJIS”), or other sensitive data, and by using the SaaS Services, Client acknowledges and agrees that Client is using the SaaS Services at Client’s own risk and that Client is solely responsible for use of data with the SaaS Services in any manner that is contrary to the uses for which the SaaS Services are designed and offered for use in this Agreement. If Client intends to use the SaaS Services to store or transmit Protected Health Information (“PHI”), then the Client shall notify Tyler and the parties will enter into a mutually agreeable Business Associate Agreement.

3. Section 1, Use, is hereby supplemented to read as follows:

n. Tyler reserves the right to develop derivative data assets based on Client Data Client makes publicly available. Tyler may use, disclose, sell, and transfer the derivative data assets for any lawful purpose, including but not limited to: aggregating and summarizing data; normalizing, standardizing and concatenating data to create new regional or national data assets; and developing key performance indicators and benchmarks.

o. Tyler may develop derivative data assets and insights based on aggregated, anonymized views of Client’s non-public data for the purposes of improvement and enhancement of the SaaS Services, aggregated statistical analysis, technical support, and other internal business purposes.

p. Tyler may access Client’s non-public data for the purposes of providing maintenance and support.



4. Section 2(a), Third-Party Platform Service, is hereby supplemented to read as follows:

Client will have access to the following Third-party Services for use within the software, however, the availability of any of these services is subject to change:

- Getty Images: Within the platform's perspective story tool, Clients have access to a library of images available for use in their story pages, terms and conditions located at <http://www.gettyimages.com/connectterms>.
- Mapbox: Within the platform's visualization suite, the current mapping visualizations are powered by Mapbox, terms and conditions located at <https://www.mapbox.com/legal/tos>.
- Mapquest: Geocoding provider that matches user-provided addresses with geographic coordinates for display on map visualizations terms and conditions located at <http://hello.mapquest.com/terms-of-use/>.



**FOURTH AMENDMENT TO SOFTWARE AS A SERVICE AGREEMENT
(AGREEMENT NO. 8767-19-IT)**

This fourth amendment ("Amendment") is effective as of the date of signature of the last party to sign as indicated below ("Amendment Effective Date"), by and between Tyler Technologies, Inc. with offices at One Tyler Drive, Yarmouth, Maine 04096 ("Tyler") and the City of Oxnard, California, with offices at 305 W. 3rd Street, Oxnard, California 93030 ("Client").

WHEREAS, Tyler and Client are parties to an agreement dated October 2, 2019 ("Agreement") and three subsequent amendments to the Agreement dated November 18, 2020 ("First Amendment"), January 26, 2021 ("Second Amendment"), and December 21, 2022 ("Third Amendment"); and

WHEREAS, Tyler and Client desire to amend the terms of the Agreement as provided herein.

NOW THEREFORE, in consideration of the mutual promises hereinafter contained, Tyler and Client agree as follows:

1. As of 6/1/22, the following Tyler Software and SaaS Services are removed from the Agreement:

- Employee Expense Reimbursement
- BMI Asset Track
- BMI CollectIt
- Inventory
- CAFR Statement Builder
- ExecuTime Adv Scheduling
- ExecuTime Adv Scheduling Mobile Access
- ExecuTime Time & Attendance Mobile Access
- ExecuTime IVR Interface
- Socrata Open Finance

As of such date, Client's right to use or access such Tyler Software and Tyler SaaS Services is terminated, as are Tyler's obligations to host, update, maintain, and support such items.

2. The items in the attached sales quotation, incorporated herein as Exhibit 1, are hereby added to the Agreement. Fees for hourly services will be invoiced as delivered. Dedicated Project Management Services shall be invoiced in conformance to Section 2.7 of Exhibit B of the Agreement. All professional services added pursuant to this Amendment are subject to a fifteen percent (15%) retainage as described in Exhibit B, Section 2.1 of the Agreement. Liability for payment of SaaS Fees commences 6/1/23. The additional dedicated project management services extends service through March, 2026.

3. The table in Exhibit B of the Agreement is revised, in relevant part, as shown below:

Payment Due Date	SaaS Fees
9/1/2022	\$741,231.12*, **
9/1/2023	\$741,231.11**



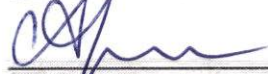
* Invoice #045-392665 (dated 9/1/22) for \$1,019,850.75 will be adjusted accordingly or can be short-paid, at Client election.

** Addition of API ToolKit Bundle, effective 6/1/23.

4. The following unused services are hereby removed from the Agreement:
 - a. Functional Acceptance Test (480 hours at \$175 per hour, totaling \$84,000);
 - b. Performance Test (320 hours at \$175 per hour, totaling \$56,000); and
 - c. Reliability Test (720 hours at \$175 per hour, totaling \$126,000).
5. Section H(24) is removed from the Agreement.
6. This Amendment shall be governed by and construed in accordance with the terms and conditions of the Agreement.
7. Except as expressly indicated in this Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below.

CITY OF OXNARD

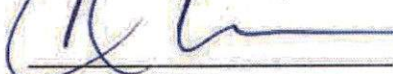


Alexander Nguyen
City Manager

7/28/2023

Date

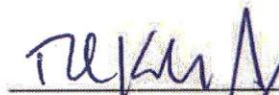
TYLER TECHNOLOGIES, INC.



Chris Webster
President, ERP Division

07/13/23

Date

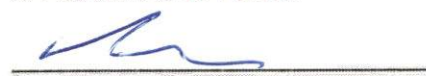


Robert Kennedy-Jensen
Group General Counsel

7/13/23

Date

APPROVED AS TO FORM:



City Attorney (always required)

7/24/2023

Date





Exhibit 1

Amendment Investment Summary

The following Investment Summary details the software, products, and services to be delivered by us to you under the Agreement. This Investment Summary is effective as of the Effective Date, despite any expiration date in the Investment Summary that may have lapsed as of the Effective Date. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement. In the event of conflict between the Agreement and terms in the Comments section of this Investment Summary, the language in the Agreement will prevail.

Sales quotation follows this page.

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Quoted By: Jennifer Wahlbrink
Quote Expiration: 09/29/23
Quote Name: City of Oxnard-ERP-Munis-API & PM Services
Quote Description: 7-6-23 City of Oxnard, CA - v.7 API Toolkit & PM Services
Saas Term 2.00

Sales Quotation For:

City of Oxnard
c
Oxnard CA 93030-5730
Phone: +1 (805) 385-7430

Tyler SaaS and Related Services

Description	Qty	Imp. Hours	Annual Fee
Integrations			
API Toolkit Bundle	1	0	\$ 36,737.00
TOTAL		0	\$ 36,737.00

Professional Services

Description	Quantity	Unit Price	Ext Discount	Extended Price	Maintenance
50% of Dedicated Project Manager (Monthly)	15	\$ 12,000.00	\$ 0.00	\$ 180,000.00	\$ 0.00
TOTAL				\$ 180,000.00	\$ 0.00

Summary	One Time Fees	Recurring Fees
Total Tyler License Fees	\$ 0.00	\$ 0.00
Total SaaS	\$ 0.00	\$ 36,737.00
Total Tyler Services	\$ 180,000.00	\$ 0.00
Total Third-Party Hardware, Software, Services	\$ 0.00	\$ 0.00
Summary Total	\$ 180,000.00	\$ 36,737.00
Contract Total	\$ 253,474.00	

Unless otherwise indicated in the contract or amendment thereto, pricing for optional items will be held
For six (6) months from the Quote date or the Effective Date of the Contract, whichever is later.

Customer Approval: _____ Date: _____

Print Name: _____ P.O.#: _____

All Primary values quoted in US Dollars

Comments

Client agrees that items in this sales quotation are, upon Client's signature or approval of same, hereby added to the existing agreement ("Agreement") between the parties and subject to its terms. Additionally, payment for said items, as applicable but subject to any listed assumptions herein, shall conform to the following terms:

- License fees for Tyler and third party software are invoiced upon the earlier of (i) deliver of the license key or (ii) when Tyler makes such software available for download by the Client;
- Fees for hardware are invoiced upon delivery;

- Fees for year one of hardware maintenance are invoiced upon delivery of the hardware;
- Annual Maintenance and Support fees, SaaS fees, Hosting fees, and Subscription fees are first payable when Tyler makes the software available for download by the Client (for Maintenance) or on the first day of the month following the date this quotation was signed (for SaaS, Hosting, and Subscription), and any such fees are prorated to align with the applicable term under the Agreement, with renewals invoiced annually thereafter in accord with the Agreement.
- Fees for services included in this sales quotation shall be invoiced as indicated below.
 - Implementation and other professional services fees shall be invoiced as delivered.
 - Fixed-fee Business Process Consulting services shall be invoiced 50% upon delivery of the Best Practice Recommendations, by module, and 50% upon delivery of custom desktop procedures, by module.
 - Fixed-fee conversions are invoiced 50% upon initial delivery of the converted data, by conversion module, and 50% upon Client acceptance to load the converted data into Live/Production environment, by conversion module.
 - Except as otherwise provided, other fixed price services are invoiced upon complete delivery of the service. For the avoidance of doubt, where "Project Planning Services" are provided, payment shall be invoiced upon delivery of the Implementation Planning document. Dedicated Project Management services, if any, will be invoiced monthly in arrears, beginning on the first day of the month immediately following initiation of project planning.
 - If Client has purchased any change management services, those services will be invoiced in accordance with the Agreement.
 - Notwithstanding anything to the contrary stated above, the following payment terms shall apply to services fees specifically for migrations: Tyler will invoice Client 50% of any Migration Fees listed above upon Client approval of the product suite migration schedule. The remaining 50%, by line item, will be billed upon the go-live of the applicable product suite. Tyler will invoice Client for any Project Management Fees listed above upon the go-live of the first product suite. Unless otherwise indicated on this Sales quotation, annual services will be invoiced in advance, for annual terms commencing on the date this sales quotation is signed by the Client. If listed annual service(s) is an addition to the same service presently existing under the Agreement, the first term of the added annual service will be prorated to expire coterminous with the existing annual term for the service, with renewals to occur as indicated in the Agreement.
- Expenses associated with onsite services are invoiced as incurred.
Tyler's quote contains estimates of the amount of services needed, based on our preliminary understanding of the scope, level of engagement, and timeline as defined in the Statement of Work (SOW) for your project. The actual amount of services required may vary, based on these factors.

Tyler's pricing is based on the scope of proposed products and services contracted from Tyler. Should portions of the scope of products or services be altered by the Client, Tyler reserves the right to adjust prices for the remaining scope accordingly.

Unless otherwise noted, prices submitted in the quote do not include travel expenses incurred in accordance with Tyler's then-current Business Travel Policy.

Tyler's prices do not include applicable local, city or federal sales, use excise, personal property or other similar taxes or duties, which you are responsible for determining and remitting. Installations are completed remotely but can be done onsite upon request at an additional cost.

In the event Client cancels services less than two (2) weeks in advance, Client is liable to Tyler for (i) all non-refundable expenses incurred by Tyler on Client's behalf; and (ii) daily fees associated with the cancelled services if Tyler is unable to re-assign its personnel.

The Implementation Hours included in this quote assume a work split effort of 70% Client and 30% Tyler.

Implementation Hours are scheduled and delivered in four (4) or eight (8) hour increments.

Tyler provides onsite training for a maximum of 12 people per class. In the event that more than 12 users wish to participate in a training class or more than one occurrence of a class is needed, Tyler will either provide additional days at then-current rates for training or Tyler will utilize a Train-the-Trainer approach whereby the client designated attendees of the initial training can thereafter train the remaining users.

Each API Toolkit or Connector comes with 8 free hours of API Development Consulting hours. Each API Bundle comes with 16 free API Development Consulting hours. Additional hours can be purchased beyond this standard offering.



AMENDMENT

This amendment ("Amendment") is effective as of the date of signature of the last party to sign as indicated below ("Amendment Effective Date"), by and between Tyler Technologies, Inc. with offices at One Tyler Drive, Yarmouth, Maine 04096 ("Tyler") and the City of Oxnard, California, with offices at 305 W. 3rd Street, Oxnard, California 93030 ("Client").

WHEREAS, Tyler and Client are parties to an agreement dated October 1, 2019 ("Agreement"); and

WHEREAS, the Term of the Agreement expires October 31, 2024 ("Expiration Date");

NOW THEREFORE, in consideration of the mutual promises hereinafter contained, Tyler and Client agree as follows:

1. Project Management Services. The services set forth in the Investment Summary attached hereto as Exhibit 1 are hereby added to the Agreement. Dedicated Project Management services will be billed monthly in arrears, beginning in November 2024.
2. SaaS Services.
 - a. SaaS Term. The term of the Agreement is hereby renewed for a one (1) year term commencing on the day following the Expiration Date (for the purposes of this Amendment, the "Renewal Term"). After the completion of the Renewal Term, the Agreement will renew automatically for up to four (4) additional one (1) year terms, at the rates set forth in the invoice attached to this Agreement as Exhibit 2, unless terminated in writing by either party at least sixty (60) days prior to the end of the then-current term.
 - b. SaaS Fees. SaaS Fees, as detailed in the attached invoice, for year one are invoiced annually in advance, beginning on the commencement date of the Renewal Term. Subsequent annual SaaS Fees are invoiced annually in advance, beginning on the anniversary of the initial invoice date.
 - c. Users Limits. The SaaS fees may be based on user limits indicated in the attached invoice and the Agreement, with the invoice controlling in the event of conflict. Should the number of users be exceeded, Tyler reserves the right to re-negotiate the SaaS fees based upon any resulting changes in the pricing categories.
3. This Amendment shall be governed by and construed in accordance with the terms and conditions of the Agreement.
4. Except as expressly indicated in this Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.



IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below.

Tyler Technologies, Inc.

City of Oxnard, California

By: Tina Mize

By: _____

Name: Tina Mize

Name: _____

Title: Group General Counsel

Title: _____

Date: September 3, 2024

Date: _____



Exhibit 1

Investment Summary

The following Investment Summary details the software, products, and services to be delivered by us to you under the Agreement. This Investment Summary is effective as of the Effective Date, despite any expiration date in the Investment Summary that may have lapsed as of the Effective Date. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement. In the event of conflict between the Agreement and terms in the Comments section of this Investment Summary, the language in the Agreement will prevail.

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Quoted By: Karen Grosset
Quote Expiration: 02/11/25
Quote Name: City of Oxnard - ERP - Project
Management 43 Months
Quote Description: Project Management - 43 Months

Sales Quotation For:

Shipping Address:

City of Oxnard
300 West 3rd St.
Oxnard CA 93030-5730

Professional Services

Description	Quantity	Unit Price	Ext Discount	Extended Price	Maintenance
Monthly Project Management	43	\$ 6,000.00	\$ 0.00	\$ 258,000.00	\$ 0.00
TOTAL				\$ 258,000.00	\$ 0.00

Summary

One Time Fees

Recurring Fees

Total Tyler License Fees	\$ 0.00	\$ 0.00
Total SaaS	\$ 0.00	\$ 0.00
Total Tyler Services	\$ 258,000.00	\$ 0.00
Total Third-Party Hardware, Software, Services	\$ 0.00	\$ 0.00
Summary Total	\$ 258,000.00	\$ 0.00

2024-490524-R9T7Y0

CONFIDENTIAL

Page 1

Contract Total**\$ 258,000.00**

Unless otherwise indicated in the contract or amendment thereto, pricing for optional items will be held
For six (6) months from the Quote date or the Effective Date of the Contract, whichever is later.

Customer Approval: _____ Date: _____

Print Name: _____ P.O.#: _____

All Primary values quoted in US Dollars

Comments

Client agrees that items in this sales quotation are, upon Client's signature or approval of same, hereby added to the existing agreement ("Agreement") between the parties and subject to its terms. Additionally, payment for said items, as applicable but subject to any listed assumptions herein, shall conform to the following terms:

- License fees for Tyler and third party software are invoiced upon the earlier of (i) deliver of the license key or (ii) when Tyler makes such software available for download by the Client;
- Fees for hardware are invoiced upon delivery;
- Fees for year one of hardware maintenance are invoiced upon delivery of the hardware;
- Annual Maintenance and Support fees, SaaS fees, Hosting fees, and Subscription fees are first payable when Tyler makes the software available for download by the Client (for Maintenance) or on the first day of the month following the date this quotation was signed (for SaaS, Hosting, and Subscription), and any such fees are prorated to align with the applicable term under the Agreement, with renewals invoiced annually thereafter in accord with the Agreement.
- Fees for services included in this sales quotation shall be invoiced as indicated below.
 - Implementation and other professional services fees shall be invoiced as delivered.
 - Fixed-fee Business Process Consulting services shall be invoiced 50% upon delivery of the Best Practice Recommendations, by module, and 50% upon delivery of custom desktop procedures, by module.

- Fixed-fee conversions are invoiced 50% upon initial delivery of the converted data, by conversion module, and 50% upon Client acceptance to load the converted data into Live/Production environment, by conversion module.
- Except as otherwise provided, other fixed price services are invoiced upon complete delivery of the service. For the avoidance of doubt, where "Project Planning Services" are provided, payment shall be invoiced upon delivery of the Implementation Planning document. Dedicated Project Management services, if any, will be invoiced monthly in arrears, beginning on the first day of the month immediately following initiation of project planning.
- If Client has purchased any change management services, those services will be invoiced in accordance with the Agreement.
- Notwithstanding anything to the contrary stated above, the following payment terms shall apply to services fees specifically for migrations: Tyler will invoice Client 50% of any Migration Fees listed above upon Client approval of the product suite migration schedule. The remaining 50%, by line item, will be billed upon the go-live of the applicable product suite. Tyler will invoice Client for any Project Management Fees listed above upon the go-live of the first product suite. Unless otherwise indicated on this Sales quotation, annual services will be invoiced in advance, for annual terms commencing on the date this sales quotation is signed by the Client. If listed annual service(s) is an addition to the same service presently existing under the Agreement, the first term of the added annual service will be prorated to expire coterminous with the existing annual term for the service, with renewals to occur as indicated in the Agreement.
- Expenses associated with onsite services are invoiced as incurred.
Tyler's quote contains estimates of the amount of services needed, based on our preliminary understanding of the scope, level of engagement, and timeline as defined in the Statement of Work (SOW) for your project. The actual amount of services required may vary, based on these factors.

Tyler's pricing is based on the scope of proposed products and services contracted from Tyler. Should portions of the scope of products or services be altered by the Client, Tyler reserves the right to adjust prices for the remaining scope accordingly.

Unless otherwise noted, prices submitted in the quote do not include travel expenses incurred in accordance with Tyler's then-current Business Travel Policy.

Tyler's prices do not include applicable local, city or federal sales, use excise, personal property or other similar taxes or duties, which you are responsible for determining and remitting. Installations are completed remotely but can be done onsite upon request at an additional cost.

In the event Client cancels services less than four (4) weeks in advance, Client is liable to Tyler for (i) all non-refundable expenses incurred by Tyler on Client's behalf; and (ii) daily fees associated with the cancelled services if Tyler is unable to re-assign its personnel.

The Implementation Hours included in this quote assume a work split effort of 70% Client and 30% Tyler.

Implementation Hours are scheduled and delivered in four (4) or eight (8) hour increments.

Tyler provides onsite training for a maximum of 12 people per class. In the event that more than 12 users wish to participate in a training class or

more than one occurrence of a class is needed, Tyler will either provide additional days at then-current rates for training or Tyler will utilize a Train-the-Trainer approach whereby the client designated attendees of the initial training can thereafter train the remaining users.



Exhibit 2

Investment Summary

The following Investment Summary details the software, products, and services to be delivered by us to you under the Agreement. This Investment Summary is effective as of the Effective Date, despite any expiration date in the Investment Summary that may have lapsed as of the Effective Date. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement. In the event of conflict between the Agreement and terms in the Comments section of this Investment Summary, the language in the Agreement will prevail.

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Remittance
Tyler Technologies, Inc.
(FEIN 75-2303920)
P.O. Box 203556
Dallas, TX 75320-3556

Questions
Tyler Technologies - ERP & Schools
Phone: 1-800-772-2260 Press 2, then 1
Fax: 1-866-673-3274
Email: ar@tylertech.com

THIS IS NOT AN INVOICE PROFORMA

Company	Order No.	Date	Page
045	213534	07/31/2024	1 of 5



To: CITY OF OXNARD
300 W 3RD ST
OXNARD, CA 93030-5738
United States

Ship To: CITY OF OXNARD
300 W 3RD ST
OXNARD, CA 93030-5738
United States

Customer Grp/No.	Customer PO#	Payment Terms	Currency Code	Ship Via	Salesperson Cd
1 52540		Net 30	USD	ELEC	

No. Item/ Description/ Comments	Quantity	U/M	Unit Price	Total Cost
Contract No.: OXNARD, CA				
1 Renewal: RECRUITING Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months :	1	EA	5,489.40	5,489.40
2 Renewal: HUMAN RESOURCES & TALENT MANAGEMENT Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	18,524.10	18,524.10
3 Renewal: PAYROLL W/ESS Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	31,212.30	31,212.30
4 Renewal: MAPLINK GIS INTEGRATION Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	13,197.45	13,197.45
5 Renewal: CENTRAL PROPERTY FILE Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	2,836.05	2,836.05
6 Renewal: UTILITY BILLING INTERFACE Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	7,918.05	7,918.05
7 Renewal: UTILITY BILLING CIS Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	24,595.20	24,595.20
8 Renewal: ACCTG/GL/BUDGET/AP Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	69,286.35	69,286.35



Remittance
Tyler Technologies, Inc.
(FEIN 75-2303920)
P.O. Box 203556
Dallas, TX 75320-3556

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Questions

Tyler Technologies - ERP & Schools
Phone: 1-800-772-2260 Press 2, then 1
Fax: 1-866-673-3274
Email: ar@tylertech.com

Company	Order No.	Date	Page
045	213534	07/31/2024	2 of 5

No.	Item/ Description/ Comments	Quantity	U/M	Unit Price	Total Cost
9	Renewal: CONTRACT MANAGEMENT Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	8,998.50	8,998.50
10	Renewal: CAPITAL ASSETS Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	20,785.80	20,785.80
11	Renewal: PROJECT & GRANT ACCOUNTING Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	15,237.60	15,237.60
13	Renewal: CASH MANAGEMENT Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	14,547.75	14,547.75
14	Renewal: WORK ORDERS, FLEET & FACILITIES MANAGEMENT Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	25,974.90	25,974.90
15	Renewal: PURCHASING Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	35,333.55	35,333.55
16	Renewal: ACCOUNTS RECEIVABLE Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	17,997.00	17,997.00
17	Renewal: GENERAL BILLING Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	8,397.90	8,397.90
18	Renewal: TYLER CASHIERING Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	27,595.05	27,595.05
19	Renewal: SOFTWARE - TYLER INCIDENT MANAGEMENT/TYLER 311 Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	13,671.00	13,671.00
20	Renewal: TYLER FORMS PROCESSING INCLUDING GODOCS Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	12,117.00	12,117.00



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Remittance
Tyler Technologies, Inc.
(FEIN 75-2303920)
P.O. Box 203556
Dallas, TX 75320-3556

Questions

Tyler Technologies - ERP & Schools
Phone: 1-800-772-2260 Press 2, then 1
Fax: 1-866-673-3274
Email: ar@tylertech.com

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PROFORMA**

Company	Order No.	Date	Page
045	213534	07/31/2024	3 of 5

No.	Item/ Description/ Comments	Quantity	U/M	Unit Price	Total Cost
21	Renewal: ePROCUREMENT Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	13,856.85	13,856.85
22	Renewal: IVR GATEWAY Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	8,098.65	8,098.65
23	Renewal: TYLER CONTENT MANAGER AUTO INDEXING AND REDACTION Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	2,999.85	2,999.85
24	Renewal: TYLER CONTENT MANAGER SE Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	26,994.45	26,994.45
25	Renewal: TYLER CONTENT MANAGER SELFSERVICE LICENSE Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	4,499.25	4,499.25
26	Renewal: Energov - Community Development Suite Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	143,797.50	143,797.50
27	Renewal: Energov - Citizen Self Service - Business Management Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	17,850.00	17,850.00
28	Renewal: Energov - Citizen Self Service - Community Development Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	17,850.00	17,850.00
29	Renewal: Energov - e-Reviews Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	25,882.50	25,882.50
30	Renewal: Energov - Business Management Suite Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	20,244.00	20,244.00
31	Renewal: MUNIS ANALYTICS & REPORTING Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	64,002.75	64,002.75



Empowering people who serve the public®

Remittance
Tyler Technologies, Inc.
(FEIN 75-2303920)
P.O. Box 203556
Dallas, TX 75320-3556

Questions
Tyler Technologies - ERP & Schools
Phone: 1-800-772-2260 Press 2, then 1
Fax: 1-866-673-3274
Email: ar@tylertech.com

THIS IS NOT AN INVOICE PROFORMA

Company	Order No.	Date	Page
045	213534	07/31/2024	4 of 5

No.	Item/ Description/ Comments	Quantity	U/M	Unit Price	Total Cost
32	Renewal: Energov - GIS Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	0.00	0.00
33	Renewal: Energov Business Management API Toolkit Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	0.00	0.00
34	Renewal: Energov Community Development API Toolkit Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	0.00	0.00
35	Renewal: Energov Request & Enforcement Management API Toolkit Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	0.00	0.00
36	Renewal: Executime Time & Attendance Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	41,990.55	41,990.55
37	Renewal: Executime Time & Attendance w/Import Module Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	3,517.50	3,517.50
38	Renewal: CITIZEN SELF SERVICE Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	16,197.30	16,197.30
40	Renewal: Energov - IG Workforce Mobile Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	0.00	0.00
41	Renewal: Energov - Report Toolkit : Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months	1	EA	0.00	0.00
42	Renewal: API Toolkit Bundle Cycle Start: 11/01/2024, End: 10/31/2025; Term: 12 months :	1	EA	38,573.85	38,573.85



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045	213534	07/31/2024	5 of 5

Does not include any applicable taxes

Order Total: 820,069.95

Comments: Upon acceptance please email your purchase order to PO@tylertech.com

Oxnard, CA Amend 082724

Final Audit Report

2024-09-03

Created:	2024-09-03
By:	Stacey Gerard (stacey.gerard@tylertech.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAaJ_eYD32aZ-C-_Z_6dqpZHbQbJYfWSQW

"Oxnard, CA Amend 082724" History

-  Document created by Stacey Gerard (stacey.gerard@tylertech.com)
2024-09-03 - 12:38:32 PM GMT- IP address: 163.116.144.98
-  Document emailed to tina.mize@tylertech.com for signature
2024-09-03 - 12:39:10 PM GMT
-  Email viewed by tina.mize@tylertech.com
2024-09-03 - 12:45:23 PM GMT- IP address: 174.203.6.53
-  Signer tina.mize@tylertech.com entered name at signing as Tina Mize
2024-09-03 - 9:54:36 PM GMT- IP address: 136.33.65.155
-  Document e-signed by Tina Mize (tina.mize@tylertech.com)
Signature Date: 2024-09-03 - 9:54:38 PM GMT - Time Source: server- IP address: 136.33.65.155
-  Agreement completed.
2024-09-03 - 9:54:38 PM GMT

Fifth Amendment to Software as a Service Agreement A-8767 with Tyler Technologies, Inc.

City Council

September 17, 2024

Mark D. Sewell,

Assistant Chief Financial Officer / Assistant City Treasurer

That City Council:

Approve and authorize the City Manager to execute a Fifth Amendment with Tyler Technologies, Inc. for an Enterprise Resource Planning (ERP) Software as a Service (SaaS) Agreement for a First Renewal for a Five-Year Term for an Amount Not to Exceed \$5,800,000 for a New Ten-Year Contract Total of \$11,500,000.

On July 23, 2024, the Finance and Governance Committee unanimously recommended this contract be renewed.

BACKGROUND

2016 - City issues RFP for new ERP software

2019 - City Council award a five year agreement with Tyler Technologies, Inc. for ERP, including project management, implementation support, business process engineering and annual licensing fees for a total of \$9,117,985. Implementation begins.

2021 - Executime (Electronic Employee Time Entry) Launched.

2022 - Core Financials Launched.

2024 – Implementation continues:

Human Capital Management, Enterprise Planning and Licensing,
Enterprise Asset Management and Utility Billing Phases

First Five Year Financials:

\$5.7 million anticipated to be spent of the \$9.1 million by October 31, 2024.

FOUR PREVIOUS AMENDMENTS

ERP projects are extremely complex and learnings incorporated into planning and execution led to amendments:

Prior Amendments

1. Bid Management module included in initial contract removed after initial evaluation
2. Business Process Consulting removed from scope.
3. Addition of Data and Insights platform
4. Reduction in scope of some SaaS modules, Testing and restructuring of SaaS fees saving the city \$606,502.

AMENDMENT 5 – Extending the Term of the Agreement.

Amendment 5 extends the agreement for an additional five year term.

Anticipated costs for next five years:

Contract Allocation \$	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28	FY 2028-29	As Needed	Total
SaaS Fees \$	841,090	841,090	841,090	841,090	841,090		4,205,450
Project Mgt \$	90,000	78,000	72,000	18,000			258,000
Implementation Consulting \$	234,000	280,800	243,360	60,840			819,000
Travel / Hardware / Contingency \$	75,925	As Needed	As Needed	As Needed	As Needed	434,000	509,925
Total \$	1,241,015	1,199,890	1,156,450	919,930	841,090	434,000	5,792,375

- Implementation continues for a number of modules.
- Requires Project Management and Implementation Consulting.
- Approx: 5% Contingency (\$250k) included for scope / functionality / conversion costs as needed and approved by City project leadership.

Staff will return to Council in the spring with the Annual ERP update.

That City Council:

Approve and authorize the City Manager to execute a Fifth Amendment with Tyler Technologies, Inc. for an Enterprise Resource Planning (ERP) Software as a Service (SaaS) Agreement for a First Renewal for a Five-Year Term for an Amount Not to Exceed \$5,800,000 for a New Ten-Year Contract Total of \$11,500,000.

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