



CITY OF COSTA MESA

REGULAR CITY COUNCIL AND HOUSING AUTHORITY*

Agenda

Tuesday, September 3, 2024

6:00 PM

**City Council Chambers
77 Fair Drive**

***Note: All agency memberships are reflected in the title "Council Member"**
4:00 P.M. Closed Session

The City Council meetings are presented in a hybrid format, both in-person at City Hall and as a courtesy virtually via Zoom Webinar. If the Zoom feature is having technical difficulties or experiencing any other critical issues, and unless required by the Brown Act, the meeting will continue in person.

TRANSLATION SERVICES AVAILABLE / SERVICIOS DE TRADUCCIÓN DISPONIBLE
Please contact the City Clerk at (714) 754-5225 to request language interpreting services for City meetings. Notification at least 48 hours prior to the meeting will enable the City to make arrangements.

Favor de comunicarse con la Secretaria Municipal al (714) 754-5225 para solicitar servicios de interpretación de idioma para las juntas de la Ciudad. Se pide notificación por lo mínimo 48 horas de anticipación, esto permite que la Ciudad haga los arreglos necesarios.

Members of the public can view the City Council meetings live on COSTA MESA TV (SPECTRUM CHANNEL 3 AND AT&T U-VERSE CHANNEL 99) or http://costamesa.granicus.com/player/camera/2?publish_id=10&redirect=true and online at youtube.com/costamesatv.

Closed Captioning is available via the Zoom option in English and Spanish.

As a courtesy, the public may participate via the Zoom option.

Zoom Webinar: (For both 4:00 p.m. and 6:00 p.m. meetings)

Please click the link below to join the webinar:

[https://us06web.zoom.us/j/81879579049?](https://us06web.zoom.us/j/81879579049?pwd=_XoNBT2uciL7zrDsFj4A9Q9srLgExg.bQEU-le6VvXjPDeL)

[pwd=_XoNBT2uciL7zrDsFj4A9Q9srLgExg.bQEU-le6VvXjPDeL](https://us06web.zoom.us/j/81879579049?pwd=_XoNBT2uciL7zrDsFj4A9Q9srLgExg.bQEU-le6VvXjPDeL)

Or sign into Zoom.com and “Join a Meeting”

Enter Webinar ID: 818 7957 9049/ Password: 608584

- If Zoom is not already installed on your computer, click “Download & Run Zoom” on the launch page and press “Run” when prompted by your browser. If Zoom has previously been installed on your computer, please allow a few moments for the application to launch automatically.
- Select “Join Audio via Computer.”
- The virtual conference room will open. If you receive a message reading, “Please wait for the host to start this meeting,” simply remain in the room until the meeting begins.
- During the Public Comment Period, use the “raise hand” feature located in the participants’ window and wait for city staff to announce your name and unmute your line when it is your turn to speak. Comments are limited to 3 minutes, or as otherwise directed.

Participate via telephone: (For both 4:00 p.m. and 6:00 p.m. meetings)

Call: 1 669 900 6833 Enter Webinar ID: 818 7957 9049/ Password: 608584

During the Public Comment Period, press *9 to add yourself to the queue and wait for city staff to announce your name/phone number and press *6 to unmute your line when it is your turn to speak. Comments are limited to 3 minutes, or as otherwise directed.

Note, if you have installed a zoom update, please restart your computer before participating in the meeting.

Additionally, members of the public who wish to make a written comment on a specific agenda item, may submit a written comment via email to the City Clerk at cityclerk@costamesaca.gov. Comments received by 12:00 p.m. on the date of the meeting will be provided to the City Council, made available to the public, and will be part of the meeting record.

Please know that it is important for the City to allow public participation at this meeting. If you are unable to participate in the meeting via the processes set forth above, please contact the City Clerk at (714) 754-5225 or cityclerk@costamesaca.gov and staff will attempt to accommodate you. While the City does not expect there to be any changes to the above process for participating in this meeting, if there is a change, the City will post the information as soon as possible to the City’s website.

Note that records submitted by the public will not be redacted in any way and will be posted online as submitted, including any personal contact information. All pictures, PowerPoints, and videos submitted for display at a public meeting must be previously reviewed by staff to verify appropriateness for general audiences. This includes items submitted for the overhead screen during the meeting. Items submitted for the overhead screen should be 1 page and provided to the City Clerk prior to the start of the meeting. No links to YouTube videos or other streaming services will be accepted, a direct video file will need to be emailed to staff prior to each meeting in order to minimize complications and to play the video without delay. The video must be one of the following formats, .mp4, .mov or .wmv. Only one file may be included per speaker for public comments, for both videos and pictures. Please e-mail to the City Clerk at cityclerk@costamesaca.gov NO LATER THAN 12:00 Noon on the date of the meeting. If you do not receive confirmation from the city prior to the meeting, please call the City Clerks office at 714-754-5225.

Note regarding agenda-related documents provided to a majority of the City Council after distribution of the City Council agenda packet (GC §54957.5): Any related documents provided to a majority of the City Council after distribution of the City Council Agenda Packets will be made available for public inspection. Such documents will be posted on the city's website and will be available at the City Clerk's office, 77 Fair Drive, Costa Mesa, CA 92626.

All cell phones and other electronic devices are to be turned off or set to vibrate. Members of the audience are requested to step outside the Council Chambers to conduct a phone conversation.

Free Wi-Fi is available in the Council Chambers during the meetings. The network username available is: CM_Council. The password is: cmcouncil1953.

As a LEED Gold Certified City, Costa Mesa is fully committed to environmental sustainability. A minimum number of hard copies of the agenda will be available in the Council Chambers. For your convenience, a binder of the entire agenda packet will be at the table in the foyer of the Council Chambers for viewing. Agendas and reports can be viewed on the City website at <https://costamesa.legistar.com/Calendar.aspx>. Las agendas y los informes se pueden ver en español en el sitio web de la Ciudad en <https://www.costamesaca.gov/trending/current-agendas/spanish-city-council-agendas>.

In compliance with the Americans with Disabilities Act, Assistive Listening headphones are available and can be checked out from the City Clerk. If you need special assistance to participate in this meeting, please contact the City Clerk at (714) 754-5225. Notification at least 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102.35.104 ADA Title II].

En conformidad con la Ley de Estadounidenses con Discapacidades (ADA), aparatos de asistencia están disponibles y podrán ser prestados notificando a la Secretaria Municipal. Si necesita asistencia especial para participar en esta junta, comuníquese con la oficina de la Secretaria Municipal al (714) 754-5225. Se pide dar notificación a la Ciudad por lo mínimo 48 horas de anticipación para garantizar accesibilidad razonable a la junta. [28 CFR 35.102.35.104 ADA Title II].

CLOSED SESSION - 4:00 P.M.

CALL TO ORDER

ROLL CALL

PUBLIC COMMENTS Members of the public are welcome to address the City Council only on those items on the Closed Session agenda. Each member of the public will be given a total of three minutes to speak on all items on the Closed Session agenda.

CLOSED SESSION ITEMS:

1. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Pursuant to California Government Code Section 54956.9 (d)(1)
Name of Case: Murtaugh v. City of Costa Mesa
Orange County Superior Court Case No. 30-2022-01295556-CU-PO-CJC
2. CONFERENCE WITH LABOR NEGOTIATORS
Pursuant to California Government Code Section 54957.6,(a)
Agency Designated Representative: Lori Ann Farrell Harrison, City Manager
Name of Employee Organization: Costa Mesa City Employees Association (CMCEA).

REGULAR MEETING OF THE CITY COUNCIL AND HOUSING AUTHORITY

SEPTEMBER 3, 2024 – 6:00 P.M.

JOHN STEPHENS
Mayor

JEFFREY HARLAN
Mayor Pro Tem - District 6

ANDREA MARR
Council Member - District 3

MANUEL CHAVEZ
Council Member - District 4

LOREN GAMEROS
Council Member - District 2

ARLIS REYNOLDS
Council Member - District 5

DON HARPER
Council Member - District 1

KIMBERLY HALL BARLOW
City Attorney

LORI ANN FARRELL HARRISON
City Manager

CALL TO ORDER

NATIONAL ANTHEM AND PLEDGE OF ALLEGIANCE

MOMENT OF SOLEMN EXPRESSION

[Per Council Policy 000-12, these presentations are made by community volunteers stating their own views. The City Council disclaims any intent to endorse or sponsor the views of any speaker.]

ROLL CALL

CITY ATTORNEY CLOSED SESSION REPORT

PRESENTATIONS: NONE.

PUBLIC COMMENTS – MATTERS NOT LISTED ON THE AGENDA

Comments on Consent Calendar items may also be heard at this time.
Comments are limited to 3 minutes, or as otherwise directed.

COUNCIL MEMBER COMMITTEE REPORTS, COMMENTS, AND SUGGESTIONS

Each council member is limited to 3 minutes. Additional comments will be heard at the end of the meeting.

1. Council Member Marr
2. Council Member Reynolds
3. Council Member Chavez
4. Council Member Gameros
5. Council Member Harper
6. Mayor Pro Tem Harlan
7. Mayor Stephens

REPORT – CITY MANAGER

REPORT – CITY ATTORNEY

CONSENT CALENDAR

All matters listed under the Consent Calendar are considered to be routine and will be acted upon in one motion. There will be no separate discussion of these items unless members of the City Council, staff, or the public request specific items to be discussed and/or removed from the Consent Calendar for discussion.

1. [PROCEDURAL WAIVER: WAIVE THE FULL READING OF ALL 24-324 ORDINANCES AND RESOLUTIONS](#)

RECOMMENDATION:

City Council and Housing Authority approve the reading by title only and waive further reading of Ordinances and Resolutions.

2. [READING FOLDER](#) [24-327](#)

RECOMMENDATION:

City Council receive and file Claims received by the City Clerk: Carlos Agramonte Cesar, James Abeltin, Sydni Cain, Monticello Community Association, Jeffrey Moore.

3. **ADOPTION OF WARRANT RESOLUTION** **24-314**

RECOMMENDATION:

City Council approve Warrant Resolution No. 2722.

Attachments: [1. Summary Check Register 07-25-24](#)
[2. Summary Check Register 08-01-24](#)
[3. Summary Check Register 08-09-24](#)

4. **MINUTES** **24-330**

RECOMMENDATION:

City Council approve the minutes of the regular meeting of August 6, 2024.

Attachments: [1. 08-06-2024 Draft Minutes](#)

5. **DESIGNATION OF VOTING DELEGATE AND ALTERNATES FOR THE 24-319
2024 LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE**

RECOMMENDATION:

Staff recommends the City Council designate City Manager Lori Ann Farrell Harrison as Costa Mesa's voting delegate and both Assistant City Manager Cecilia Gallardo-Daly and Deputy City Manager Alma Reyes as the alternates for the 2024 League of California Cities Annual Conference.

6. **BIENNIAL REVIEW OF CITY'S CONFLICT OF INTEREST CODE** **24-303**

RECOMMENDATION:

Staff recommends the City Council approve Resolution No. 2024-xx revising the list of designated positions in the City's Conflict of Interest Code.

Attachments: [1. 2024 Conflict of Interest Positions](#)
[2. Resolution No. 2024- XX](#)

7. **AWARD OF PROFESSIONAL ARCHITECTURAL AND ENGINEERING 24-317
DESIGN SERVICES FOR COSTA MESA COMMUNICATIONS
CENTER PROJECT**

RECOMMENDATION:

Staff recommends the City Council:

1. Approve a Professional Services Agreement (PSA) for two years with two one-year renewals in the amount of \$178,304 to ITZEN Architects, Inc., 1800 N. Bristol St., Santa Ana, CA 92706 for architectural and engineering design services.
2. Authorize a ten percent (10%) contingency in the amount of \$17,800 for unforeseen costs related to the project.
3. Authorize the City Manager and City Clerk to execute the PSA and any future amendments to the agreement.

Attachments: [1. PSA](#)

8. **AMENDMENT NO. 1 TO NON-EXCLUSIVE FRANCHISE 24-296
AGREEMENT(S) FOR DISCARDED MATERIALS MANAGEMENT FOR
MULTI-FAMILY AND COMMERCIAL GENERATORS AND FOR
PROVIDING TEMPORARY SOLID WASTE HANDLING SERVICES**

RECOMMENDATION:

Staff recommends the City Council:

1. Approve the language of Amendment No. 1 to the Non-Exclusive Franchise Agreements for Discarded Materials Management for Multi-Family and Commercial Generators and for providing Temporary Solid Waste Handling Services allowing customers increased flexibility to opt out of hauler service agreements.
2. Authorize the Public Works Director to execute Amendment No. 1 to the Non-Exclusive Franchise Agreements with each of the seven waste haulers, in substantial form as set forth in Attachment No. 2.

Attachments: [1. Non-Exclusive Franchise Agreement with Signatures](#)
[2. Amendment No. 1](#)

9. **RESPONSES TO ORANGE COUNTY GRAND JURY REPORT - 24-320
TALKING TRASH: RECYCLABLES AND ORGANIC WASTE**

RECOMMENDATION:

Staff recommends the City Council approve the draft responses to Findings 1-9 and Recommendations 1-7 in the Orange County (OC) Grand Jury Report titled "Talking Trash: Recyclables and Organic Waste."

Attachments: 1. Orange County Grand Jury Original Report
2. CA Penal Code Sections 933 and 933.05
3. 2024 Grand Jury Responses

10. **RESPONSE TO 2023-2024 ORANGE COUNTY GRAND JURY 24-322
REPORT "LAW ENFORCEMENT'S RESPONSE TO MENTAL HEALTH
CALLS FOR SERVICE"**

RECOMMENDATION:

Staff recommends the City Council approve and file the response letter to the 2023-2024 Orange County Grand Jury (OCGJ) Report "Law Enforcement's Response to Mental Health Calls for Service".

Attachments: 1. Grand Jury Report - Law Enforcement's Response to Mental
Health Calls for Service
2. OCGJ Response letter

**AT THIS TIME COUNCIL WILL ADDRESS ANY ITEMS PULLED FROM THE CONSENT
CALENDAR**

-----**END OF CONSENT CALENDAR**-----

PUBLIC HEARINGS: NONE.

(Pursuant to Resolution No. 05-55, Public Hearings begin at 7:00 p.m.)

OLD BUSINESS:

1. [SECOND READING OF AN ORDINANCE APPROVING THE FIRST 24-318 AMENDMENT \(DA-20-05\) TO DEVELOPMENT AGREEMENT \(DA-94-01\) BETWEEN THE CITY OF COSTA MESA AND THE INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB ALLOWING FOR A 20-YEAR TIME EXTENSION THAT WOULD EXPIRE OCTOBER 31, 2044; AMENDING PROVISIONS PERTAINING TO THE RATE AND METHODOLOGY FOR CALCULATING TRAFFIC IMPACT FEES; AND, AMENDING PROVISIONS RELATED TO THE SETBACK OF A FUTURE PARKING STRUCTURE; FOR A PROPERTY LOCATED AT 3333 FAIRVIEW ROAD](#)

RECOMMENDATION:

Staff recommends the City Council:

1. Find, pursuant to CEQA Guidelines Section 15162, that the project is within the scope of the June 20, 1994-certified Final Environmental Impact Report (EIR) #1045 (State Clearing House No. 94021036) for the Auto Club Expansion project. The effects of the project were examined in the 1994 FEIR, and all feasible mitigation measures and alternatives developed in the 1994 FEIR are incorporated into this project, and no new mitigation measures are required. Therefore, the 1994 FEIR for the Automobile Club Expansion project is determined to be adequate to serve as the environmental documentation for this project, that no further environmental review is required, and that all requirements of CEQA are satisfied.
2. Give second reading to and adopt, by title only, Ordinance 2024-XX approving the First Amendment (DA-20-05) to the Automobile Club of Southern California Development Agreement (DA-94-01) to allow for a 20 -year time extension that would expire October 31, 2044; to amend provisions pertaining to the rate and methodology for calculating traffic impact fees; and to amend provisions related to the setback of a future parking structure.

Attachments: [Agenda Report](#)

[1. Ordinance](#)

[2. Development Agreement Track Changes](#)

[3. City Council August 6, 2024 Report](#)

NEW BUSINESS:

1. [**GENERAL PLAN AMENDMENT \(PSCR-24-0004\) SCREENING FOR A 24-321 PROPOSED RESIDENTIAL DEVELOPMENT ON A 6.125 ACRE SITE LOCATED AT 3150 BEAR STREET**](#)

RECOMMENDATION:

Provide direction regarding an applicant requested General Plan Amendment associated with the proposed development of 146 residential units at 3150 Bear Street. In addition to the General Plan Amendment, the application would also include a related change to the property's zoning designation to support residential development, and a density bonus in conjunction with providing eight very-low-income units. All of the units in the development are proposed for individual ownership.

Attachments: [Agenda Report](#)

[1. Applicant Letter](#)

[2. Plans](#)

2. [**CITY COUNCIL FIRST READING OF ORDINANCE TO INCREASE 24-323 CITY COUNCIL COMPENSATION**](#)

RECOMMENDATION:

Staff recommends the City Council introduce for first reading, by title only, Ordinance No. 2024-XX increasing the City Council compensation effective after the general election, with the new City Council in December 2024.

Attachments: [1. Council Salaries Ordinance](#)

ADDITIONAL COUNCIL/BOARD MEMBER COMMITTEE REPORTS, COMMENTS, AND SUGGESTIONS

ADJOURNMENT



CITY OF COSTA MESA

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 24-324

Meeting Date: 9/3/2024

TITLE:

PROCEDURAL WAIVER: WAIVE THE FULL READING OF ALL ORDINANCES AND RESOLUTIONS

RECOMMENDATION:

City Council and Housing Authority approve the reading by title only and waive further reading of Ordinances and Resolutions.



CITY OF COSTA MESA

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 24-327

Meeting Date: 9/3/2024

TITLE:

READING FOLDER

DEPARTMENT: City Manager's Office/City Clerk's Division

RECOMMENDATION:

City Council receive and file Claims received by the City Clerk: Carlos Agramonte Cesar, James Abeltin, Sydney Cain, Monticello Community Association, Jeffrey Moore.



CITY OF COSTA MESA

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 24-314

Meeting Date: 9/3/2024

TITLE:

ADOPTION OF WARRANT RESOLUTION

DEPARTMENT: FINANCE DEPARTMENT

PRESENTED BY: CAROL MOLINA, FINANCE DIRECTOR

CONTACT INFORMATION: CAROL MOLINA, FINANCE DIRECTOR AT (714) 754-5243

RECOMMENDATION:

City Council approve Warrant Resolution No. 2722.

BACKGROUND:

In accordance with Section 37202 of the California Government Code, the Director of Finance or their designated representative hereby certify to the accuracy of the following demands and to the availability of funds for payment thereof.

FISCAL REVIEW:

Funding Payroll Register No. 24-16 On Cycle for \$3,893,458.14, and City operating expenses for \$4,975,189.05

Report ID: CCM2001

City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

Page No. 1
Run Date Jul 25,2024
Run Time 10:07:45 AM

Bank: DDP1
Cycle: ADDEP1

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
018217	07/26/24	P	Anthony Melendez <i>Line Description:</i> Simuition Instructor	0000026153	88.36
018218	07/26/24	P	Blake Cole <i>Line Description:</i> Swiftwater Rescue Technicians	0000029962	800.00
018219	07/26/24	P	Brandice Leger <i>Line Description:</i> Park & Comm Svc Mtng-Jun 24	0000030845	100.00
018220	07/26/24	P	Clint Dieball <i>Line Description:</i> Qtrly Retiree Medical Payments	0000004717	1,029.00
018221	07/26/24	P	Craig Bates <i>Line Description:</i> Trench Rescue Technician	0000029422	450.00
018222	07/26/24	P	Enterprise Rent A Car <i>Line Description:</i> Undercover Car Rental Undercover Car Rental Undercover Car Rental Undercover Car Rental	0000002131	5,431.22
018223	07/26/24	P	Granicus LLC <i>Line Description:</i> Subscription 7/1-9/30/24	0000015382	11,969.54
018224	07/26/24	P	Hoon Jo <i>Line Description:</i> ESRI User Conf	0000029756	2,109.33
018225	07/26/24	P	Jack R. Sweeney <i>Line Description:</i> 3190 Airport Loop-Aug 24	0000030173	4,174.46
					28,792.43
					833,353.49
					862,145.92

Report ID: CCM2001

City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

Page No. 2

Run Date Jul 25,2024

Run Time 10:07:45 AM

Bank: DDP1
Cycle: ADDEP1

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
018226	07/26/24	P	James Grovom	0000029196	360.00
			Line Description: Intermediate Wildland Fire		
018227	07/26/24	P	Jared Barnes	0000014094	0.88
			Line Description: Traffic Safety Law Enf Forum		
018228	07/26/24	P	Jennifer Ruffalo	0000021381	440.28
			Line Description: Central Square Conf		
018229	07/26/24	P	Kyle Brosamer	0000026927	265.50
			Line Description: CFED Conf & Expo		
018230	07/26/24	P	Laura Reeker	0000029788	118.42
			Line Description: Animal Law Enf Academy		
018231	07/26/24	P	Marie Norman	0000030829	18.08
			Line Description: Petty Cash Count Exp Reimb		
018232	07/26/24	P	Nick Wilson	0000025711	750.00
			Line Description: College Tuition Reimb-Spr 24		
018233	07/26/24	P	Olivia Rogers	0000025187	190.86
			Line Description: Central Square Conf		
018234	07/26/24	P	Spencer Hibbard	0000029191	472.50
			Line Description: CFED Conf & Expo		

Report ID: CCM2001

City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

Page No. 3
Run Date Jul 25,2024
Run Time 10:07:45 AM

Bank: DDP1
Cycle: ADDEP1

<u>Payment Ref</u>	<u>Date</u>	<u>Status</u>	<u>Remit To</u>	<u>Remit ID</u>	<u>Payment Amt</u>
018235	07/26/24	P	Taylor George	0000030830	24.00
			<i>Line Description:</i> Report Writing		
					TOTAL \$28,792.43

Report ID: CCM2001

City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

Page No. 1

Run Date Jul 25, 2024

Run Time 11:59:17 AM

Bank: CITY
Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249355	07/26/24	P	Advanced Sports Group, LLC	0000030780	32,107.00
			Line Description: Sod Replacement @ Jack Hammett		
0249356	07/26/24	P	All City Management Services Inc	0000009480	15,704.00
			Line Description: Schl Crsng Guard 5/26-6/8/24		
0249357	07/26/24	P	Alliant Insurance Services Inc	0000017608	120,718.73
			Line Description: Excess Cyber Liability 2024-25		
			Excess Cyber Liability 2024-25		
0249358	07/26/24	P	CBI	0000030648	43,716.24
			Line Description: Shop Hoist Replacement		
0249359	07/26/24	P	City Net	0000029222	26,647.74
			Line Description: Street Outreach Prog-Apr 2024		
0249360	07/26/24	P	IPS Group Inc	0000030049	17,539.20
			Line Description: LPR Mobile System Hardware		
0249361	07/26/24	P	Ken Grody Ford	0000030478	109,369.76
			Line Description: Document Prep Fee		
			Sales Tax 7.75%		
			Accessories		
			Tire Fee		
			Document Prep Fee		
			Sales Tax 7.75%		
			Tire Fee		
			Accessories		
0249362	07/26/24	P	OakWest Services Inc	0000029497	59,992.00
			Line Description: Wakeham - Remove & Replace Woo		

Report ID: CCM2001

City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

Page No. 2

Run Date Jul 25,2024

Run Time 11:59:17 AM

Bank: CITY
Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
			<i>Line Description:</i> Shiffer Park - Remove & Replac Tewinkle - Remove & Replace Wo		
0249363	07/26/24	P	PRISM	0000029319	26,389.00
			<i>Line Description:</i> Major Crime Ins Prem2024-25 Pollution Ins Prem 2024-25		
0249364	07/26/24	P	Theodore Robins Ford	0000004245	56,060.30
			<i>Line Description:</i> Discount CA Tire Sales Tax 7.75% 2024 ford Explorer Limited RWD		
0249365	07/26/24	P	WLC Architects Inc	0000023955	22,400.00
			<i>Line Description:</i> FS 4 Trianing Facility FS 4 Training Facility FS 4 Training Facility FS 4 Training Facility		
0249366	07/26/24	P	West Coast Arborists Inc	0000004498	31,954.85
			<i>Line Description:</i> Tree Maint 6/16-6/30/24		
0249367	07/26/24	P	AGA Engineers Inc	0000028838	3,640.00
			<i>Line Description:</i> 2024 Engineering & Traffic Stu		
0249368	07/26/24	P	AT & T	0000001107	166.15
			<i>Line Description:</i> 911 Cama Trunks		
0249369	07/26/24	P	AT & T	0000001107	117.70
			<i>Line Description:</i> Internet-Fleet Svs		

Bank: CITY
Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249370	07/26/24	P	AT & T	0000001107	3,436.38
		<i>Line Description:</i>	Smallwood Park Wakeham Park 800 Mhz Radio Link IT Computer Room DRC Alarm Estancia Park Outgoing Trunk Line DID Trunk Line PD Emergency Line TeWinkle Park Cool Line for PD		
0249371	07/26/24	P	Adam Ereth	0000029232	400.00
		<i>Line Description:</i>	Planning Comm Mtng-Jul 24		
0249372	07/26/24	P	Adventure City Inc	0000030850	2,295.40
		<i>Line Description:</i>	Dat Camp Excursion 8/8/24		
0249373	07/26/24	P	Angely Vallarta	0000029193	400.00
		<i>Line Description:</i>	Planning Comm Mtng-Jul 24		
0249374	07/26/24	P	Aquarium of the Pacific	0000030849	2,227.40
		<i>Line Description:</i>	Day Camp Excursion-7/31/24		
0249375	07/26/24	P	Ashley Riopka	0000029736	2,705.95
		<i>Line Description:</i>	2024 Summer SMART Camp		
0249376	07/26/24	P	BC Traffic Specialist	0000022225	6,435.98
		<i>Line Description:</i>	Supplies Sign for Crime Prevention Cr Memo-Dup Pymnt Inv #030128		

Report ID: CCM2001

City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

Page No. 4

Run Date Jul 25, 2024

Run Time 11:59:17 AM

Bank: CITY
Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249377	07/26/24	P	Beau Hossler	0000029714	150.00
			Line Description: Basketball Referee 7/17/24 Basketball Referee 7/15/24		
0249378	07/26/24	P	Benjamin Sparks	0000030855	2,117.70
			Line Description: 2024 Summer SMART Camp		
0249379	07/26/24	P	Boys & Girls Clubs	0000030522	2,337.89
			Line Description: 4th Qtr 2023-24 Grant		
0249380	07/26/24	P	Brian Torres Pacheco	0000030856	1,694.16
			Line Description: 2024 Summer SMART Camp		
0249381	07/26/24	P	CBE	0000015149	593.44
			Line Description: Copier Maint 6/5-7/4/24		
0249382	07/26/24	P	CSG Consultants Inc	0000001887	9,250.96
			Line Description: Bldg Plan Review-Jun 24 Fire Plan Check Review-Jun 24		
0249383	07/26/24	P	California Forensic Phlebotomy Inc	0000001500	3,082.04
			Line Description: Blood Drawn Svc-Jun 2024		
0249384	07/26/24	P	Cami Sue Marseilles	0000029338	941.20
			Line Description: 2024 Summer SMART Camp		
0249385	07/26/24	P	Canon Financial Services Inc	0000023241	6,057.94
			Line Description: Copier Maint-May 24		

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Run Date Jul 25,2024

Run Time 11:59:17 AM

Bank: CITY
Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
			Line Description: Copier Lease-Jun 2024		
0249386	07/26/24	P	Christopher J Ziebarth	0000029345	2,494.18
			Line Description: 2024 Summer SMART Camp		
0249387	07/26/24	P	Cintas Corporation #640	0000023262	451.78
			Line Description: Kitchen Cleaning Supply-Apr 24 Kichen Cleaning Supply-May2024		
0249388	07/26/24	P	CityGreen Consulting, LLC	0000030471	2,461.25
			Line Description: Community Svc Apr-Jun 24		
0249389	07/26/24	P	Citygate Associates	0000012070	7,038.56
			Line Description: Standards of Coverage Assessmn		
0249390	07/26/24	P	Community SeniorServ	0000018540	10,000.00
			Line Description: Home Delivery 4th Qtr 2023-24 Lunch Cafe 4th Qtr 2023-24		
0249391	07/26/24	P	CoreLogic Information Solutions Inc	0000004774	6.36
			Line Description: Property Data & Rpt-Jun 24		
0249392	07/26/24	P	Costa Mesa Lock & Key	0000001817	1,903.33
			Line Description: Lock & Key Svc		
0249393	07/26/24	P	Danica Mendiola	0000030852	300.00
			Line Description: Utility Box Design		
0249394	07/26/24	P	David Martinez	0000014476	400.00

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City of Costa Mesa Accounts Payable
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Run Date Jul 25,2024

Run Time 11:59:17 AM

Bank: CITY
Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
			Line Description: Planning Comm Mtng-Jul 24		
0249395	07/26/24	P	David Scharf MD	0000030846	3,150.00
			Line Description: Fit for Duty Evaluation		
0249396	07/26/24	P	Dennis Grubb & Assoc. Willdan Engr. Co	0000030346	218.75
			Line Description: Plan Check Svc-6/18/24		
0249397	07/26/24	P	Dennis Michael Canas	0000030858	1,694.16
			Line Description: 2024 Summer SMART Camp		
0249398	07/26/24	P	Dixon Resources Unlimited	0000027441	180.00
			Line Description: On Call Support Svc-Jun 2024		
0249399	07/26/24	P	Endemic Environmental Services Inc	0000021277	14,847.00
			Line Description: FVP Wetland Maint 6/16-6/30/24		
0249400	07/26/24	P	Entenmann Rovin Company	0000002130	590.40
			Line Description: Bages and Repair		
0249401	07/26/24	P	Extti Incorporated	0000010491	10,050.00
			Line Description: Work Place Investigation-Jun24 Workplace Investigation-May 24		
0249402	07/26/24	P	Eyescapes	0000029972	2,750.00
			Line Description: Streetscape & Median Developme		
0249403	07/26/24	P	Families Forward Inc	0000024105	6,069.02
			Line Description: TBRA Prog 4th Grant 2023-24		

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City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

Page No. 7
Run Date Jul 25,2024
Run Time 11:59:17 AM

Bank: CITY
Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249404	07/26/24	P	Fieldman Rolapp & Associates Inc	0000024519	1,500.00
			Line Description: FY 22-23 CDAR, ADTR, & YFSR		
0249405	07/26/24	P	Forvis Mazars LLP	0000030847	2,520.00
			Line Description: FYE City SCO Report		
0249406	07/26/24	P	Fuel Pros Inc	0000026476	3,173.20
			Line Description: Pump Repair		
			DO Inspection-CY		
			DO Inspection-FS #2		
			DO Inspection-FS #6		
0249407	07/26/24	P	Fun Photos	0000030108	600.00
			Line Description: Phgoto Booth-5/9/24 & 6/27/24		
0249408	07/26/24	P	GMS Elevator Services	0000028704	1,433.32
			Line Description: Elevator Maint-Jun 24		
			Elevator Maint-May 2024		
0249409	07/26/24	P	Garrett Stryker	0000022842	2,094.17
			Line Description: 2024 Summer SMART Camp		
0249410	07/26/24	P	Garrett Young	0000030859	2,494.18
			Line Description: 2024 Summer SMART Camp		
0249411	07/26/24	P	Glenn Lukos & Associates Inc	0000011626	5,606.56
			Line Description: VernalPool Restoration5/4-6/30		

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249412	07/26/24	P	Grainger	0000002393	901.87
		<i>Line Description:</i> Hardware Fleet Stock Attaching Clips Hardware Hardware Plumbing Supplies			
0249413	07/26/24	P	Guillermo Maciel	0000030857	1,694.16
		<i>Line Description:</i> 2024 Summer SMART Camp			
0249414	07/26/24	P	Hoag Executive Health	0000030617	5,910.00
		<i>Line Description:</i> Wellness Exam & Svcs-Jun 2024			
0249415	07/26/24	P	IAM Pacific Wellness Inc.	0000029833	750.00
		<i>Line Description:</i> PREVENTATIVE MAINTENANCE PREVENTATIVE MAINTENANCE PREVENTATIVE MAINTENANCE PREVENTATIVE MAINTENANCE PREVENTATIVE MAINTENANCE PREVENTATIVE MAINTENANCE			
0249416	07/26/24	P	Integrated Impressions	0000003403	358.81
		<i>Line Description:</i> Community Shirts			
0249417	07/26/24	P	Interwest Consulting Group Inc	0000021505	45.00
		<i>Line Description:</i> Plan Review Svs-Jun 2024			
0249418	07/26/24	P	Irvine Pipe & Supply Inc	0000002711	788.33
		<i>Line Description:</i> Plumbing Supplies Plumbing Supplies			

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City of Costa Mesa Accounts Payable
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Run Date Jul 25,2024
Run Time 11:59:17 AM

Bank: CITY
Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249419	07/26/24	P	Jacqueline Ames	0000030853	3,011.84
			Line Description: 2024 Summer SMART Camp		
0249420	07/26/24	P	James Snordan	0000029974	150.00
			Line Description: Basketball Referee 7/15/24		
			Basketball Referee-7/22/24		
0249421	07/26/24	P	Joe Mar Polygraph & Investigation	0000027462	3,500.00
			Line Description: Pre Empl Polygraph Exam		
			Pre Empl Polygraph Exam		
0249422	07/26/24	P	John Stephens	0000002112	673.72
			Line Description: 2024 ICSC Conf Exp		
0249423	07/26/24	P	Jonathan Valdez	0000030860	2,141.23
			Line Description: 2024 Summer SMART Camp		
0249424	07/26/24	P	Jonathan Zich	0000026312	400.00
			Line Description: Planning Comm Mtng-Jul 24		
0249425	07/26/24	P	Jose Rojas	0000029411	400.00
			Line Description: Planning Comm Mtng-Jul 24		
0249426	07/26/24	P	Karen Klepack	0000030322	400.00
			Line Description: Planning Comm Mtng-Jul 24		
0249427	07/26/24	P	Kids Empire Anaheim CA	0000030851	1,431.00
			Line Description: Day Camp Excursion-8/6/24		

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249428	07/26/24	P	Kirby L Piazza	0000022847	3,929.51
			Line Description: 2024 Summer SMART Camp		
0249429	07/26/24	P	LEFTA Systems	0000023638	2,000.00
			Line Description: Annual LEFTA FTO Software for		
0249430	07/26/24	P	LSA Associates Inc	0000003007	318.75
			Line Description: Citywide Residential Parking R		
0249431	07/26/24	P	Lauren Anderson	0000023814	1,858.87
			Line Description: 2024 Summer SMART Camp		
0249432	07/26/24	P	Los Angeles Times	0000003000	1,288.08
			Line Description: Daily Pilot Display		
0249433	07/26/24	P	Lowri Taylor	0000030228	1,694.16
			Line Description: 2024 Summer SMART Camp		
0249434	07/26/24	P	Melad & Associates	0000005068	1,237.26
			Line Description: Consulting Plan Check Services		
0249435	07/26/24	P	National Safety Compliance Inc	0000020714	145.50
			Line Description: DOT Certified Dug Testing		
0249436	07/26/24	P	Nick Goss	0000030854	1,694.16
			Line Description: 2024 Summer SMART Camp		
0249437	07/26/24	P	Orange County Council of Governments	0000011417	13,598.92
			Line Description: Memberships		

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Run Date Jul 25, 2024

Bank: CITY
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Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249438	07/26/24	P	Orange County Mosquito & Vector Control	0000021750	614.40
			Line Description: June 2024 Treatment		
0249439	07/26/24	P	Orange County Probation Department	0000003491	4,227.37
			Line Description: Officer Overtime Q4 Apr-Jun 24		
0249440	07/26/24	P	Orange County Treasurer Tax Collector	0000003489	1,464.50
			Line Description: Traffic Signal Maintenance		
			Traffic Signal Maintenance		
0249441	07/26/24	P	Patricia Awaa	0000029733	2,294.18
			Line Description: 2024 Summer SMART Camp		
0249442	07/26/24	P	Prudential Overall Supply	0000025480	1,100.29
			Line Description: Fleet Uniform June 2024		
			Parks Uniform Jun 2024		
			Fleet Towel Svc Jun 2024		
			PD Towel Svc-June 2024		
			St Traffic OP Uniform Jun 24		
			Facility Uniform-Jun 2024		
0249443	07/26/24	P	RJ Noble Company	0000003828	153.01
			Line Description: Road Surface Materials		
0249444	07/26/24	P	Russell Toler	0000029127	400.00
			Line Description: Planning Comm Mtng-Jul 24		
0249445	07/26/24	P	SCA of CA, LLC	0000029971	3,299.00
			Line Description: Hand Swp/Pressure Wash-Jun 24		

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Run Date Jul 25, 2024
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Bank: CITY
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Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249446	07/26/24	P	SHI International Corp	0000016007	1,370.00
			Line Description: SOFTWARE LICENSE		
0249447	07/26/24	P	Safran Trusted 4D Inc.	0000030177	1,317.00
			Line Description: Premium Support Package		
0249448	07/26/24	P	Santa Ana College	0000003752	1,472.00
			Line Description: Post Training 10/6/23-11/3/23		
			Post Training 11/6/23-5/3/24		
0249449	07/26/24	P	Sarah Anderson Portwood	0000029332	1,788.28
			Line Description: 2024 Summer SMART Camp		
0249450	07/26/24	P	Sarah Flores	0000029735	505.90
			Line Description: 2024 Summer SMART Camp		
0249451	07/26/24	P	Sean Comer	0000029737	2,800.07
			Line Description: 2024 Summer SMART Camp		
0249452	07/26/24	P	Sean Simon	0000029869	90.00
			Line Description: Basketball Referee 7/17/24		
0249453	07/26/24	P	Siemens Industry Inc	0000002904	1,470.00
			Line Description: Equipment Repair		
0249454	07/26/24	P	Southern California Edison Company	0000004088	1,958.67
			Line Description: 740 James 6/6-7/8/24		
			734 James 6/6-7/8/24		

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SUMMARY CHECK REGISTER

Run Date Jul 25, 2024

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Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
			<i>Line Description:</i> 711 W 18th 6/6-7/8/24 707 W 18th 6/6-7/8/24 2612 Harbor 6/14-7/16/24 1587 Sunflower 6/7-7/9/24 7744 James 6/6-7/8/24 1940 Placentia 6/6-7/8/24 308 University 6/12-7/14/24 717 James 6/6-7/8/24 745 W 18th 6/6-7/8/24 2293 Canyon 6/6-7/8/24 744 James A 6/6-7/8/24 1560 Adams 6/12-7/14/24 1040 Paularino 6/17-7/17/24 2944 Bristol 6/14-7/16/24		
0249455	07/26/24	P	Sparkletts	0000015725	214.71
			<i>Line Description:</i> Water Delivery Svcs - IT June Water Delivery Svcs - Fire Jun		
0249456	07/26/24	P	Special Services Group LLC	0000004117	4,200.00
			<i>Line Description:</i> Renweal of Annual Covert Track		
0249457	07/26/24	P	State of California Dept of Justice	0000001534	2,422.00
			<i>Line Description:</i> Livescan/Fingerprinting Servic		
0249458	07/26/24	P	Stephen Coss	0000025656	1,941.23
			<i>Line Description:</i> 2024 Summer SMART Camp		
0249459	07/26/24	P	T-Mobile USA	0000021384	75.00
			<i>Line Description:</i> Phone Record May 2024 Phone Record Retrieval		
0249460	07/26/24	P	Tan Viet Duy Nguyen	0000029739	1,694.16

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Run Date Jul 25,2024

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Bank: CITY
Cycle: AWKLY

<u>Payment Ref</u>	<u>Date</u>	<u>Status</u>	<u>Remit To</u>	<u>Remit ID</u>	<u>Payment Amt</u>
			<i>Line Description:</i> 2024 Summer SMART Camp		
0249461	07/26/24	P	Tecta America	0000003718	928.00
			<i>Line Description:</i> Senior Center Roof Repair		
0249462	07/26/24	P	Terrell Thorogood	0000030424	90.00
			<i>Line Description:</i> Basketball Referee-7/22/24		
0249463	07/26/24	P	The Code Group Inc	0000025073	6,270.00
			<i>Line Description:</i> Consulting Staffing Svcs June		
0249464	07/26/24	P	Timothy R McFadden	0000022857	2,705.95
			<i>Line Description:</i> 2024 Summer SMART Camp		
0249465	07/26/24	P	Trellis	0000025584	8,438.07
			<i>Line Description:</i> 23-24 SubRecipient Agreement		
0249466	07/26/24	P	Triton Technology Solutions Inc	0000021687	1,100.00
			<i>Line Description:</i> Audio / Video Technology Repai		
0249467	07/26/24	P	US Bank	0000002228	6,344.88
			<i>Line Description:</i> Payroll 24-14		
0249468	07/26/24	P	United States Treasury	0000002673	8,082.90
			<i>Line Description:</i> Unpaid Taxes for March 2024		
0249469	07/26/24	P	Verizon Wireless	0000008717	7,319.80
			<i>Line Description:</i> Subnet Broadband 5/18-6/17/24		

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249470	07/26/24	P	Versatile Information Products Inc	0000013255	4,334.64
		Line Description:	Sales Tax 7.75%		
			Shipping Fee		
			PUMA 5 Digital Audio Recorder		
0249471	07/26/24	P	Vulcan Materials Company	0000007403	31.70
		Line Description:	Late Charge on Asphalt		
0249472	07/26/24	P	Ware Disposal Inc	0000000255	3,386.60
		Line Description:	CMBS June 2024		
			James St Waste Srvs July		
0249473	07/26/24	P	Wex Bank	0000014258	1,323.24
		Line Description:	Fuel 6/7-7/6/24		
0249474	07/26/24	P	Xavier Castellano	0000023841	1,129.44
		Line Description:	2024 Summer SMART Camp		
TOTAL					\$833,353.49

Bank: CITY
Cycle: APAY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249552	08/02/24	P	CalPERS Long-Term Care Program	0000006287	85.42
			Line Description: Payroll Deduction 24-16		
0249553	08/02/24	P	Pamela Lilly	0000025324	750.00
			Line Description: Payroll Deduction 24-16		
0249554	08/02/24	P	State of California	0000001546	228.23
			Line Description: Payroll Deduction 24-16		
0249555	08/02/24	P	State of California	0000001546	283.28
			Line Description: Payroll Deduction 24-16		
TOTAL					\$1,346.93

2,516,631.19
1,346.93
20,832.65
27,715.11
2,566,525.88

Report ID: CCM2001

City of Costa Mesa Accounts Payable

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SUMMARY CHECK REGISTER

Run Date Aug 01,2024

Bank: CITY
Cycle: AWKLY

Run Time 1:38:28 PM

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249475	08/02/24	P	All American Asphalt	0000000971	1,522,632.80
			Line Description: Pavement Rehab Proj #23-07 Retention #23-07/#300005		
0249476	08/02/24	P	Amber Gregg, Inc dba Community Catalyst	0000030590	30,100.00
			Line Description: Com Dev Svc-Jun 2024 Com Dev Svc-May 24 Housing Svc-May 2024 Housing Svc-Jun 2024		
0249477	08/02/24	P	Buxton	0000027731	34,999.00
			Line Description: Economic Dev. Package - SCOUT		
0249478	08/02/24	P	CentralSquare Technologies LLC	0000028721	144,283.86
			Line Description: Software Maint 8/1/24-7/31/25		
0249479	08/02/24	P	City of Huntington Beach	0000002599	19,336.80
			Line Description: Helicopter Svc-June 2024		
0249480	08/02/24	P	Costa Mesa Chamber of Commerce	0000004963	25,000.00
			Line Description: 2024 Chamber of Commerce Due		
0249481	08/02/24	P	David Volz Design	0000004828	31,185.00
			Line Description: CM Skate Park Design 6/30/24		
0249482	08/02/24	P	Fortel Traffic Inc	0000015480	19,038.44
			Line Description: Radar Speed Feedback Signs		
0249483	08/02/24	P	JP Morgan Equipment Finance	0000029582	88,366.86
			Line Description: PD Bearcat Armored Lease Pymnt		

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City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

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Run Date Aug 01,2024

Run Time 1:38:28 PM

Bank: CITY
Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249484	08/02/24	P	JP Morgan Equipment Finance	0000029582	186,644.90
			Line Description: 4 Amubulance Lease Pymnt-Aug 24		
0249485	08/02/24	P	Long Beach BMW	0000015745	32,258.48
			Line Description: Sales Tax 7.75%		
			2024 BMW R1250RT- Police Motor		
			Other Fees: Doc Fees, Tire Fee		
0249486	08/02/24	P	Orange County Treasurer Tax Collector	0000003489	18,708.75
			Line Description: Prking Citation June 2024		
0249487	08/02/24	P	Place Works Inc	0000023119	63,887.43
			Line Description: Fairveiw Development Center		
0249488	08/02/24	P	Placer Labs Inc	0000029675	27,563.00
			Line Description: Subscription Software 6/1/24-5		
0249489	08/02/24	P	Starfish Signs & Graphics LLC	0000030554	19,942.50
			Line Description: Manufacture & Install 116 Bicy		
0249490	08/02/24	P	Titan Fire Protection, Inc	0000030488	34,920.00
			Line Description: Repair Fire Sprinklers @ City		
			Repair Fire Sprinklers @ FS#1		
			Fire Sprinkler Modification @		
			Fire Sprinkler Maintenance @ F		
			Repair Fire Sprinklers @ FS#1		
			Repair Fire Sprinklers @ City		
			Fire Sprinkler Maintenance @ D		
0249491	08/02/24	P	Yunex LLC	0000029573	35,206.00

Report ID: CCM2001

City of Costa Mesa Accounts Payable

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SUMMARY CHECK REGISTER

Run Date Aug 01,2024

Bank: CITY

Run Time 1:38:28 PM

Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
			<i>Line Description:</i> Routine for June 2024 Routine Maintenance Traffic Signal Response		
0249492	08/02/24	P	ADCOMM Engineering LLC	0000030005	1,900.00
			<i>Line Description:</i> RF Consulting Svc Thru 6/30/24		
0249493	08/02/24	P	AT & T	0000001107	2,052.98
			<i>Line Description:</i> Fire Sta#1 Fire Alarm System Senior Center Fire Alarm Syste Lions Park Senior Center Fire Alarm Syste 2310 Placentia Irrigation Senior Center Elevator Balearic Center Fax Local Usage		
0249494	08/02/24	P	AVNI Enterprises Inc	0000030676	8,317.45
			<i>Line Description:</i> Fire Apparatus		
0249495	08/02/24	P	Advantage Event Solutions LLC	0000030172	13,830.00
			<i>Line Description:</i> CIP Audio/Sound Equip Rental		
0249496	08/02/24	P	All City Management Services Inc	0000009480	4,383.36
			<i>Line Description:</i> Schl Crsng Guard 6/23-7/6/24		
0249497	08/02/24	P	Amerinat	0000026372	3,390.13
			<i>Line Description:</i> Motnly Svc Fee-May 2024 Monthly Svc Fee-Mar 2024 Motnly Svc Fee-June 2024		
0249498	08/02/24	P	Angel Auto Spa LLC	0000027465	3,545.28

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
			Line Description: City Car Wash-June 2024 CMPD Car Wash June 2024		
0249499	08/02/24	P	BC Traffic Specialist	0000022225	1,697.07
			Line Description: Cones		
0249500	08/02/24	P	Bay Alarm Company	0000030239	559.00
			Line Description: Shelter Alarm Jan-Mar 24 Shelter Alarm Instll Less Dep Shelter Alram Instlln Deposit Shelter Alram Apr-Jun 24		
0249501	08/02/24	P	Bee Busters Inc	0000007572	625.00
			Line Description: Bee Colony Abatement Bee Colony Abatement Bee Colony Abatement Bee Abatement		
0249502	08/02/24	P	Best Best & Krieger LLP	0000014491	1,343.00
			Line Description: Legal Svcs-Apr 2024		
0249503	08/02/24	P	Big Al's Motors Sales & Services	0000029329	1,953.03
			Line Description: Motor Parts		
0249504	08/02/24	P	Blue Cosmo	0000026920	684.92
			Line Description: Satellite Phone Svcs-Jul 2024		
0249505	08/02/24	P	Bureau Veritas North America Inc	0000016616	843.75
			Line Description: Plan Check Svc		
0249506	08/02/24	P	Certified Transportation Service	0000015380	6,779.64

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Run Date Aug 01,2024

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Bank: CITY
Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
			<i>Line Description:</i> 2024 CIP Shuttle Svc 2024 CIP Shuttle Svc 2024 CIP Shuttle Svc		
0249507	08/02/24	P	Community Legal Aid SoCal	0000030258	3,500.00
			<i>Line Description:</i> 2024 Sponsorship		
0249508	08/02/24	P	Cron & Associates Transcription Inc	0000016871	575.00
			<i>Line Description:</i> Transcription Svc		
0249509	08/02/24	P	D & R Office Works Inc	0000029056	5,333.08
			<i>Line Description:</i> Office Furniture - 3rd Floor R		
0249510	08/02/24	P	Danny Garcia	0000030874	2,500.00
			<i>Line Description:</i> Refund Permit PS22-01370		
0249511	08/02/24	P	Dote Wedding & Events	0000029619	399.00
			<i>Line Description:</i> Photo Booth-8/6/24		
0249512	08/02/24	P	Ecolab Pest Elimination	0000024420	1,364.69
			<i>Line Description:</i> Pest Control Svc-June 2024		
0249513	08/02/24	P	Eduardo Iniestra	0000029307	500.00
			<i>Line Description:</i> DJ & Emcee Svcs - National Nig		
0249514	08/02/24	P	Entenmann Rovin Company	0000002130	1,325.69
			<i>Line Description:</i> Badges		
0249515	08/02/24	P	Families Forward Inc	0000024105	7,412.13

Report ID: CCM2001

City of Costa Mesa Accounts Payable

Page No. 6

SUMMARY CHECK REGISTER

Run Date Aug 01,2024

Bank: CITY
Cycle: AWKLY

Run Time 1:38:28 PM

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
			Line Description: 2023-24 Afoordable Housing Grt		
0249516	08/02/24	P	Farhan Chowdhury	0000030269	150.00
			Line Description: Basketball Referee-7/29/24 Basketball Referee-7/24/24		
0249517	08/02/24	P	Graphic Decisions	0000017773	3,777.26
			Line Description: CIP Stage Banners 7/3/24 Evner Stage Banners		
0249518	08/02/24	P	Image Concepts	0000026883	350.19
			Line Description: Hats		
0249519	08/02/24	P	Interwest Consulting Group Inc	0000021505	2,037.94
			Line Description: Plan Check Svc-Jun 24		
0249520	08/02/24	P	JFK Transportation Co., Inc.	0000030141	9,703.00
			Line Description: Day Camp Bus TransportationSvc Day Camp Bus TransportationSvc Day Camp Bus TransportationSvc Day Camp Bus TransportationSvc Day Camp Bus TransportationSvc Day Camp Bus TransportationSvc Day Camp Bus TransportationSvc Day Camp Bus TransportationSvc Day Camp Bus TransportationSvc		
0249521	08/02/24	P	James Snordan	0000029974	150.00
			Line Description: Basketball Referee-7/29/24 Basketball Referee-7/24/24		
0249522	08/02/24	P	Kathy Hepler	0000026395	1,175.00
			Line Description: Face Painting & Balloon Twisti		

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249523	08/02/24	P	Knorr Systems Inc	0000005036	945.00
		Line Description:	DRC Cooling Fan Replacement		
0249524	08/02/24	P	Ladris Technologies, Inc.	0000030479	8,280.00
		Line Description:	SAAS AGREEMENT FOR CLOUD BASED		
0249525	08/02/24	P	Lyons Security Service Inc	0000027168	8,887.69
		Line Description:	Security Srvs at CMSC Security Srvs CMSC May 2024		
0249526	08/02/24	P	Magic Jump Rentals Orange County LLC	0000029291	537.95
		Line Description:	20' Triple Lane Slide - 8/6/24		
0249527	08/02/24	P	Manufactured Home Inspection, INC.	0000030219	14,000.00
		Line Description:	Rehab Grant Debra L 1973 Newpo		
0249528	08/02/24	P	Maria Crispina Alvarez	0000030876	9,838.13
		Line Description:	Stlmnt Property Damage-3/18/24		
0249529	08/02/24	P	National Band & Tag Company	0000005464	346.80
		Line Description:	License Tags for Animal Srvs		
0249530	08/02/24	P	Parkhouse Tire Inc	0000003556	274.66
		Line Description:	Emergency Tire Repair		
0249531	08/02/24	P	PetData, Inc.	0000030347	684.80
		Line Description:	Agreement - Pet Licensing		

Report ID: CCM2001

City of Costa Mesa Accounts Payable

Page No. 8

SUMMARY CHECK REGISTER

Run Date Aug 01,2024

Bank: CITY
Cycle: AWKLY

Run Time 1:38:28 PM

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249532	08/02/24	P	Premier Security Services Inc	0000002633	570.00
			Line Description: Service Call		
0249533	08/02/24	P	Priority Landscape Services LLC	0000026592	5,744.00
			Line Description: Citywide Young Tree Care Plant		
			Citywide Young Tree Care and P		
0249534	08/02/24	P	Pyxis Water Systems Inc	0000015837	9,300.00
			Line Description: Lake Maint Mar 2024		
			Lake Maint June 2024		
			Lake Maint May 24		
			Lake Maint Apr 2024		
0249535	08/02/24	P	RPW Services Inc	0000012440	3,560.00
			Line Description: Citywide Pest & Weed Control		
			City Wide Pest and Weed Contro		
0249536	08/02/24	P	Rion Dalby	0000030875	7,500.00
			Line Description: Refund Permit EENC-23-0307		
0249537	08/02/24	P	Ronald Dam	0000030877	250.00
			Line Description: CM Leadership Award Jun 2024		
0249538	08/02/24	P	SVT Fleet Solutions	0000030535	596.27
			Line Description: 517-Diagnostics		
0249539	08/02/24	P	SoftwareONE Inc	0000024168	45.75
			Line Description: GOVERNMENT LICENSE		
0249540	08/02/24	P	Source Graphics	0000025326	1,379.50

Report ID: CCM2001

City of Costa Mesa Accounts Payable

Page No. 9

SUMMARY CHECK REGISTER

Run Date Aug 01, 2024

Bank: CITY

Run Time 1:38:28 PM

Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
<i>Line Description:</i> Annual Equipment Service Contr					
0249541	08/02/24	P	Southern California Edison Company	0000004088	4,444.00
<i>Line Description:</i> 735 Baker 6/20-7/22/24 FS#1 6/20-7/22/24 3349 Sakioka 6/25-7/25/24 3351 Sakioka 6/25-7/25/24 Medians 6/6-7/8/24 555 1/2 Paularino 6/21-7/23/24 3120 Manistee 6/21-7/23/24 348 E 17th 6/25-7/25/24 2301 Harbor 6/24-7/24/24					
0249542	08/02/24	P	Southern California Gas Company	0000004092	2,868.03
<i>Line Description:</i> FS#6 6/25-7/25/24 FS#2 6/20-7/22/24 Sr Ctr 6/18-7/18/24 DRC 6/18-7/18/24 721 James 6/18-7/18/24 717 James 6/18-7/18/24 BCC 6/21-7/23/24 Comm 6/19-7/19/24 2310 Placentia 6/19-7/19/24 230 Placentia 2 6/19-7/19/24 PD 6/19-7/19/24 FS#4 6/19-7/19/24 FS#1 6/21-7/23/24 FS#5 6/19-7/19/24 567 W 18th 6/18-7/18/24 Pool 6/18-7/18/24 NHCC 6/18-7/18/24 FS#3 6/18-7/18/24					
0249543	08/02/24	P	Southern California Shredding Inc	0000025605	120.00
<i>Line Description:</i> On-Site Shredding Svc-7/1/24 On-Site Shredding Svc-7/1/24					

Report ID: CCM2001

City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

Page No. 10

Run Date Aug 01,2024

Run Time 1:38:28 PM

Bank: CITY
Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
			Line Description: On-Site Shredding Svc-7/29/24		
0249544	08/02/24	P	StandUp for Kids, Inc.	0000030323	3,868.73
			Line Description: 4th Qtr		
0249545	08/02/24	P	Stradling Yocca Carlson & Rauth	0000004168	624.00
			Line Description: Affordable Housing Programs		
0249546	08/02/24	P	Susan Saxe Clifford PHD	0000003932	450.00
			Line Description: Psychological Evaluation		
0249547	08/02/24	P	Tecta America	0000003718	1,225.00
			Line Description: Roof Repair		
0249548	08/02/24	P	The Bank of New York Mellon	0000005664	1,869.45
			Line Description: Qtrly Srvs Fee 4/1-6/30/24		
0249549	08/02/24	P	Vortex Industries Inc	0000004437	860.00
			Line Description: Preventive Maintenance & Repai		
0249550	08/02/24	P	Vulcan Materials Company	0000007403	430.02
			Line Description: Asphalt Potholes Sidewalk Ramp Asphalt Potholes Sidewalk Ramp Asphalt Potholes Sidewalk Ramp		
0249551	08/02/24	P	West Coast Fence Co	0000021495	900.00
			Line Description: Chain Link Fence Skate Park		
TOTAL					\$2,516,631.19

Report ID: CCM2001

City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

Page No. 1

Run Date Jul 30, 2024

Run Time 2:28:56 PM

Bank: DDP1
Cycle: AEOM

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
018236	07/31/24	P	Alan F Kent	0000006393	2,174.79
			Line Description: 1% Supplemental Pay Aug 24		
018237	07/31/24	P	Beckee Cost	0000016309	946.08
			Line Description: 1% Supplemental Pay Aug 24		
018238	07/31/24	P	Chris Morris	0000007439	2,500.00
			Line Description: Monthly LTD Payment-Aug 24		
018239	07/31/24	P	Danny Hogue	0000006802	1,137.03
			Line Description: 1% Supplemental Pay Aug 24		
018240	07/31/24	P	Darlene Bell	0000005602	580.54
			Line Description: 1% Supplemental Pay Aug 24		
018241	07/31/24	P	David A Dye	0000002065	260.90
			Line Description: 1% Supplemental Pay Aug 24		
018242	07/31/24	P	Edward Dryzmala	0000006686	1,377.28
			Line Description: 1% Supplemental Pay Aug 24		
018243	07/31/24	P	Gale Tuso	0000017460	233.08
			Line Description: 1% Supplemental Pay Aug 24		
018244	07/31/24	P	George J Yezbick Jr	0000005045	1,164.00
			Line Description: 1% Supplemental Pay Aug 24		
018245	07/31/24	P	Harlan Pauley	0000003569	232.12
			Line Description: 1% Supplemental Pay Aug 24		

Report ID: CCM2001

City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

Page No. 2
Run Date Jul 30,2024
Run Time 2:28:56 PM

Bank: DDP1
Cycle: AEOM

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
018246	07/31/24	P	James M Miller	0000007440	2,500.00
			Line Description: Monthly LTD Payment-Aug 24		
018247	07/31/24	P	Kathleen Zuorski	0000025225	504.52
			Line Description: 1% Supplemental Pay Aug 24		
018248	07/31/24	P	Linda Boylan	0000023340	57.98
			Line Description: 1% Supplemental Pay Aug 24		
018249	07/31/24	P	Matthew J Collett	0000001720	856.58
			Line Description: 1% Supplemental Pay Aug 24		
018250	07/31/24	P	Paul A Cappuccilli	0000007705	1,214.50
			Line Description: 1% Supplemental Pay Aug 24		
018251	07/31/24	P	Phil Dickens	0000005801	511.76
			Line Description: 1% Supplemental Pay Aug 24		
018252	07/31/24	P	Richard J Johnson	0000005620	1,255.66
			Line Description: 1% Supplemental Pay Aug 24		
018253	07/31/24	P	Thomas J Lazar	0000002925	1,703.25
			Line Description: 1% Supplemental Pay Aug 24		
018254	07/31/24	P	William H Bechtel	0000001224	1,622.58
			Line Description: 1% Supplemental Pay Aug 24		
TOTAL					\$20,832.65

Report ID: CCM2001

City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

Page No. 1

Run Date Aug 01,2024

Run Time 11:05:16 AM

Bank: DDP1
Cycle: ADDEP1

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
018255	08/02/24	P	Amanda Kim	0000030668	553.85
			Line Description: Payroll Deduction 24-16		
018256	08/02/24	P	Brandon Medeck	0000029125	500.00
			Line Description: CFED Conference & Expo		
018257	08/02/24	P	CHC: Creating Healthier Communities	0000008015	10.00
			Line Description: Payroll Deduction 24-16		
018258	08/02/24	P	Corey Brean	0000024845	1,100.00
			Line Description: Haz Mat Incident Commander Company Officer 2B Company Officer 2A Commany Officer 2E		
018259	08/02/24	P	Costa Mesa Employees Association	0000006284	4,335.01
			Line Description: Payroll Deduction 24-16		
018260	08/02/24	P	Costa Mesa Executive Club	0000006286	150.00
			Line Description: Payroll Deduction 24-16		
018261	08/02/24	P	Costa Mesa Firefighters Association	0000001812	8,227.39
			Line Description: Payroll Deduction 24-16		
018262	08/02/24	P	Costa Mesa Police Association	0000001819	6,840.00
			Line Description: Payroll Deduction 24-16		
018263	08/02/24	P	Costa Mesa Police Management Assn	0000005082	315.00
			Line Description: Payroll Deduction 24-16		

Report ID: CCM2001

City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

Page No. 2

Run Date Aug 01, 2024

Run Time 11:05:16 AM

Bank: DDP1
Cycle: ADDEP1

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
018264	08/02/24	P	Janet Hauser	0000023945	2,698.11
			Line Description: 2024 ICSC Conference		
018265	08/02/24	P	Jeremy Hermes	0000025637	185.00
			Line Description: Pistol Mounted Optics Instr		
018266	08/02/24	P	Kathleen Sapida	0000029556	14.47
			Line Description: Taser Instructor		
018267	08/02/24	P	Matthew Chavez	0000026212	490.00
			Line Description: Motor Vehicle Fire		
018268	08/02/24	P	Morgan Cain	0000029624	800.00
			Line Description: River & Flood Rescue Tech		
018269	08/02/24	P	Reena Leffingwell	0000021326	25.86
			Line Description: Domestic Violence4 Dispatchers		
018270	08/02/24	P	Robert Gonzalez	0000024196	117.42
			Line Description: Central Square Conf		
018271	08/02/24	P	Sandra Marquez	0000001078	26.26
			Line Description: Sexual Assault4 Dispatchers		
018272	08/02/24	P	Slawek Luczkiewicz	0000021389	185.00
			Line Description: Sherman Block SLI #4		

Bank: DDP1
Cycle: ADDEP1

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
018273	08/02/24	P	William Rodrigues	0000030541	1,141.74
Line Description: 2024 ICSC Tradeshow					
TOTAL					\$27,715.11

Report ID: CCM20010

City of Costa Mesa Accounts Payable
CCM OVERFLOW CHECK LISTING

Page No. 1

Run Date Aug 09,2024

Run Time 10:46:15 AM

Bank: DDP1
Cycle: ADDEP1

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
018276	08/07/24	O	US Bank <i>Line Description: Overflow</i>	0000002228	0.00
018277	08/07/24	O	US Bank <i>Line Description: Overflow</i>	0000002228	0.00
018278	08/07/24	O	US Bank <i>Line Description: Overflow</i>	0000002228	0.00
018279	08/07/24	O	US Bank <i>Line Description: Overflow</i>	0000002228	0.00
TOTAL					0.00

28,211.38
211,509.47
0.00
1,155.87
1,000.00
1,304,640.53

1,546,517.25

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249570	08/09/24	O	Southern California Edison Company <i>Line Description: Overflow</i>	0000004088	0.00
0249611	08/09/24	O	Galls LLC <i>Line Description: Overflow</i>	0000002297	0.00
TOTAL					0.00

Report ID: CCM2001

City of Costa Mesa Accounts Payable

Page No. 1

Bank: DDP1

SUMMARY CHECK REGISTER

Run Date Aug 09,2024

Cycle: ADDEP1

Run Time 10:42:49 AM

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
018274	08/06/24	P	Jones Mayer	0000014653	28,211.38
<i>Line Description:</i>					
#123864-Moyer					
#123855-D'Alessio Investment					
#123868-Noble					
#123873-Peper					
#123851-Atalla					
#123852-Becker					
#123857-Garten					
#123866-Nasiri					
#123871-Opioid					
#123872-Oshiro					
#123874-Rivera					
#123853-Carrera					
#123860-Hurtado					
#123870-Olive 3					
#123875-Tippett					
#123865-Murtaugh					
#123854-Cervantes					
#123858-Hernandez					
#123863-Litigation					
#123869-Ohio House					
#123856-DBO Invest CM					
#123859-High Seas Writ					
#123862-Lehman/Freeman					
#123893-AAA-Martindale					
#123861-Insight Psychology					
#123850-440 Fair Dr/1179 NP					
#123867-Niles					
TOTAL					\$28,211.38

Bank: DDP1

Run Date Aug 09,2024

Cycle: ADDEP1

Run Time 10:43:19 AM

SUMMARY CHECK REGISTER

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
018275	08/07/24	P	US Bank	0000002228	211,509.47
<i>Line Description:</i>					
Gas Hose					
Hose Adaptor					
Gate Safety Eye					
PVC Pipe Cutter					
Tools for Facilities Staff					
Beverages for PW Team Buildig					
737-Mirror Set					
Stock-Engine Heater					
Stock- 5 Gallon Hydraluic Flui					
Stock-Gauges for Fire Apparatu					
Office Supplies					
Business Meeting					
Rec-Food/Supp					
Maint Equip-NHCC					
Office Equip-NHCC					
Rec-Excursion Fee					
Sm Tools/Equip-Teen Center					
361-Hose					
Stock-Hose					
571-Fire Hose					
Stock-Actuator					
Stock-Hardware					
Office Supplies					
Stock Equipment					
Stock-Mircro SW Kit					
403-Pressure Washer Hose					
524- Whelen Halogen Lightheads					
Supp-Summer Luau					
Supp-Movies in Park					
Reg Svc Subscription					
Supp-Teen Night-Pool-Wonka					
Required Cert-Aquatic Staff					
Maint Equip-DT Aquatic Center					
Refreshments/Supp-Summer Pool					
Sm Tools/Equip-DT Aquatic Ctr					
Refreshments-Movie Monday					
Monthly Fee On-Line Queing					

Report ID: CCM2001

City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

Page No. 2

Bank: DDP1

Run Date Aug 09,2024

Cycle: ADDEP1

Run Time 10:43:19 AM

<u>Payment Ref</u>	<u>Date</u>	<u>Status</u>	<u>Remit To</u>	<u>Remit ID</u>	<u>Payment Amt</u>
			<i>Line Description:</i>		
			Acronis True Image Subs		
			Supp-Craft Class		
			Supp-Movies in Park		
			Equip-Billiards Room		
			Supp-Seated Yoga Class		
			Refund-Supp-Mothers Day Lunch		
			Supp-Independence Day Celebrat		
			Cleaning Supplies		
			Rec Equip-DAC		
			Teen Camp Excursion		
			Rec Equip-Lions Park		
			Teen Excursion Refund		
			Commercial License Test Fee		
			Event License-Movies in Park		
			Food/Supp-Mobile Recreation		
			Spotify Prem Monthly Fee		
			Cricut Design Subscription		
			Event Supplies		
			City Commission		
			Promotional, Subscription		
			Food/Supp-Youth Sports		
			Power Surge Cord		
			Password Software		
			Monthly Online Meeting		
			Monthly Fee Online Meeting		
			USB Video Conference System		
			reMarkable Tablet for Burman		
			Small TV for Director Ely Offi		
			TV Wall Mount for Director Ely		
			Adobe Subscription		
			Recreation Equipment		
			Subscript Credit-Cancellation		
			Office Supplies		
			Credit-Amazon Refund		
			Mouses		
			Headphones		
			Personal Charges		
			Office Chair Return		
			Dry Cleaning IT Table Cloth		

Report ID: CCM2001

City of Costa Mesa Accounts Payable

Page No. 3

SUMMARY CHECK REGISTER

Run Date Aug 09,2024

Bank: DDP1

Run Time 10:43:19 AM

Cycle: ADDEP1

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
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Line Description:	Refund for Personal Charges				
	Refreshments for M365 Training				
	Catering Trays				
	Error Purchase				
	Office Supplies				
	Calendar Planner				
	Shredder for Burman				
	Wireless Mouse & Pad				
	Open AI API Usage Fee				
	reMarkable Tablet Cover				
	Refund for Error Purchase				
	Office Chair for New Staff				
	Refreshments for Staff Meeting				
	White Board Accessory for Ely				
	Refreshments for M365 Training				
	Monthly Subs for reMarkable				
	Annual Conference Registration				
	Cal Citites Event Registration				
	Credit for Return of Items Ear				
	OCCMA Luncheon Registration Pa				
	Subs Membership				
	Amazon Prime Membership				
	Refund on Toner Cartridges				
	Client Da.Br. Reconnection VA				
	Client: Ch.Ma to Medical Appt				
	PIO Training Supp				
	Recruitment Banner				
	Uniform-Recruit Reyna				
	Supp-Training Sessions				
	Food-PIO Training 6/4-6/8/24				
	Refreshments-PD Interview/Test				
	Replace UPS Battery Pack				
	Timers-Animal Svs				
	Notebook Devices-Staff				
	Lodging-ATS 24 Conference				
	Awards Banquet/Fundraising				
	Tumblers-Crime PREV/Comm OR				
	Dog Food				
	Supp-Bicycle Detail/CPU/Ranger				

Report ID: CCM2001

City of Costa Mesa Accounts Payable

Page No. 4

SUMMARY CHECK REGISTER

Run Date Aug 09,2024

Bank: DDP1

Run Time 10:43:19 AM

Cycle: ADDEP1

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
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Line Description: PD Gym Equipment
4th of July Food-Deposit
Dept Promo Items
5.11 Response Jacket
Helmets-Bicycle Detail/CPU/Ran
Tape Measures-CSI
Armrests & 40mm Rack Parts
Food-Homicide Investigation
Inserts-Patrol Unit Gun Racks
Shadow Box-Beckner,Manson,Bak
ReMarkable Monthly Fee
Lodging-ATS 24 Conference
Promo Items-Crime PREV/Comm OR
Tools-Day Camp
Prime Membership
Cadet Program Duffle Bags
File Sharing Membership-Admin
PT Uniforms/Shirts/Shorts/Cade
Subs Chief Stefano
Annual Membership Fee
Water & Gatorade Sta 1
Annual Membership Fee Cheif S
Mesa Water District June 2024
Coffee
Coffee For BC Academy
Pastries for BC Academy
Sandwiches for BC Academy
Water & Gatorade-Fairview Park
CFED Hotels
Chief S BLS/CPR Class
Cofffee/Cups/Snack EMS
Coffee/Snack for EMS Class Day
ICSC Meal
ICSC Booth Expenses
Finance Dept Meeting
ReMarkable Monthly Fee
Fuel-City Vehicle (ICSC)
Credit-ICSC Booth Expense
Refund Cancelled Class&Duplica

Report ID: CCM2001

City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

Page No. 5

Bank: DDP1

Run Date Aug 09,2024

Cycle: ADDEP1

Run Time 10:43:19 AM

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
		Line Description:	CFED Conference		
			Wrong Credit Used		
			Coffee:Command Staff Meeting		
			Registration:Annual CCC 2024		
			Refund Wrong Credit Card Used		
			Cert Snacks		
			Kid Fire Helmets		
			Typewriter & Accessories CC		
			Headphone for Assistive Device		
			Working Lunch		
			Conf Reg-M Khou		
			Office Supplies		
			Conf Reg-C Molina		
			Time Clock Repair		
			Finance Dept Meeting		
			Bloomberg Subscription		
			Credit-Fraudulent Purchase		
			1 Night Charge Hold Lodging		
			Yrly Memberships-CE OFC/Chief		
			ICSC Lodging		
			Replace Cylinder-J Tol's Chair		
			Monthly Subscription Fees		
			GA.SA. Rental Application Cred		
			Gas Card for Client Reconnecti		
			Refund-Doordash Pass		
			Laptop Bag/Keyboard-J Colgan		
			Cannabis Dropbox- Submissions		
			Cannabis Sftwr App-Submissions		
			External Hard Drive-CMTV		
			City Council Meeting Dinner		
			Anaheim State of the City Regi		
			Promotional Item for Centenari		
			Planning Comm Bus Meeting		
			Monthly Fee-OpenAI ChatGPT		
			Refund-Planning Comm Meeting		
			Charger-Watch Commander Phone		
			Food-Supervisor Dept/FTO Mtng		
			Event Supply		
			Office Supp-Yuli		

Report ID: CCM2001

City of Costa Mesa Accounts Payable

Page No. 6

SUMMARY CHECK REGISTER

Run Date Aug 09,2024

Bank: DDP1

Run Time 10:43:19 AM

Cycle: ADDEP1

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
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Line Description:	Raffle Basket (Donation)				
	Citizens Academy Ceremony				
	Ride-to-School Certificate				
	City Council Meal				
	City Council Snacks				
	Gospels of OC Event				
	Coffee for CM Office				
	Stage for Love CM Day				
	Refreshments for Staff				
	Coffee Supplies for CM				
	reMarkable Monthly Subs				
	Frames for Proclamations				
	Conference Registration Deputy				
	Promotion Item for July 3rd Ev				
	Promotional Items July 3rd Eve				
	Promotional Items Juy 3rd Even				
	Refreshments for Employee Picn				
	reMarkable Monthly Subscriptio				
	CAL OSHA Penalty Fee				
	Supp-Animal Svs				
	MCV-Traffic Equip				
	Office Supp-Traffic				
	Water-Torch Run-Traffic				
	Radar Box Batteries-Traffic				
	Notebook-Staff				
	Notebook Covers				
	Water-Conference Mtg Supp				
	Headset Earpad Foam Replacemen				
	FAA Drone Registration				
	Camera Tripod Mounts-CSI				
	Moulding-Jail/Perkins Op				
	Cellphone Cables-Downloads				
	Thumbdrives-Immediate Case				
	Yrly Subscript-Spypoint Prem				
	Food-ISB-Homicide Investigatio				
	18oz Ramblers				
	Lodging-Training				
	Job Fair				
	Conference				

Report ID: CCM2001

City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

Page No. 7

Run Date Aug 09,2024

Run Time 10:43:19 AM

Bank: DDP1

Cycle: ADDEP1

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
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Line Description:

- Training Refreshments
- Tuition-ICS 400-Sevilla
- Tuition-PIO 101/201-Korte
- Lodging-Gang Conf-4 people
- Parking-Gang Conf-4 people
- Tuition-PC832 Arrest-Luque
- Tuition-SRO Advanced-Sapida
- Tuition-IAFCI Training-Dance
- Tuition-PIO 101/201-2 people
- Tuition-Traffic Safety Summit
- Lodging-Sherman Block 4-Luczki
- Refund-Tuition Overpayment-Dan
- SWAT Commander Mtg Parking-Hol
- Tuition-Comm Trng OFC-Hendrick
- Tuition-Drug Abuse Recog-Worki
- Tuition-Gang Inv Assoc Conf-3p
- Tuition-Supervisory Course-Mar
- SD Card-PD Nikon Z5
- Tuition-Adv Srch&Srz-Brown
- Tuition-Supervisory Crs-Korte
- Travel-Flock Forward Conf-Diaz
- Tuition-Civilian Ldrshp Inst-D
- Tuition-Colt 1911/M4/M16 Armor
- Tuition-Exam of Sim Imp-Pachec
- Tuition-Women Ldr in Law Enf-4
- SWAT Call-Out Food
- SWAT Range Targets
- SWAT Call-Out Water
- IAEM Conf-Travel
- EOC Kitchen Organizers
- EOC Snacks/Drinks Replacement
- iCloud Monthly Fee
- Adobe Suite Monthly Fee
- Vimeo-Yrly Subscription
- Name Plate-Sp 24 Champions
- Uniform Equip-Adult Sports
- Personal Charge
- Recreation Equipment
- Supp-Independence Day Event

Report ID: CCM2001

City of Costa Mesa Accounts Payable

Page No. 8

SUMMARY CHECK REGISTER

Run Date Aug 09,2024

Bank: DDP1

Run Time 10:43:19 AM

Cycle: ADDEP1

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
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Line Description:	Credit-Supp-Independence Day E
	Conference Lodging
	Confrence Registration
	Vacuums-NHCC
	Door Stops-NHCC
	HDMI Cords-NHCC
	Office Equip-NHCC
	Coffee Svc Supp-NHCC
	Maint/Cleaning Equip-NHCC
	Movies in Park Craft Supp
	Movies in Park Raffle Prizes
	Canopy Tops
	Office Furniture
	July 3rd Trophies
	Sp Event Equip/Freight
	Conference
	Meet&Greet
	Job Posting
	Rater Meals
	Office Chair
	Office Supplies
	Meeting Refreshments
	Labor Code Subscriptions
	Desk Chair&Office Chairs HR
	Equip-July 3rd Event
	Flowers-Commissioner
	Professional Dev Books
	Signage Recreation Equip
	Refreshments-Pre Mtg/Staff Mtg
	Uniforms
	Small Tools
	FVP Restoration
	Tools/Equipment
	Recreation Uniform
	Seed(ing) Equipment
	Food/Supp-Day Camp
	Food/Supp-Mobile Recreation
	Refreshments-Veterans Social G
	Meet&Greet

Report ID: CCM2001

City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

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Bank: DDP1
Cycle: ADDEP1

Run Date Aug 09,2024

Run Time 10:43:19 AM

<u>Payment Ref</u>	<u>Date</u>	<u>Status</u>	<u>Remit To</u>	<u>Remit ID</u>	<u>Payment Amt</u>
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<i>Line Description:</i>					
			Credit for Meet&Greet		
			Conference Registration		
			Oral Board Refreshments		
			Health&Wellness Supplies		
			Business Meeting/Interview		
			Geotech Automatic Level Calibr		
			Lantern Battery		
			Green Hexis Winyle for Sign Pr		
			Summer Seminar		
			ISA Membership Dues		
			Business Meeting		
			Business Meeting		

TOTAL	\$211,509.47
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Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
018280	08/09/24	P	Ariana Pacheco	0000029994	101.16
		<i>Line Description:</i> Essential Ridgeology Concept			
018281	08/09/24	P	Mark A Martinez	0000017462	359.00
		<i>Line Description:</i> Intro to Probabilities-Spr 24			
018282	08/09/24	P	Michael Luu	0000026362	24.00
		<i>Line Description:</i> Adv Interview & Interrogation			
018283	08/09/24	P	Monique Lopez	0000030886	671.71
		<i>Line Description:</i> Adult Correctional Officer Trn			
		Adult Correctional Officer Trn			
TOTAL					<u>\$1,155.87</u>

Report ID: CCM2001

City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

Page No. 1
Run Date Aug 09,2024
Run Time 10:44:46 AM

Bank: CITY
Cycle: AMNUAL

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249556	08/06/24	P	Jennifer West	0000026486	1,000.00
Line Description: Caricature Artists-NNO 8/6/24					
TOTAL					\$1,000.00

Report ID: CCM2001

City of Costa Mesa Accounts Payable

Page No. 1

SUMMARY CHECK REGISTER

Run Date Aug 09,2024

Bank: CITY
Cycle: AWKLY

Run Time 10:45:06 AM

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249557	08/09/24	P	All American Asphalt	0000000971	18,260.42
			Line Description: Retention Proj #22-08/#400015 Pavement Rehav #22-08/#400015		
0249558	08/09/24	P	Architerra Design Group	0000030581	44,143.77
			Line Description: Lions Pk Expansion Design-Apr Lions Pk Expansion Design-May		
0249559	08/09/24	P	Benefit Coordinators Corp	0000029594	42,426.10
			Line Description: Vision Ins Prem Dental Ins Prem		
0249560	08/09/24	P	BrightView Landscape Services Inc	0000026055	197,005.05
			Line Description: Maintenance Services Agreement		
0249561	08/09/24	P	City Net	0000029222	25,538.07
			Line Description: Street Outreach Prog-May 2024		
0249562	08/09/24	P	HVS	0000030682	15,000.00
			Line Description: Hotel Study		
0249563	08/09/24	P	LINA	0000015623	34,839.07
			Line Description: LTD Ins Prem July 24 Retiree Life Ins Prem July 24 Active Life/AD&D Ins Prem July Voluntary Life Ins Prem July 2		
0249564	08/09/24	P	Musco Sports Lighting LLC	0000009418	91,372.00
			Line Description: Upgrade sports field lighting		

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City of Costa Mesa Accounts Payable

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SUMMARY CHECK REGISTER

Run Date Aug 09,2024

Bank: CITY

Run Time 10:45:06 AM

Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249565	08/09/24	P	Nico Hospitality LLC	0000028926	67,182.48
		<i>Line Description:</i>	Kimberly Collens 6/12-6/26/24		
			Lisa Stines 6/1-6/21/24		
			Sameul Melendez 5/22-6/1/24		
			Lisa Stines 5/7-6/1/24		
			Cherriesse Magana 5/1-6/1/24		
			Christain Hernandez 5/1-6/1/24		
			Christina Worl 6/27-6/28/24		
			Claudia Ocampo 11/9-1/13/24		
			Karin Wilson 6/29-7/1/24		
			Jasmin Del Bosque 6/20-7/1/24		
			Alyssa Vazquez 6/11-7/1/24		
			Alexandria Marinovich 6/6-7/1		
			Cherriesse Magana 6/1-7/1/24		
			Christain Hrenandez 6/1-6/28/2		
			Hernan Calderon 6/1-7/1/24		
			Brandy Moreno 6/1-7/1/24		
			Sameul Melendez 6/1-7/1/24		
			Mina Kahkeshani 6/1-7/1/24		
0249566	08/09/24	P	Priceless Pet Rescue	0000026000	40,000.00
		<i>Line Description:</i>	Animal Shelter Adoption July24		
0249567	08/09/24	P	SCA of CA, LLC	0000029971	252,498.74
		<i>Line Description:</i>	Clean Street Sweeping		
			Bi-Weekly Pressure Washing Bus		
			Clean Street Sweeping Resident		
			Bi-Weekly Pressure Washing		
			Pressure Washing		
			Bi-Wk Pressure Washing-Bus She		
0249568	08/09/24	P	Save Our Youth	0000003929	38,584.46
		<i>Line Description:</i>	SOY Reimbursement 23/24		

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City of Costa Mesa Accounts Payable

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SUMMARY CHECK REGISTER

Run Date Aug 09,2024

Bank: CITY

Run Time 10:45:06 AM

Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249569	08/09/24	P	Southern California Edison Company	0000004088	123,324.38
<i>Line Description:</i> Joann Bike Trail July 24					
Fac & Equip 6/10-7/31/24					
Parks Maint 6/6-7/31/24					
Signals 6/6-7/31/24					
360 W Wilson 6/27-7/29/24					
702 1/2 Victoria 6/28-7/30/24					
702 Victoria 6/28-7/30/24					
1860 Anaheim 6/28-7/30/24					
SD Fwy On/Off July 24					
Npt Fwy/Baker July 24					
19th/NPT July 24					
Baker/Royal Palm July 24					
Balearic Ctr 6/6-7/8/24					
Balearic Ctr 5/7-6/5/24					
Balearic Ctr 4/8-5/6/24					
Vet Hall 6/6-7/8/24					
Vet Hall 5/7-6/5/24					
Volcom Skate Park 7/2-8/1/24					
980 Arlington 7/2-8/1/24					
970 Arlington 7/2-8/1/24					
Sr Ctr 6/27-7/29/24					
1624 Gisler July 24					
1035 Park Crest 7/2-8/1/24					
3129 Harbor July 24					
1860 Anaheim 6/27-7/29/24					
885 Junipero 7/2-8/1/24					
NHCC 6/27-7/29/24					
Sunflower/Plaza July 24					
Sunflower/Plaza-Loan 8670 7/24					
Tennis Ctr 7/2-8/1/24					
2750 Fairview 7/2-8/1/24					
0249571	08/09/24	P	StandUp for Kids, Inc.	0000030323	19,247.16
<i>Line Description:</i> Wrap-Around Case Management Sr					

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City of Costa Mesa Accounts Payable

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SUMMARY CHECK REGISTER

Bank: CITY
Cycle: AWKLY

Run Date Aug 09,2024

Run Time 10:45:06 AM

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249572	08/09/24	P	Trellis	0000025584	26,233.02
			Line Description: Housing Related Support Svcs		
0249573	08/09/24	P	West Coast Arborists Inc	0000004498	17,892.75
			Line Description: Tree Maint 7/1-7/15/24		
0249574	08/09/24	P	4Leaf Inc	0000029711	4,243.33
			Line Description: Plan Review-Jun 24		
0249575	08/09/24	P	AT & T	0000001107	85.60
			Line Description: Internet-Skate Park Camera		
0249576	08/09/24	P	AT & T	0000001107	1,270.30
			Line Description: Red Phone Fire Sta#6		
			Red Phone Fire Sta#1		
			Red Phone Fire Sta#4		
			NCC Fire Alarm		
			Lions Park Baseball Field		
			DRC Fire Alarm (incl 5/20-6/19		
			WSS Alarm		
			Jack Hamett Sports Complex		
			Fire Emergency Line		
			Metro Net		
			PRI Circuit Inbound Trunk		
			Red Phone Fire Sta#5		
			Red Phone Fire Sta#3		
			Red Phone Fire Sta#2		
0249577	08/09/24	P	Adamson Police Products	0000014519	2,010.67
			Line Description: Simunition Conversion kits for		
0249578	08/09/24	P	Adlerhorst International	0000000906	3,500.00

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City of Costa Mesa Accounts Payable

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SUMMARY CHECK REGISTER

Run Date Aug 09,2024

Bank: CITY

Run Time 10:45:06 AM

Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
			Line Description: Off Site Trng Jul 24-Jun 25		
0249579	08/09/24	P	Alannah Van Boven	0000025553	17.00
			Line Description: Refund Permit 2008424.002		
0249580	08/09/24	P	Alejandra Medrano	0000030864	200.00
			Line Description: Refund Permit 2008415.002		
0249581	08/09/24	P	Ardurra Group, Inc.	0000030147	10,595.00
			Line Description: I-405 Trans Eng On-Call June24 On-Call Transp Eng Svc Jun 24		
0249582	08/09/24	P	Ashley Buchner	0000030884	35.00
			Line Description: Refund Permit 2008423.002		
0249583	08/09/24	P	Atkinson Andelson Loya Ruud & Romo	0000027289	2,330.41
			Line Description: Legal Litigation Legal Litigation		
0249584	08/09/24	P	BKF Engineers	0000024944	2,414.75
			Line Description: FS#5 Pkng Lot Reconfiguration		
0249585	08/09/24	P	Barbara Kovensky	0000030866	2,892.06
			Line Description: Refund Ambulance Fee		
0249586	08/09/24	P	Barnum Stage Rental LLC	0000030762	7,500.00
			Line Description: Stage Rental for CIP		
0249587	08/09/24	P	Bay Alarm Company	0000030239	180.00

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City of Costa Mesa Accounts Payable

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SUMMARY CHECK REGISTER

Run Date Aug 09,2024

Bank: CITY

Run Time 10:45:06 AM

Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
			Line Description: Alarm Svc @3190 Airport Lp		
0249588	08/09/24	P	Beau Hossler	0000029714	90.00
			Line Description: Basketball Referee-8/5/24		
0249589	08/09/24	P	Black Forest LTD	0000030003	6,017.24
			Line Description: SERVICE PINS Shipping Fee		
0249590	08/09/24	P	Blue Cross	0000005329	3,439.38
			Line Description: Refund Ambulance Fee Refund Ambulance Fee Refund Ambulance Fee		
0249591	08/09/24	P	Blue Shield of California	0000028683	175.00
			Line Description: Refund Ambulance Fee		
0249592	08/09/24	P	Bretoi Lutz & Steele	0000030863	112.67
			Line Description: Subpoena DepRfnd 001-00377255		
0249593	08/09/24	P	CA Dept of Tax & Fee Administration	0000025959	2,392.00
			Line Description: Use & Sales Tax FY 23-24		
0249594	08/09/24	P	CAPF	0000004755	2,419.00
			Line Description: Long Term Disability		
0249595	08/09/24	P	CLEA	0000004754	3,776.00
			Line Description: Long Term Disability		

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City of Costa Mesa Accounts Payable

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SUMMARY CHECK REGISTER

Run Date Aug 09,2024

Bank: CITY

Run Time 10:45:06 AM

Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249596	08/09/24	P	Cheryl Olive	0000030872	1,783.65
		Line Description: Refund Ambulance Fee			
0249597	08/09/24	P	Cindy Vo	0000030862	500.00
		Line Description: Refund Permit EENC-24-0518			
0249598	08/09/24	P	Cintas Corporation #640	0000023262	182.00
		Line Description: Kitchen Cleaning Supply-Jun 24			
0249599	08/09/24	P	Community Works Design Group, LLC	0000030548	10,432.91
		Line Description: Shalimar Pk Expension-Mar 24			
		Shalimar Pk Expension-Apr 24			
0249600	08/09/24	P	Daivd See	0000030879	3,800.00
		Line Description: Refund Permit PMCP-24-0007			
0249601	08/09/24	P	Data Ticket Inc	0000010929	8,342.33
		Line Description: Prkng Citation Process-Jun2024			
		Handhelds Maint Jul 24-AJun 25			
0249602	08/09/24	P	David Maloney	0000030869	24.15
		Line Description: Refund Ambulance Fee			
0249603	08/09/24	P	Dell Computer Corp	0000001962	14,399.87
		Line Description: ELECTRONIC EQUIPMENT			
0249604	08/09/24	P	Demetrius Mayhand	0000030111	90.00
		Line Description: Basketball Referee-8/5/24			

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City of Costa Mesa Accounts Payable

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SUMMARY CHECK REGISTER

Run Date Aug 09,2024

Bank: CITY
Cycle: AWKLY

Run Time 10:45:06 AM

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249605	08/09/24	P	Employment Development Department	0000001543	424.00
			Line Description: Unemploymnet Apr-Jun 24		
0249606	08/09/24	P	Entrust Janitorial LLC	0000030309	875.00
			Line Description: Janitorial Svc @3190 Airport		
0249607	08/09/24	P	Everett Dorey LLP	0000026882	2,057.00
			Line Description: Legal Svc-June 2024		
0249608	08/09/24	P	Farhan Chowdhury	0000030269	60.00
			Line Description: Basketball Referee-7/31/24		
0249609	08/09/24	P	Ford Fleet Care	0000026262	4,263.07
			Line Description: Ford Parts-June 2024		
			Ford Repairs-July 2024		
			Ford Parts-Jul 2024		
0249610	08/09/24	P	Galls LLC	0000002297	6,844.50
			Line Description: Uniform-Wilson		
			Uniform-Lugue		
			Uniform-Tu		
			Uniform-Brown		
			Credit on Uniforms-Brown		
			Uniform-Gomez		
			Uniform-Ocampo		
			Uniform-Toy		
			Uniform-Peters		
			Uniform-Vaughn		
			Uniform-Davis		
			Uniform-Bao		
			Uniform-Sieder		
			Uniform-Valdenor		
			Uniform-Delgado		

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City of Costa Mesa Accounts Payable

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Bank: CITY

SUMMARY CHECK REGISTER

Run Date Aug 09,2024

Cycle: AWKLY

Run Time 10:45:06 AM

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
			<i>Line Description:</i> Uniform-Maldonado Uniform-Cutierrez Uniform-Guzman Uniform-Scheiber Uniform-Gutierrez Uniform-Maldonado Uniform-Guzman Uniform-Bissell		
0249612	08/09/24	P	Gold Coast Health Plan	0000030865	946.92
			<i>Line Description:</i> Refund Ambulance Fee		
0249613	08/09/24	P	Harbor All Glass & Mirror Inc	0000002453	1,213.17
			<i>Line Description:</i> Glass Replacemnt @ Shelter		
0249614	08/09/24	P	Hardy Windows	0000030882	728.73
			<i>Line Description:</i> Refund Permit BXWN-24-0058		
0249615	08/09/24	P	Helen Japenga	0000030868	216.80
			<i>Line Description:</i> Refund Ambulance Fee		
0249616	08/09/24	P	Integrated Impressions	0000003403	1,020.88
			<i>Line Description:</i> New Employee Promotional Items Promotional Items-New Hire		
0249617	08/09/24	P	Interstate Batteries of California Coast	0000002700	4,294.36
			<i>Line Description:</i> Stock Stock		
0249618	08/09/24	P	Irvine Pipe & Supply Inc	0000002711	898.48
			<i>Line Description:</i> Plumbing Supplies		

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City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

Page No. 10

Run Date Aug 09,2024

Run Time 10:45:06 AM

Bank: CITY
Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249619	08/09/24	P	Isabel Mora	0000025090	10.00
			Line Description: Refund Permit 2007398.002		
0249620	08/09/24	P	Joe Mar Polygraph & Investigation	0000027462	1,500.00
			Line Description: Pre Emplmnt Polygraph Exam-Mar		
			Pre Emplmnt Polygraph Exam-Apr		
0249621	08/09/24	P	Jonah Fisher	0000030881	363.60
			Line Description: Refund Permit BXPV-23-0118		
0249622	08/09/24	P	KOA Corporation	0000003129	2,459.20
			Line Description: Pedestrian Master Plan Update		
0249623	08/09/24	P	Kamber Hejlik	0000030880	3,800.00
			Line Description: Refund Permit PMCP-24-0006		
0249624	08/09/24	P	Karajane Mitchell	0000004676	24.15
			Line Description: Refund Ambulance Fee		
0249625	08/09/24	P	Karen Varese Diedrich	0000014828	414.00
			Line Description: Refund Ambulance Fee		
0249626	08/09/24	P	Kimball Midwest	0000006819	272.03
			Line Description: Shop Supplies		
0249627	08/09/24	P	Langlois Fancy Frozen Foods	0000030651	517.98
			Line Description: Jail Food Services August		
			Jail Food Services July		

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City of Costa Mesa Accounts Payable

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SUMMARY CHECK REGISTER

Run Date Aug 09,2024

Bank: CITY

Run Time 10:45:06 AM

Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249628	08/09/24	P	Lehr Auto Electric & Emergency Equipment	0000014732	1,377.05
			Line Description: Swivel Arm Rests		
0249629	08/09/24	P	Liebert Cassidy Whitmore	0000002960	3,729.00
			Line Description: LEGAL SERVICES - HR		
			LEGAL SERVICES - HR		
			LEGAL SERVICES - HR		
			LEGAL SERVICES - HR		
0249630	08/09/24	P	Long Beach BMW	0000015745	1,624.02
			Line Description: 624 Replaced Clutch		
0249631	08/09/24	P	Maria Ortega	0000004592	425.00
			Line Description: Refund Permit 2008422.002		
0249632	08/09/24	P	Mobile Home Improvement	0000015213	9,515.00
			Line Description: RehabGran1845 Monrovia Ave #37		
0249633	08/09/24	P	Monarch Health Plan	0000028699	4,852.80
			Line Description: Refund Ambulance Fee		
			Refund Ambulance Fee		
			Refund Ambulance Fee		
			Refund Ambulance Fee		
			Refund Ambulance Fee		
			Refund Ambulance Fee		
0249634	08/09/24	P	Noregon Systems Inc	0000028887	3,599.00
			Line Description: JPRO Renewal Subscription - Fa		
0249635	08/09/24	P	Noridian Medicare	0000028718	411.06

Report ID: CCM2001

City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

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Run Date Aug 09,2024

Run Time 10:45:06 AM

Bank: CITY

Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
			Line Description: Refund Ambulance Fee		
0249636	08/09/24	P	Orange County Fair & Event Center	0000003432	150.00
			Line Description: Officer Training		
0249637	08/09/24	P	Orange County LGBT Pride, Inc.	0000030887	10,000.00
			Line Description: OC Pride Festial-10/05/24		
0249638	08/09/24	P	Pacific Advanced Civil Engineering Inc	0000014386	6,025.00
			Line Description: Progress Payment Engineering		
0249639	08/09/24	P	Pacific Medical Waste	0000029793	191.55
			Line Description: Price Agreement		
0249640	08/09/24	P	Pamela Brody	0000030883	10.00
			Line Description: Refund Permit 2007399.002		
0249641	08/09/24	P	Peckham & McKenney Corp	0000030678	8,833.34
			Line Description: Economic/Development Svcs Dire		
0249642	08/09/24	P	Peter Krusic	0000030867	275.00
			Line Description: Refund Ambulance Fee		
0249643	08/09/24	P	Pivot Solutions LLC	0000030415	3,022.79
			Line Description: 782 Paint and Body Repair		
0249644	08/09/24	P	Priority Landscape Services LLC	0000026592	4,160.00
			Line Description: Fariview Park Landscape June		

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SUMMARY CHECK REGISTER

Run Date Aug 09,2024

Bank: CITY

Run Time 10:45:06 AM

Cycle: AWKLY

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
0249645	08/09/24	P	RPW Services Inc	0000012440	7,900.00
			Line Description: Citywide Weed & Pest Control		
0249646	08/09/24	P	SVT Fleet Solutions	0000030535	2,267.83
			Line Description: 517-Calibrate VGT Actuator		
0249647	08/09/24	P	Sandy Pearson	0000022626	1,000.00
			Line Description: Refund Permit EENC-24-0379		
0249648	08/09/24	P	Sean Simon	0000029869	60.00
			Line Description: Basketball Referee-7/31/24		
0249649	08/09/24	P	Simon Christian Roth	0000030871	1,076.06
			Line Description: Refund Ambulance Fee		
0249650	08/09/24	P	Sitescapes Inc	0000022935	8,476.00
			Line Description: Designs&Preliminary Plans Art		
0249651	08/09/24	P	South Coast Air Quality Mgmt District	0000003939	169.90
			Line Description: AQMD Fee Jul 23-Jun 24		
0249652	08/09/24	P	Southern California Shredding Inc	0000025605	145.00
			Line Description: On-Site Shredding Services PD		
0249653	08/09/24	P	Syed Shakir	0000030870	100.00
			Line Description: Refund Ambulance Fee		
0249654	08/09/24	P	The Counseling Team International	0000026352	2,060.00
			Line Description: Individual Psych Fire		

Report ID: CCM2001

City of Costa Mesa Accounts Payable

Page No. 14

SUMMARY CHECK REGISTER

Run Date Aug 09,2024

Bank: CITY
Cycle: AWKLY

Run Time 10:45:06 AM

Payment Ref	Date	Status	Remit To	Remit ID	Payment Amt
			Line Description: Individual Psych Fire Individual Psych Fire Individual Psych Fire Individual Psych Fire		
0249655	08/09/24	P	The Lincoln National Life Insurance Co	0000030039	14,636.70
			Line Description: STD Ins Prem Aug 2024		
0249656	08/09/24	P	The Solis Group	0000030649	1,608.00
			Line Description: Community Workforce June 2024		
0249657	08/09/24	P	Toni Cuffari	0000030873	379.66
			Line Description: Refund Ambulance Fee		
0249658	08/09/24	P	Townsend Public Affairs Inc	0000021510	6,500.00
			Line Description: Legislative Consulting July 24		
0249659	08/09/24	P	Traffic Logix Corp	0000024421	2,100.00
			Line Description: Sales Tax Use & Sales Tax Payable VMS Cloud Subscription Renewal		
0249660	08/09/24	P	US Bank	0000002228	6,656.42
			Line Description: Payroll 24-15		
0249661	08/09/24	P	United Site Services of California Inc	0000015552	98.75
			Line Description: Portable Toilet Srvs 6/19-7/1/ Portable Toilet Srvs 6/19-7/1/		
0249662	08/09/24	P	Verified First LLC	0000027240	20.00
			Line Description: Pre-Employment Credit Checks		

Report ID: CCM2001

City of Costa Mesa Accounts Payable
SUMMARY CHECK REGISTER

Page No. 15

Bank: CITY
Cycle: AWKLY

Run Date Aug 09,2024

Run Time 10:45:06 AM

<u>Payment Ref</u>	<u>Date</u>	<u>Status</u>	<u>Remit To</u>	<u>Remit ID</u>	<u>Payment Amt</u>
0249663	08/09/24	P	Verizon Wireless	0000008717	2,193.94
			<i>Line Description:</i> WIRELESS PHONE		
0249664	08/09/24	P	West Coast Fence Co	0000021495	6,990.00
			<i>Line Description:</i> Fence Rental Fairview Park CS		
TOTAL					\$1,304,640.53



CITY OF COSTA MESA

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 24-330

Meeting Date: 9/3/2024

TITLE:

MINUTES

DEPARTMENT: City Manager's Office/City Clerk's Division

RECOMMENDATION:

City Council approve the minutes of the regular meeting of August 6, 2024.



REGULAR CITY COUNCIL AND HOUSING AUTHORITY TUESDAY, AUGUST 6, 2024 - MINUTES

CALL TO ORDER –The Closed Session meeting was called to order by Mayor Stephens at 5:01 p.m.

ROLL CALL

Present: Council Member Chavez, Council Member Gameros (Arrived 5:14 p.m.), Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Absent: None.

PUBLIC COMMENTS – NONE.

CLOSED SESSION ITEMS:

1. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Pursuant to California Government Code Section 54956.8

APN: 424-051-23; Property: 778 Shalimar Drive, Costa Mesa, CA 92627

Agency Negotiators: Lori Ann Farrell Harrison, City Manager

Negotiating Parties: Dominic Bulone

Under Negotiation: Price and Terms of Payment

City Council recessed at 5:02 p.m. for Closed Session.

Closed Session adjourned at 5:54 p.m.

CALL TO ORDER The Regular City Council and Housing Authority meeting was called to order by Mayor Stephens at 6:05 p.m.

NATIONAL ANTHEM AND PLEDGE OF ALLEGIANCE – A video was played of the National Anthem and the mayor led the Pledge of Allegiance.

MOMENT OF SOLEMN EXPRESSION – Led by Pastor Phil Eyskens, Lighthouse Church.

ROLL CALL

Present: Council Member Chavez, Council Member Gameros, Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Absent: None.

CITY ATTORNEY CLOSED SESSION REPORT – No reportable action.

PRESENTATIONS:

The Mayor recognized the Costa Mesa Pony 13U All-Stars and 10U Sox.

The Mayor recognized the Costa Mesa Little League 10U, 11U and 12U All-Stars, and Major Dodgers.

PUBLIC COMMENTS – MATTERS NOT LISTED ON THE AGENDA

Speaker, spoke against the traffic calming measures on West 19th Street, provided photos, and the potential effects on emergency response times.

Speaker, spoke on the no loitering or camping in vehicles signage at Fairview Park, and would like the 4 hour time limit changed to 6 hours, and spoke on monitoring the parking at Fairview Park.

Scott Glabb, spoke on the Costa Mesa High School football team, invited the City Council to attend the football games, and spoke on sponsorship of the team.

Terri Fuqua, Costa Mesa, spoke on people camping in cars and vans all day at Fairview park and requested additional park rangers for enforcement.

Aayush Manapat, Policy Intern, representing Orange County Supervisor Foley's office, provided an update on the activities of the Supervisor's office.

Speaker, Costa Mesa, spoke on resources for the homeless, and spoke on safe parking for the homeless.

Roberto Herrera, Resilience Orange County, requested audio Spanish translation be available on YouTube, requested the agendas be published earlier, spoke on the alleyway on Plumer Street, and requested a crosswalk at the intersection of Placentia Avenue and Center Street.

Alberta Mirisciotti spoke in support of a beekeeping ordinance.

Marcel Arriba, Costa Mesa, requested audio Spanish translation be available on YouTube.

Greg Tennell, Costa Mesa, spoke against third party animal licensing and requested the process be brought in house.

Speaker, requested the Spanish agendas be published earlier, and requested the Costa Mesa recycling center be reopened.

Speaker, requested a crosswalk at Placentia Avenue and Center Street, spoke on alleys at Valencia Street, and spoke on animals and taxes.

Ralph Taboada, Costa Mesa, thanked staff, the Police Department, Mayor Stephens, and Council Members Marr and Reynolds for their support of the Costa Mesa Grand Prix, and spoke in support of biking and walking in Costa Mesa.

Speaker, invited City Council to a meeting on August 17th regarding alleyways near Center Street.

Carmen Ramirez, Costa Mesa, requested a crosswalk at Center Street and Placentia Avenue, thanked the City for translation services and including them in community meetings, and spoke on youth in the community playing safely in the parks.

Scott Carroll, Costa Mesa Sanitary District, spoke on upcoming townhall meetings regarding the transition to the new waste collection system.

COUNCIL MEMBER COMMITTEE REPORTS, COMMENTS, AND SUGGESTIONS

Council Member Harper thanked Scott Glabb for his service on the Parks and Community Services Commission, spoke on homelessness in the community, requested the agenda to be posted earlier, spoke in support of beekeeping, spoke on dog licensing, spoke on noise complaints from rumble strips along Adams Avenue, and spoke on the complaint from Karen Millard regarding being overbilled by the Sanitary District and the response from the Sanitary District.

Council Member Marr expressed apologies for not attending the last meeting, spoke on the Costa Mesa Grand Prix, spoke on the meeting videos being posted in Spanish, spoke on the Orange Coast College Recycling Center, and spoke on the Costa Mesa Sanitary District Town Hall meetings and outreach on the new waste collection system.

Council Member Reynolds spoke on the Costa Mesa Grand Prix, spoke on the Newport-Mesa Resource Fair and swimming lessons, spoke in support of the pop up bike lanes, thanked Sergio Escobar and Ivis Torres for their work in the community, spoke on the City's values and making meetings more accessible, spoke on compassion, inquired on pet licensing, spoke on the Fairview Park Master Plan process and the next meeting will be held on Wednesday, September 4th at the Senior Center, and spoke on traffic calming requests.

Council Member Chavez praised the Police Department for their responsiveness, and improvement in community relations, spoke on the August 11th back to school event on Shalimar Drive, spoke on the Tuesday, August 13th prayer walk at Shalimar Park, spoke on the intersection at Placentia Avenue and Center Street, spoke in support of translating YouTube videos, and requested staff address speeding concerns at the intersection of Mesa Verde West and Country Club Road.

Council Member Gameros spoke on positive changes in the community and the Police Department's involvement, spoke on the upcoming workshop on August 9th on the Fairview Developmental Center, spoke on the August 15th free housing workshop, spoke on the city recruiting in the Police Department, thanked the Police Department cadets for traffic control during the Orange County Fair, spoke on pool safety, and spoke on the City of the Arts and Art Venture opening day at Norma Hertzog Community Center on August 14th.

Mayor Pro Tem Harlan spoke on school starting on Monday, August 19th, spoke on the demolition derby event at the Orange County Fair, spoke on the concerts in the park, the Raiders Training Camp, attending the 1st annual car show at Ganahl Lumber, and requested an update on the park rangers at Harper Park.

Mayor Stephens spoke on the Raiders Training Camp, spoke on Dan Krikorian appointed as head basketball coach at Chapman University, spoke in support of Spanish translation for YouTube, spoke in support of posting the agendas earlier, spoke in support of researching Placentia Avenue and Center Street safety measures, thanked Costa Mesa TV for their work at the council meetings, spoke on attending the Costa Mesa Grand Prix, spoke on the issues at Clearbrook Lane and spoke on e-bike safety.

REPORT – CITY MANAGER – Ms. Farrell Harrison, reported on the park rangers at Harper Park, that staff is exploring Spanish translation services and YouTube options, staff will research Placentia Avenue and Center Street safety measures, and thanked public commenters for their kind words toward staff.

REPORT – CITY ATTORNEY – NONE.

CONSENT CALENDAR

MOVED/SECOND: Council Member Chavez/Council Member Harper

MOTION: Approve the Consent Calendar.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: None.

Absent: None.

Abstain: Council Member Gameros recused himself on item 3 the Warrant Resolution due to his wife being employed by Priceless Pet Rescue.

Motion carried: 7-0

1. PROCEDURAL WAIVER: WAIVE THE FULL READING OF ALL ORDINANCES AND RESOLUTIONS

ACTION:

City Council and Housing Authority approved the reading by title only and waived further reading of Ordinances and Resolutions.

2. READING FOLDER

ACTION:

City Council received and filed Claims received by the City Clerk and authorized staff to reject any and all Claims: Subro Claims, Inc. on behalf of Geico Ins. for Alex Hernandez, Ashley Ned, Mercury Ins. for Richard Chamberlin, Zoe Marie Neria Percival.

3. ADOPTION OF WARRANT RESOLUTION

Council Member Gameros recused himself on this item due to his wife being employed by Priceless Pet Rescue.

ACTION:

City Council approved Warrant Resolution No. 2721.

4. MINUTES

ACTION:

City Council approved the minutes of the regular meeting of July 16, 2024.

5. AGREEMENT FOR A SCHOOL RESOURCE OFFICER PROGRAM BETWEEN THE CITY OF COSTA MESA AND NEWPORT-MESA UNIFIED SCHOOL DISTRICT FOR FISCAL YEAR 2024-2025

ACTION:

1. City Council approved the agreement for a School Resource Officer (SRO) Program between the City of Costa Mesa and Newport-Mesa Unified School District (NMUSD) for Fiscal Year 2024-2025.

2. Authorized the City Manager to execute the agreement.

6. SERVICE AGREEMENT AMENDMENT WITH TYLER TECHNOLOGIES PERTAINING TO IMPLEMENTATION OF THE CITY'S LAND MANAGEMENT SYSTEM (TESSA) UPDATE

ACTION:

1. City Council authorized the City Manager and City Clerk to increase the total compensation by \$90,000 to a not-to-exceed amount of \$1,300,856, in substantially the form as approved by the City Attorney.

2. Authorized the City Manager to approve future amendments to the agreement with Tyler Technologies in an amount not-to-exceed \$100,000.

7. AUTHORIZE THE PURCHASE OF FORD FLEET VEHICLES

ACTION:

1. City Council authorized by minute action, that compliance with the bidding requirements and procedures is inefficient and not in the best interest of the city, based on identified conditions and supported by substantial evidence.

2. Authorized the purchase of Ford fleet vehicles from local authorized Ford dealerships.

3. Authorized the City Manager or designee to execute the necessary documents for the purchase of new and replacement Ford fleet vehicles as approved in Fiscal Year 2024-2025, and as approved during the annual budget.

PUBLIC HEARINGS:

(Pursuant to Resolution No. 05-55, Public Hearings begin at 7:00 p.m.)

1. **INTRODUCTION AND FIRST READING OF AN ORDINANCE APPROVING THE FIRST AMENDMENT (DA-20-05) TO DEVELOPMENT AGREEMENT (DA-94-01) BETWEEN THE CITY OF COSTA MESA AND THE INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB ALLOWING FOR A 20-YEAR TIME EXTENSION THAT WOULD EXPIRE OCTOBER 31, 2044; AMENDING PROVISIONS PERTAINING TO THE RATE AND METHODOLOGY FOR CALCULATING TRAFFIC IMPACT FEES; AND, AMENDING PROVISIONS RELATED TO THE SETBACK OF A FUTURE PARKING STRUCTURE; FOR A PROPERTY LOCATED AT 3333 FAIRVIEW ROAD**

Ex Parte Communications:

Council Members Reynolds met with the applicant.

Mayor Stephens, Mayor Pro Tem Harlan, Marr, Gameros, and Chavez spoke with the applicant.

Presentation by Mr. Aldana, Assistant Planner.

The Interinsurance Exchange of the Automobile Club spoke on the item.

Discussion ensued on the applicant continuing to work with the City on potential changes such as a pathway, bike lanes, and the parking area.

Public Comments:

Marc Vukceovich spoke on the potential uses at the site, the amount of parking, and is opposed to the parking structure.

MOVED/SECOND: Mayor Stephens/Council Member Harper

MOTION: Approve staff recommendation.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: None.

Absent: None.

Abstain: None.

Motion carried: 7-0

ACTION:

1. City Council found, pursuant to CEQA Guidelines Section 15162, that the project is within the scope of the June 20, 1994-certified Final Environmental Impact Report (EIR) #1045 (State Clearing House No. 94021036) for the Auto Club Expansion project. The effects of the project were examined in the 1994 FEIR, and all feasible

mitigation measures and alternatives developed in the 1994 FEIR are incorporated into this project and no new mitigation measures are required. Therefore, the 1994 FEIR for the Automobile Club Expansion project is determined to be adequate to serve as the environmental documentation for this project, that no further environmental review is required, and that all requirements of CEQA are satisfied.

2. Introduced for first reading, by title only, Ordinance 2024-10 approving the First Amendment (DA-20-05) to the Automobile Club of Southern California Development Agreement (DA-94-01) to allow for a 20-year time extension that would expire October 31, 2044; to amend provisions pertaining to the rate and methodology for calculating traffic impact fees; and to amend provisions related to the setback of a future parking structure.

City Council recessed into a break at 8:31 p.m.

City Council reconvened at 8:48 p.m.

2. ORDINANCE NO. 2024-02 AMENDING TITLE 13 (PLANNING, ZONING AND DEVELOPMENT) OF THE COSTA MESA MUNICIPAL CODE TO ESTABLISH AFFORDABLE HOUSING REQUIREMENTS FOR NEW RESIDENTIAL DEVELOPMENT PROJECTS, AND A FEE RESOLUTION TO ESTABLISH THE AFFORDABLE HOUSING IN-LIEU FEE SCHEDULE

Presentation by Ms. Gregg, Contract Planner.

Discussion ensued on in-lieu fees, whether other cities have an affordable housing ordinance and in-lieu fees, development agreements, the \$2.5 million trust fund, and housing opportunity sites.

Public Comments:

Adam Wood, Building Industry Association, requested an update on the rezoning process, spoke on sluggish home sales, and the need to build units.

Jenn Tanaka, Costa Mesa, spoke on the need to build housing and spoke on in-lieu fees, revisiting the fees on a regular basis and including the wording to the ordinance.

Speaker, Resilience Orange County, spoke on housing insecurity, spoke in support of low and very low options for rental units, spoke in support of on-site production instead of in-lieu fees, and to have the ordinance apply to as many developments as possible.

Betsy Densmore spoke on the need for housing for working class people, spoke on in-lieu fees and market changes, and spoke in support of 15% of the units to be for those who work in the city.

Speaker, echoed previous speaker, spoke in support of higher density, spoke on rezoning north Costa Mesa, spoke on rental property changes, spoke on considering Area Median Income (AMI) and noted that it changes yearly, and spoke on the need for attainable housing not just affordable housing.

Cynthia McDonald, Costa Mesa, spoke in opposition of the ordinance as currently written, spoke on lowering the threshold of units and to raise the percentage of low and very low income units, and spoke on defining the purpose of the trust fund.

Kathy Esfahani, Costa Mesa Affordable Housing Coalition, spoke on the need for affordable housing, and spoke on strengthening the inclusionary housing ordinance by lowering the threshold from 50 to 30 units.

Speaker, inquired on the benefit of building more housing, and spoke on finding affordable housing in other areas.

MOVED/SECOND: Council Member Marr/Council Member Reynolds

MOTION: Approve staff recommendation regarding in-lieu fees, lower the project threshold from 50 units to 30 units, require every two years a review of the in-lieu fee threshold, and agendize within the next two months the affordable housing trust fund to discuss its purpose, intent, and goals.

SUBSTITUTE MOTION/SECOND: Council Member Harper

SUBSTITUTE MOTION: Receive and file the report.

The motion failed for lack of a second.

SUBSTITUTE MOTION/SECOND: Council Member Chavez/Mayor Pro Tem Harlan

SUBSTITUTE MOTION: Approve staff recommendation with the project threshold at 50 units, change the in-lieu fee to a flat \$10 fee and review every year, and bring back the affordable housing trust fund for discussion, clarification, and direction.

Mayor Stephens requested to change the number of threshold units to 30, to change the review to every two years, and to agendize the affordable housing trust for clarification.

Council Member Chavez (1st) and Mayor Pro Tem Harlan (2nd) agreed to change the review to every two years.

Council Member Chavez noted that the affordable housing trust fund was already included in his motion.

Council Member Harper requested the \$2.5 million of affordable housing trust fund be dedicated to any form of homeownership in Costa Mesa.

City Attorney Hall Barlow explained that the request could not be considered as the item is not on the agenda and will be agendized at a future date.

Discussion ensued on the \$10 in-lieu fee and the project threshold at 50 units.

SUBSTITUTE MOTION /SECOND: Council Member Chavez/ Mayor Pro Tem Harlan
SUBSTITUTE MOTION: Approve staff recommendation with the project threshold at 50 units, change the in-lieu fee to a flat \$10 fee and review every two years, and bring back the affordable housing trust fund for discussion, clarification, and direction.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Harper, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: Council Member Gameros, Council Member Marr, and Council Member Reynolds.

Absent: None.

Abstain: None.

Motion carried: 4-3

ACTION:

1. City Council found that the adoption of Ordinance No. 2024-02 is exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15061(b)(3), General Rule in that the Affordable Housing Ordinance and subsequent Affordable Housing In-Lieu Fee will not have a significant impact on the environment.
2. Adopted Ordinance No. 2024-02, approving the Affordable Housing Ordinance and amending Title 13 to establish the affordable housing requirements for certain new residential development projects.
3. Adopted a fee resolution establishing the affordable housing in-lieu fee.

OLD BUSINESS: NONE.

MOVED/SECOND: Mayor Stephens/Mayor Pro Tem Harlan

MOTION: Consider New Business item No. 3 next.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: None.

Absent: None.

Abstain: None.

Motion carried: 7-0

NEW BUSINESS:

3. GENERAL PLAN (PSCR-24-0001) AND RESIDENTIAL INCENTIVE OVERLAY DISTRICT DEVELOPMENT SCREENING REQUEST FOR A PROPOSED RESIDENTIAL DEVELOPMENT ON A 1.77 ACRE SITE LOCATED AT 220 VICTORIA PLACE (“VICTORIA PLACE”)

Presentation by Mr. Mendez, Senior Planner.

Public Comments:

Speaker, spoke on development and the need for small businesses.

Cynthia McDonald spoke on density, spoke on the live/work concept and how it would impact the trip count, spoke on improvements to Victoria Place, and spoke on engaging the public and visioning.

ACTION:

City Council provided input on the General Plan Amendment associated with the proposed development of 40 residential units for the property located at 220 Victoria Place.

MOVED/SECOND: Council Member Harper/Council Member Chavez

MOTION: Reorder the agenda to consider New Business item No. 6, then New Business item No. 5, and reschedule New Business item No. 1 and New Business item No. 4 to the next regularly scheduled City Council meeting.

Discussion ensued on which items to consider and which items to defer to the next meeting.

MOVED/SECOND: Council Member Harper/Council Member Chavez

MOTION: Reorder the agenda to consider New Business item No. 6, then New Business item No. 5, then New Business item No. 4, and reschedule New Business item No. 1 to the next regularly scheduled City Council meeting.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: None.

Absent: None.

Abstain: None.

Motion carried: 7-0

1. CITY COUNCIL FIRST READING OF ORDINANCE TO INCREASE CITY COUNCIL COMPENSATION

ACTION:

City Council continued the item to the next regularly scheduled meeting.

6. APPROVE PROPOSED DESIGN IMPROVEMENTS FOR SHALIMAR PARK

Presentation by Mr. Sethuraman, Public Works Director.

Community Works Design Group, spoke on the item.

Public Comments:

David Martinez spoke in support of Plan A.

MOVED/SECOND: Council Member Chavez/Council Member Harper

MOTION: Approve staff recommendation.

Council Member Reynolds requested to add security lighting for evening play.

Council Member Chavez (1st) and Council Member Harper (2nd) agreed to the change.

Mr. Sethuraman clarified the lighting is included in the project.

Discussion ensued on traffic calming measures.

Council Member Reynolds requested the structure at the entrance have an electrical component for movie nights.

Council Member Chavez (1st) and Council Member Harper (2nd) agreed to the change.

Ms. Reyes, Deputy City Manager confirmed that the city has portable projectors to hold movies in the park.

Council Member Chavez requested to add a barbeque to the design.

MOVED/SECOND: Council Member Chavez/Council Member Harper

MOTION: Approve staff recommendation, add security lighting for evening play, staff to explore traffic calming measures, and adding a barbeque.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: None.

Absent: None.

Abstain: None.

Motion carried: 7-0

ACTION:

City Council approved the conceptual park design Plan B and provided direction to add security lighting for evening play, explore traffic calming measures, and adding a barbeque for the proposed improvements at Shalimar Park, 782 Shalimar Drive, Costa Mesa.

MOVED/SECOND: Mayor Stephens/Council Member Chavez

MOTION: Continue meeting past midnight.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: Council Member Harper.

Absent: None.

Abstain: None.

Motion carried: 6-1

5. COSTA MESA CHAMBER OF COMMERCE FINANCIAL SUPPORT

Presentation by Ms. Jakher, Assistant to the City Manager.

Representatives from the Chamber of Commerce spoke on the item.

Public Comments: None.

MOVED/SECOND: Council Member Marr/Council Member Chavez

MOTION: Continue the item to a later date and bring back more details on the financials.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: None.

Absent: None.

Abstain: None.

Motion carried: 7-0

ACTION:

City Council continued the item to a later date and directed staff to bring back more details on the financials.

4. UPDATES TO POLICE DEPARTMENT STAFFING AND COMPENSATION RELATED TO POLICE RECRUIT, POLICE CADET, POLICE RESERVE OFFICER AND COMMUNICATIONS OFFICER POSITIONS

Presentation by Ms. Farrell Harrison, City Manager.

Public Comments:

Ralph Taboada spoke in support of the item but encouraged the Council to defer the \$211 thousand appropriation until to the mid-year budget review.

Jenn Tanaka echoed the previous speaker and inquired on the path to fill vacancies.

David Martinez agreed with the previous speakers, and would have liked to see the item considered with the budget.

MOVED/SECOND: Council Member Gameros/Mayor Stephens

MOTION: Approve staff recommendation.

The motion carried by the following roll call vote:

Ayes: Council Member Chavez, Council Member Gameros, Council Member Harper, Council Member Marr, Council Member Reynolds, Mayor Pro Tem Harlan, and Mayor Stephens.

Nays: None.

Absent: None.

Abstain: None.

Motion carried: 7-0

ACTION:

1. City Council authorized and approved staffing changes as follows:
 - a. Authorized an increase of 5.0 FTE for Police Cadet
 - b. Authorized an increase of 2.5 FTE for Police Reserve Officer
2. Approved Resolution Number 2024-38 establishing full-time pay rate and benefits for Police Recruit.
3. Approved Resolution Number 2024-39 revising the pay rate for Police Reserve Officer.
4. Appropriated \$211,000 in the FY 2024/2025 Police Department's General Fund budget to cover the estimated costs of the additional 5.0 FTE Police Cadets.

ADDITIONAL COUNCIL/BOARD MEMBER COMMITTEE REPORTS, COMMENTS, AND SUGGESTIONS – NONE.

ADJOURNMENT – Mayor Stephens adjourned the meeting at 12:42 a.m.

Minutes adopted on this 3rd day of September, 2024.

John Stephens, Mayor

ATTEST:

Brenda Green, City Clerk

DRAFT



CITY OF COSTA MESA

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 24-319

Meeting Date: 9/3/2024

TITLE:

DESIGNATION OF VOTING DELEGATE AND ALTERNATES FOR THE 2024 LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE

DEPARTMENT: CITY MANAGER'S OFFICE/CITY CLERK DIVISION

PRESENTED BY: BRENDA GREEN, CITY CLERK

CONTACT INFORMATION: BRENDA GREEN, CITY CLERK, (714) 754-5221

RECOMMENDATION:

Staff recommends the City Council designate City Manager Lori Ann Farrell Harrison as Costa Mesa's voting delegate and both Assistant City Manager Cecilia Gallardo-Daly and Deputy City Manager Alma Reyes as the alternates for the 2024 League of California Cities Annual Conference.

BACKGROUND:

The League of California Cities 2024 Annual Conference & Expo is scheduled on October 16-18, 2024 in Long Beach. An important part of the Annual Conference is the Annual Business Meeting on Friday, October 18, 2024. In order to vote at this meeting, the City Council must designate a voting delegate and up to two alternate voting delegates.

ANALYSIS:

The designation of a voting delegate will allow the City to participate in the Annual Business Meeting. It is at this meeting that the League membership considers and takes action on resolutions that establish League policy throughout the coming year. Information on what resolutions will be reviewed is not available at this time.

Consistent with League bylaws, a city's voting delegate and up to two alternates must be designated by the City Council. A voting delegate can either be an elected or appointed official. Following City Council action, the City Clerk must submit the City's delegates through the online submission portal. The voting delegate and alternates must be registered to attend the conference. The voting delegates must be present at the Business Meeting and in possession of the voting card in order to cast a vote. Transferring a voting card to a non-designated individual is not allowed. Currently, City Manager Lori Ann Farrell Harrison, Assistant City Manager Cecilia Gallardo-Daly and Deputy City Manager Alma Reyes are registered to attend the conference. Currently no Council Members are registered to attend the conference.

ALTERNATIVES:

City Council may choose to not appoint a delegate and alternates; therefore, will be unable to vote at the Annual Business Meeting.

FISCAL REVIEW:

There is no fiscal impact associated with the request to designate the voting delegate and alternates.

LEGAL REVIEW:

The City Attorney's Office has reviewed this report and has approved it as to form.

CITY COUNCIL GOALS AND PRIORITIES:

This item is administrative in nature.

CONCLUSION:

Staff recommends the City Council designate City Manager Lori Ann Farrell Harrison as Costa Mesa's voting delegate and both Assistant City Manager Cecilia Gallardo-Daly and Deputy City Manager Alma Reyes as the alternates for the 2024 League of California Cities Annual Conference.



CITY OF COSTA MESA

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 24-303

Meeting Date: 9/3/2024

TITLE:

BIENNIAL REVIEW OF CITY'S CONFLICT OF INTEREST CODE

DEPARTMENT: CITY MANAGER'S OFFICE/CITY CLERK DIVISION

PRESENTED BY: BRENDA GREEN, CITY CLERK

CONTACT INFORMATION: BRENDA GREEN, CITY CLERK, (714) 754-5221

RECOMMENDATION:

Staff recommends the City Council approve Resolution No. 2024-xx revising the list of designated positions in the City's Conflict of Interest Code.

BACKGROUND:

The Political Reform Act in Government Code Section 87303 requires the City to adopt a Conflict of Interest Code and for the Code to be reviewed biennially. The City's Conflict of Interest Code was last amended on June 21, 2022, by Resolution No. 22-43.

ANALYSIS:

Government Code Section 87200 designates the officials required to file statements of economic interest. The Costa Mesa officials include, City Councilmembers, City Manager, City Attorney, Planning Commissioners, and Finance Director. Additionally, the City's Conflict of Interest Code must designate the positions within the City that involve the making or participation in the making of decisions that may have a material effect on any financial interest. This year, the "designated positions" have been updated to reflect positions which have been added, deleted, or undergone a title change. Resolution 2024-xx adopts the City's Conflict of Interest Code and repeals the previous code.

ALTERNATIVES:

No alternatives have been considered as it is mandated by state code that the Conflict of Interest Code be reviewed biennially.

FISCAL REVIEW:

The Finance Department has reviewed and verified there is no fiscal impact.

LEGAL REVIEW:

The City Attorney has reviewed the report and resolution and approved them as to form.

CITY COUNCIL GOALS AND PRIORITIES:

This item is administrative in nature.

CONCLUSION:

Staff recommends the City Council approve Resolution No. 2024-xx revising the list of designated positions in the City's Conflict of Interest Code.

APPENDIX A

The term “Designated” refers to employees or officials, set forth by position or job classifications. A designated employee or official, for the purpose of this resolution, and in compliance with the City’s Conflict of Interest Code (Costa Mesa Municipal Code Section 2-401, et al.3) shall include a spouse and immediate members of the family. Any person hired or promoted into a job classification included in this resolution shall become a designated employee for the purpose of the City’s Conflict of Interest Code without further action of the City Council. **Added positions are highlighted.**

<u>DEPARTMENT/POSITION TITLES</u>	<u>REPORTING CATEGORY</u>
City Manager’s Office	
Administrative Services Director	All
Assistant City Manager	All
Assistant to the City Manager	All
Chief of Staff	All
City Clerk	All
Community Outreach Supervisor	All
Deputy City Clerk	All
Deputy City Manager	All
Energy & Sustainability Services Manager	All
Human Resources Administrator	All
Human Resources Analyst	All
Human Resources Manager	All
Management Aide	All
Management Analyst	All
Neighborhood Improvement Manager	All
Principal Human Resources Analyst	All
Public Affairs Manager	All
Public Information Officer	All
Real Property Manager	All
Senior Code Enforcement Officer	All
Senior Management Analyst	All
City Attorney’s Office	
Assistant City Attorney	All
Deputy City Attorney	All
Development Services Department	
Assistant Development Services Director	All
Assistant Planner	All
Associate Planner	All
Building Inspector	All
Building Official	All

Building Technician I & II	All
Chief of Code Enforcement Officer	All
Chief of Inspection	All
Chief Plans Examiner	All
Code Enforcement Officer	All
Combination Building Inspector	All
Community Improvement Manager	All
Economic & Development Services Director	All
Economic Development Administrator	All
Grant Administrator	All
Plan Check Engineer	All
Plan Checker	All
Plan Checker (Consultant)	All
Plan Review Consultants	All
Planning and Sustainable Development Manager	All
Principal Planner	All
Senior Code Enforcement Officer	All
Senior Combo Inspector	All
Senior Management Analyst	All
Senior Planner	All
Zoning Administrator	All

Finance Department

Accounting Supervisor	All
Assistant Finance Director	All
Budget & Purchasing Manager	All
Budget Analyst	All
Buyer	All
Finance Analyst	All
Finance Manager	All
Finance Officer	All
Management Analyst	All
Payroll Supervisor	All
Purchasing Supervisor	All
Revenue Supervisor	All
Senior Budget Analyst	All
Senior Management Analyst	All

Parks and Community Services Department

Assistant Recreation Supervisor	All
Fairview Park Administrator	All
Management Analyst	All
Parks and Community Services Director	All
Recreation Manager	All
Senior Recreation Supervisor	All

Police Department

Deputy Chief of Police	All
Emergency Services Manager	All
Management Analyst	All
Police Captain	All
Police Chief	All
Public Affairs Manager	All
Telecommunications Manager	All

Fire Department

Administrative Captain/PIO	All
Assistant Fire Marshall	All
Battalion Chief	All
Code Enforcement Officer	All
Division Chief Assistant Fire Chief/Operations	All
Fire Chief	All
Fire Marshall Assistant Fire Chief/Fire Marshall	All
Fire Protection Specialist	All
Management Analyst	All
Telecommunications Manager	All

Information Technology Department

Cyber Security Analyst	All
I.T. Manager	All
I.T. Project Manager	All
Information Technology Director	All
Management Analyst	All
Supervisor	All

Public Works

Active Transportation Coordinator	All
Assistant Engineer	All
Associate Engineer	All
City Engineer	All
Construction Inspector	All
Director of Public Works	All
Deputy Director of Public Works	All
Energy & Sustainability Services Manager	All
Maintenance Services Manager	All
Maintenance Superintendent	All
Maintenance Supervisor	All
Management Analyst	All
Manager	All
Principal Civil Engineer	All

ATTACHMENT 1

Senior Engineer	All
Senior Management Analyst	All
Supervisor	All

Commissions

Parks & Community Services Commission	All
Arts Commission	All

Note: The following positions are not included in the Conflict of Interest Code as they already must file pursuant to Government Code Section 87200:

- City Council Members
- Planning Commissioners
- City Manager
- City Attorney
- Finance Director

RESOLUTION NO. 2024-xx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REVISING THE LIST OF DESIGNATED POSITIONS FOR THE CITY'S CONFLICT OF INTEREST CODE

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY RESOLVE AS FOLLOWS:

WHEREAS, pursuant to the California Political Reform Act of 1974 every city is required to adopt a conflict of interest code and Costa Mesa has adopted its conflicts code, which appears in Costa Mesa Municipal Code Title 2, Chapter X; and

WHEREAS, the Conflict of Interest Code contains a list of City officials and employees called "designated employees" whose positions involve the making or participation in the making of decisions that may foreseeably have a material financial effect on an economic interest of the employee; and

WHEREAS, the Conflict of Interest Code is required to be amended from time to time to incorporate new state law requirements and update the list of positions of designated employees;

WHEREAS, the City's Conflict of Interest Code now needs to be amended to update the list of designated positions; and

WHEREAS, the City's Conflict of Interest Code now specifies that all employees designated as filers under the City's Conflict of Interest Code are "designated employees" for purposes of AB 1234 and, as such, are required to participate in mandatory ethics training.

BE IT RESOLVED that the Costa Mesa City Council hereby amends the list of designated positions shown on Appendix "A" with the new, revised Appendix "A" that is attached hereto and incorporated herein.

PASSED AND ADOPTED this 3rd day of September, 2024.

John Stephens, Mayor

ATTEST:

APPROVED AS TO FORM:

Brenda Green, City Clerk

Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 2024-xx and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 3rd day of September, 2024, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 4th day of September, 2024.

Brenda Green, City Clerk



CITY OF COSTA MESA

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 24-317

Meeting Date: 9/3/2024

TITLE:

AWARD OF PROFESSIONAL ARCHITECTURAL AND ENGINEERING DESIGN SERVICES FOR COSTA MESA COMMUNICATIONS CENTER PROJECT

DEPARTMENT: PUBLIC WORKS DEPARTMENT/GENERAL SERVICES
DIVISION

PRESENTED BY: RAJA SETHURAMAN, PUBLIC WORKS DIRECTOR

CONTACT INFORMATION: PATRICK BAUER, DEPUTY PUBLIC WORKS DIRECTOR (714) 754-5029

RECOMMENDATION:

Staff recommends the City Council:

1. Approve a Professional Services Agreement (PSA) for two years with two one-year renewals in the amount of \$178,304 to ITZEN Architects, Inc., 1800 N. Bristol St., Santa Ana, CA 92706 for architectural and engineering design services.
2. Authorize a ten percent (10%) contingency in the amount of \$17,800 for unforeseen costs related to the project.
3. Authorize the City Manager and City Clerk to execute the PSA and any future amendments to the agreement.

BACKGROUND:

The Costa Mesa Communications Center, located at 79 Fair Drive, is utilized for Fire and Police department communications. It was built in 1981 and is approximately 7,960 square feet, which 4,530 square feet of will be renovated by this project. The facility requires both internal and external remodeling and redesign to help meet the needs and accessibility of the staff. The proposed improvements include creating an open work space by removing the partition in the entry way of the main building, remodeling the work area room in the front office copy room, privatizing the two (2) existing managers' offices, renovating and reconfiguring the bathroom to accommodate accessible stalls as well as shower and locker rooms, constructing two (2) supervisor office spaces in the communications area, removing all carpet on walls, replacing floor carpet, replacing T-bar ceiling and lighting, installing exterior window(s), removing and replacing the exterior canopy outside of the break room, replacing all existing exterior windows, and installing nine (9) new dispatch consoles.

The consultant is required to complete all the tasks necessary to perform the scope of work as outlined in the contract document. The consultant will also assist in the construction and construction management services during the construction period.

ANALYSIS:

The City issued a Request for Proposals (RFP) for professional architectural and engineering design services of the Costa Mesa Communications Center on May 9, 2024. In response, five (5) proposals were received. Proposals were reviewed for compliance with the City's RFP and consultants were evaluated based on method of approach, qualifications and experience, staffing, and cost proposal. After careful review and evaluation of all proposals, staff finds ITZEN Architects, Inc. as well-qualified to perform architectural and engineering design services.

The firm's team exhibits a thorough understanding of the project scope and has demonstrated technical ability and expertise with similar projects completed in Southern California, including the renovation and expansion of the City of Buena Park Fire Station 63, ADA renovations and improvements for Orange County Fire Authority Station 4 in Irvine, the design and renovation of the Rowland Water District in Rowland Heights, and the design and renovation of The Sound - Foursquare Church in Santa Ana. Staff has determined the proposed cost for consultant services to be reasonable for meeting the City's requirements as listed in the Scope of Services. The cost for services is competitive and within industry standards for these specialized architectural and engineering services.

Therefore, staff recommends award of a PSA with ITZEN Architects for two years with two one-year renewals in the amount of \$178,304 and authorize a ten percent (10%) contingency for unforeseen costs related to the project.

ALTERNATIVES:

The alternative to this Council action would be to reject all proposals and re-advertise the project. Staff considers that this will not result in a better outcome and will delay the project.

FISCAL REVIEW:

The total funding for this project in the amount of \$1.23 million has been approved by City Council and is appropriated in the Capital Improvement Fund (Fund 401).

LEGAL REVIEW:

The City Attorney's Office has reviewed this agenda report, prepared the PSA (Attachment 1), and approves them both as to form.

CITY COUNCIL GOALS AND PRIORITIES:

This project works toward achieving the following City Council goals:

- Maintain and Enhance the City's Facilities, Equipment and Technology.
- Strengthen the Public's Safety and Improve the Quality of Life.

CONCLUSION:

Staff recommends the City Council:

1. Approve a Professional Services Agreement (PSA) for two years with two one-year renewals in the amount of \$178,304 to ITZEN Architects, Inc., 1800 N. Bristol St., Santa Ana, CA 92706 for architectural and engineering design services.
2. Authorize a ten percent (10%) contingency in the amount of \$17,800 for unforeseen costs related to the project.
3. Authorize the City Manager and City Clerk to execute the PSA and any future amendments to the agreement.

**CITY OF COSTA MESA
PROFESSIONAL SERVICES AGREEMENT
WITH ITZEN ARCHITECTS, INC.**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this 3rd day of September, 2024 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and ITZEN ARCHITECTS, INC., a California corporation ("Consultant").

RECITALS

A. City proposes to utilize the services of Consultant as an independent contractor to perform professional architectural and engineering services for the Costa Mesa Communication Center, as more fully described herein; and

B. Consultant represents that it has that degree of specialized expertise contemplated within California Government Code section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and

C. City and Consultant desire to contract for the specific services described in Exhibit "A" and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

D. No official or employee of City has a financial interest, within the provisions of sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Services. Consultant shall provide the professional services described in City's Request for Proposals, attached hereto as Exhibit "A," and Consultant's Proposal, attached hereto as Exhibit "B," both incorporated herein.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the complete satisfaction of the City. Evaluations of the work will be done by the City Manager or his or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;

- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.5. Non-Discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military or veteran status, except as permitted pursuant to section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

2.0. COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C," attached hereto and made a part of this Agreement. Consultant's total compensation shall not exceed One Hundred Seventy-Eight Thousand Three Hundred Four Dollars (\$178,304.00). This amount includes a contingency of Thirteen Thousand dollars

(\$13,000) that will not be encumbered until it is needed.

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Consultant's Proposal unless the City Manager or designee, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to the City for approval on a progress basis, but no more often than two times a month. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times from the Effective Date until three (3) years after termination of this Agreement.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. Unless otherwise agreed to in writing by the parties, the professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, pandemics (excluding COVID-19), material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party (each, a "Force Majeure Event"). If a party experiences a Force Majeure Event, the party shall, within five (5) days of the occurrence of the Force Majeure Event, give written notice to the other party stating the nature of the Force Majeure Event, its anticipated duration and any action being taken to avoid or minimize its effect. Any suspension of performance shall be of no greater scope and of no longer duration than is reasonably required and the party experiencing the Force Majeure Event shall use best efforts without being obligated to incur any material expenditure to remedy its inability to perform; provided, however, if the suspension of performance continues for sixty (60) days after the date of the occurrence and such failure to perform would constitute a material breach of this Agreement in the absence of such Force Majeure Event, the parties shall meet and discuss in good faith any amendments to this Agreement to permit the other party to exercise its rights under this Agreement. If the parties are not able to agree on such amendments within thirty (30) days and if suspension of performance continues, such other party may terminate this Agreement immediately by written notice to the party experiencing the Force Majeure Event, in which case neither party shall have any liability to the other except for those rights and liabilities that accrued prior to the date of termination.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of two (2) years, ending on September 2, 2026, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. This Agreement may be extended by two additional one year periods upon mutual written agreement of both parties.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent A.M. Best's Rating Guide, and approved by City:

- (a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00) general aggregate.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00) combined single limit per accident for bodily injury and property damage.

- (c) Workers' compensation insurance as required by the State of California. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant."
- (b) Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to City."
- (c) Other insurance: "The Consultant's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.
- (e) The Consultant's 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.

5.3. Deductible or Self-Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to

which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance. Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement.

5.5. Non-Limiting. Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: (a) at the time of delivery if such communication is sent by personal delivery, and (b) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

Itzen Architects, Inc.
1800 N. Bristol Street
Santa Ana, CA 92706
Tel: (714) 716-5042, x2

IF TO CITY:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Tel: (714) 754-5688

Attn: Jana SB Itzen, AIA

Attn: Patrick Bauer

Courtesy copy to:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Attn: Finance Dept. | Purchasing

6.5. Drug-Free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "D" and incorporated herein. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees. If litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment. Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless. Consultant agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the negligence, recklessness, or willful misconduct of the Consultant, its employees, and/or authorized subcontractors, in the performance of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Consultant, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Consultant, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon negligence, recklessness, or willful misconduct in the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees,

and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. In no event shall the cost to defend charged to Consultant exceed Consultant's proportionate percentage of fault. However, notwithstanding the previous sentence, in the event one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, Consultant shall meet and confer with other parties regarding unpaid defense costs. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

6.10. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. 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 shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall 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 further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.11 Conflicts with Independent Contractor. Contractor/consultant's duties and services under this Agreement shall not include preparing or assisting the public entity with any portion of the public entity's preparation of a request for proposals, request for qualifications, or any other solicitation regarding a subsequent or additional contract with the public entity. The public entity entering into this Agreement shall at all times retain responsibility for public contracting, including with respect to any subsequent phase of this project. Contractor/consultant's participation in the planning, discussions, or drawing of project plans or specifications shall be limited to conceptual, preliminary, or initial plans or specifications. Contractor/consultant shall cooperate with the public entity to ensure that all bidders for a subsequent contract on any subsequent phase of this project have access to the same information, including all conceptual, preliminary, or initial plans or specifications prepared by contractor pursuant to this Agreement.

6.12. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.13. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.14. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.15. Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code section 7920.000 *et seq.*). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code section 7924.510, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.16. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code sections 81000, *et seq.*) and Government Code section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.17. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.18. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.19. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.20. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.21. Binding Effect. This Agreement binds and benefits the parties and their respective permitted successors and assigns.

6.22. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.23. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.24. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement and have had an adequate opportunity to review each and every provision of the Agreement and submit the same to counsel or other consultants for review and comment. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.25. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.26. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of

this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.27. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.28. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.29. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

[Signatures appear on following page.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CONSULTANT

Signature

Date: _____

Jana Itzen, President
ITZEN Architects, Inc.

CITY OF COSTA MESA

Lori Ann Farrell Harrison
City Manager

Date: _____

ATTEST:

Brenda Green
City Clerk

APPROVED AS TO FORM:

Kimberly Hall Barlow
City Attorney

Date: _____

APPROVED AS TO INSURANCE:

Ruth Wang
Risk Management

Date: _____

APPROVED AS TO CONTENT:

Patrick Bauer
Project Manager

Date: _____

DEPARTMENTAL APPROVAL:

Raja Sethuraman
Director of Public Works

Date: _____

APPROVED AS TO PURCHASING:

Carol Molina
Finance Director

Date: _____

EXHIBIT A
REQUEST FOR PROPOSALS



REQUEST FOR PROPOSAL

FOR

**PROFESSIONAL ARCHITECTURAL & ENGINEERING DESIGN SERVICES
RFP NO. 24-11**



**PUBLIC WORKS
CITY OF COSTA MESA**

**Released on
May 9, 2024**

REQUEST FOR PROPOSAL FOR PROFESSIONAL ARCHITECTURAL & ENGINEERING DESIGN SERVICES

The City of Costa Mesa (hereinafter referred to as the "City") is requesting Proposals from qualified consultants to provide professional architectural and engineering design services for the communications building remodel. The awarded Contractor, (hereinafter referred to as "Contractor") shall be in accordance with the Sample Professional Service Agreement, **Appendix B** terms, conditions, and scope of work. Prior to submitting a Proposal, Proposers are advised to carefully read the instructions below, including the Sample Professional Service Agreement and any solicitation appendix/exhibits. The schedule for the design phase is anticipated to be four (4) to six (6) months; however, the term is expected to be for 2 years with 2 one-year renewal options. The City reserves the right to award one or more contracts for this service.

I. GENERAL INFORMATION

The City of Costa Mesa is a general law city, which operates under the council/manager form of government with an annual General Fund budget of over \$180.3 million and a total budget of \$234 million for fiscal year 2023-2024.

The City of Costa Mesa, incorporated in 1953, has an estimated population of 115,000 and has a land area of 16.8 square miles. It is located in the northern coastal area of Orange County, California, and is bordered by the cities of Santa Ana, Newport Beach, Huntington Beach, Fountain Valley and Irvine.

The City is a "full service city" providing a wide range of services. These services include: police and fire protection; animal control; emergency medical aid; building safety regulation and inspection; street lighting; land use planning and zoning; housing and community development; maintenance and improvement of streets and related structures; traffic safety maintenance and improvement; and full range of recreational and cultural programs.

The City of Costa Mesa is home of the Segerstrom Center for the Arts, Orange County Fairgrounds, South Coast Repertory Theater and the South Coast Plaza Shopping Center, which is the single largest commercial activity center in the City. The volume of sales generated by South Coast Plaza secures its place as the highest volume regional shopping center in the nation.

The successful Proposer, shall have experience in similar types of services. All Proposers responding to this Request for Proposal (RFP) will be evaluated on the basis of their expertise, prior experience on similar projects, demonstrated competence, ability to meet the requested services, adequate staffing, reference check, understanding of services, cost and responsiveness to the needs and concerns of the City of Costa Mesa.

1. **Important Notice:** The City has attempted to provide all information available. It is the responsibility of each Proposer to review, evaluate, and, where necessary, request any clarification prior to submission of a Proposal. **Proposers are not to contact other City personnel with any questions or clarifications concerning this Request for Proposal (RFP).** The City's Purchasing Department contact set out in RFP, Section II, Subsection 2, Inquires, will provide all official

communication concerning this RFP. Any City response relevant to this RFP other than through or approved by City's Purchasing Department is unauthorized and will be considered invalid.

If clarification or interpretation of this solicitation is considered necessary by City, a written addendum shall be issued and the information will be posted on PlanetBids. Any interpretation of, or correction to, this solicitation will be made only by addendum issued by the City's Purchasing Department. It is the responsibility of each Proposer to periodically check PlanetBids website to ensure that it has received and reviewed any and all addenda to this solicitation. The City will not be responsible for any other explanations, corrections to, or interpretations of the documents, including any oral information.

2. Schedule of Events: This Request For Proposal shall be governed by the following schedule:

Release of RFP	May 9, 2024
Mandatory Job Walk	May 16, 2024
Deadline for Written Questions	May 21, 2024 at 11:00 a.m.
Responses to Questions Posted	May 28, 2024
Proposals are Due	June 4, 2024 at 2:00 p.m.

****All dates are subject to change at the discretion of the City.**

Mandatory Job Walk: A mandatory job walk will be held on **May 16, 2024 at 9:00 a.m.** at City Hall, 77 Fair Drive, Costa Mesa, CA 92626. All proposers shall wait in the lobby area near the elevators. A job walk is held to allow for questions and clarification concerning the City's RFP process, scope of services and subsequent contract award.

3. Proposer's Minimum Requirements: Interested and qualified Proposers that can demonstrate their ability to successfully provide the required services outlined in **Appendix A– Scope of Work**, of this RFP are invited to submit a proposal, provided they meet the following requirements. All requirements must be met at the time of the proposal due date. **If these requirements are not met, the proposal may not receive further consideration, as determined in the sole discretion of the City.**

- a. The consultant must provide five references for municipal projects of similar size and scope that have been completed within the last five years in California.
- b. The Contractor shall maintain a local office with a competent representative who can be reached during normal working hours or emergencies who is authorized to make decisions on matters pertaining to this contract with the City. Office facilities that support daily operations must be within ninety (90) miles of the City.
- c. All Proposers must identify the project manager, and the individual authorized to negotiate the contract on behalf of the consulting firm; and provide an organization chart showing all proposed key project team members.

II. GENERAL INSTRUCTIONS AND PROVISIONS

1. Proposal Format Guidelines: Interested entities or contractors are to provide the City of Costa Mesa with a thorough Proposal using the following guidelines: Proposal should be typed and should contain no more than 12 typed pages using a 12-point font size, including cover letter, Index/Table

of Contents, tables, charts, and graphic exhibits, but excluding resumes of key people and pricing forms. Each Proposal will adhere to the following order and content of sections. Proposal should be straightforward, concise and provide "layman" explanations of technical terms that are used. Emphasis should be concentrated on conforming to the RFP instructions, responding to the RFP requirements, and on providing a complete and clear description of the offer. Proposals which appear unrealistic in terms of technical commitments, lack of technical competence or are indicative of failure to comprehend the complexity and risk of this contract may be rejected. The following Proposal sections are to be included in the Proposer's response:

- **Cover Letter:** A cover letter, not to exceed two pages in length, should summarize key elements of the Proposal. An individual authorized to bind the Contractor must sign the letter. Indicate the address and telephone number of the contractor's office located nearest to Costa Mesa, California, and the office from which the project will be managed. And include proposed working relationship among the offering agency and subcontractors, if applicable.
- **Background and Project Summary Section:** The Background and Project Summary Section should describe your understanding of the City, the work to be done, and the objectives to be accomplished. Refer to **Scope of Work, Appendix A** of this RFP.
- **Project Approach and Methodology:** Provide a detailed description of the approach and methodology that will be used to fulfill each requirement listed in the Scope of Work of this RFP. The section should include:
 1. Describes familiarity of project and demonstrates understanding of work and project objectives moving forward.
 2. Detailed description of efforts your firm will undertake to achieve client satisfaction and to satisfy the requirements of the "Scope of Work" section.
 3. Detailed project schedule, identifying all tasks and deliverables to be performed, durations for each task, and overall time of completion.
 4. Identifies the project's potential issues and response to them.
 5. Proposers are encouraged to provide additional innovative and/or creative approaches for providing the service that will maximize efficient, safe, and cost-effective operations or increased performance capabilities.
- **Qualifications & Experience of the Firm:** Describe the qualifications and experience of the organization or entity performing services/projects within the past eight years that are similar in size and scope to demonstrate competence to perform these services. Information shall include:
 1. Relevant experience, specific qualifications, and technical expertise of the firm and sub-consultants to provide design services.
 2. Proposed team members, as demonstrated by enclosed resumes, have relevant experience for their role in the project.
 3. Overall organization of the team is relevant to City of Costa Mesa needs.

4. Team is managed by an individual with appropriate experience in similar project. This person's time is appropriately committed to this project.
 5. Team structure provides adequate capability to perform both volume and quality of needed work within project schedule milestones.
 6. If the owner is a corporation please provide: Name of corporation, corporate office street address, city, state, and zip code, state where incorporated, date of incorporation, first and last name of officers, local office address, city, state & zip, and the date local office opened its doors for business.
 7. If the owner is a partnership or joint venture, please provide: Name of partnership or joint venture, principal office street address, city, state, and zip code, state of organization, date of organization, first and last name of general partner(s), local office address, city, state, and zip code, and date local office opened its doors for.
 8. Provide a list of current and previous contracts similar to the requirements for this project in Costa Mesa, including all public agencies served (if any). For each, provide a brief description of the scope of work performed, the length of time you have been providing services, and the name, title, and telephone number of the person who may be contacted regarding your organization's service record. Provide a sample of each background investigation for each contract.
 9. Submit a description of the organization's qualifications, experience and abilities that make it uniquely capable to provide the services specified in the Scope of Work.
- **Financial Capacity:** The City is concerned about proposers' financial capability to perform, and therefore, is requesting copies of audited financials from the past three years to allow an evaluation of firm's financial capabilities.
 - **Key Personnel:** It is essential that the Proposer provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The Proposer must agree to assign specific individuals to the key positions.
 - Identify the members of the staff who would be assigned to act for Proposer's firm in key management and field positions providing the services described in the Proposal, and the functions to be performed by each.
 - Include resumes or curriculum vitae of each such staff member, including name, position, telephone number, email address, education, and years and type of relevant experience. Describe for each such person, the relevant role and functions for each project.
 - **Cost Proposal:** Provide a fee schedule/pricing information for the project including identifying the specific assigned personnel, their hourly rates and their number of hours, and the cost for each work task/deliverable as described in the Scope of Work. If work tasks or deliverable are proposed that are not specifically listed in the City's Scope of Work, please identify those costs as separate and optional. Proposals shall be valid for a minimum of 180 days following submission.

- **Disclosure:** Please disclose any and all past or current business and personal relationships with any current Costa Mesa elected official, appointed official, City employee, or family member of any current Costa Mesa elected official, appointed official, or City employee. **Any past or current business relationship may not disqualify the firm from consideration.**
- **Sample Professional Service Agreement:** The firm selected by the City will be required to execute a Professional Service Agreement with the City. A sample of the Agreement is enclosed as **Appendix B**, but may be modified to suit the specific services and needs of the City. **If a Proposer has any exceptions or conditions to the Agreement, these must be submitted for consideration with the Proposal. Otherwise, the Proposer will be deemed to have accepted the form of Agreement.**
- **Checklist of Forms to Accompany Proposal:** As a convenience to Proposers, following is a list of the forms, **Appendix C** included in this RFP, which should be included with Proposals:
 1. Vendor Application Form
 2. Company Profile & References
 3. Ex Parte Communications Certificate
 4. Disclosure of Government Positions
 5. Disqualifications Questionnaire
 6. Bidder/Applicant/Contractor Campaign Contribution

2. Process for Submitting Proposals:

- **Content of Proposal:** The Proposal must be submitted using the format as indicated in the Proposal format guidelines.
- **Preparation of Proposal:** Each Proposal shall be prepared simply and economically, avoiding the use of elaborate promotional material beyond those sufficient to provide a complete, accurate and reliable presentation.
- **Cost for Preparing Proposal:** The cost for developing the Proposal is the sole responsibility of the Proposer. All Proposals submitted become the property of the City. Cost proposal shall be submitted in a **separate** file containing the following:
 - ✓ Cover letter stating the not-to-exceed total fee for the project.
 - ✓ The cost shall depict individual project tasks, work hours, and basic hourly rates for specific personnel to be used on the project. Personnel hourly rates will reflect all costs for office overhead, including direct and indirect costs. The fee proposal shall reflect all anticipated fee increases during the contract duration.
- **Forms to Accompany Proposal:** **Appendix C** forms shall be attached at the end of the Proposal with the exception of the Cost Proposal which shall be submitted in a separate file.
- **Number of Proposals:** Submit one (1) PDF file format copy of your proposal in sufficient detail for thorough evaluation and comparative analysis

- **Submission of Proposals:** Complete written Proposals must be submitted electronically in PDF file format via the planetbids.com website not later than **2:00 p.m. (P.S.T) on June 4, 2024**. Proposals will not be accepted after this deadline. Proposals received after the scheduled closing time will not be accepted. It shall be the sole responsibility of the Proposer to see that the proposal is received in proper time. Faxed or e-mailed Proposals will not be accepted. **NO EXCEPTIONS.**
- **Inquiries:** Questions about this RFP must be posted in the Q & A tab on Planetbids no later than **May 21, 2024 at 11:00 A.M.** The City reserves the right not to answer all questions.

The City reserves the right to amend or supplement this RFP prior to the Proposal due date. All addendum(s), responses to questions received, and additional information will be posted to the Costa Mesa Procurement Registry, Costa Mesa-Official City Web Site, Business-Bids & RFP's. Proposers should check this web page daily for new information. From the date that this RFP is issued until a firm or entity is selected and the selection is announced, firms or public entities are not allowed to communicate outside the process set forth in this RFP with any City employee other than the contracting officer listed above regarding this RFP. The City reserves the right to reject any Proposal for violation of this provision. No questions other than posted on Planetbids will be accepted, and no response other than written will be binding upon the City.

- **Conditions for Proposal Acceptance:** This RFP does not commit the City to award a contract or to pay any costs incurred for any services. The City, at its sole discretion, reserves the right to accept or reject any or all Proposals received as a result of this RFP, to negotiate with any qualified source(s), or to cancel this RFP in part or in its entirety. The City may waive any irregularity in any Proposal. All Proposals will become the property of the City of Costa Mesa, USA. If any proprietary information is contained in the Proposal, it should be clearly identified.
- **Insurance & W-9 Requirements:** Upon recommendation of contract award, Contractor will be required to submit the following documents with ten (10) days of City notification, unless otherwise specified in the solicitation:
 - **Insurance** - City requires that licensees, lessees, and vendors have an approved Certificate of Insurance (not a declaration or policy) or proof of legal self-insurance on file with the City for the issuance of a permit or contract. Within ten (10) consecutive calendar days of award of contract, successful Bidder must furnish the City with the Certificates of Insurance proving coverage as specified in the sample contract.
 - **W-9** – Current signed form W-9 (Taxpayer Identification Number & Certification) which includes Contractor's legal business name(s).

3. Evaluation Criteria: The City's evaluation and selection process will be conducted in accordance with Chapter V, Article 2 of the City's Municipal Code (Code). In accordance with the Code, the responsive responsible proposer shall be determined based on evaluation of qualitative factors in addition to cost. At all times during the evaluation process, the following criteria will be used. Sub-criteria are not necessarily listed in order of importance. Additional sub-

criteria that logically fit within a particular evaluation criteria may also be considered even if not specified below.

1. **Project Approach & Methodology -----40 %**
2. **Qualifications & Experience of the Firm -----30 %**
3. **Key Personnel ----20%**
4. **Cost Proposal ----10 %**

4. Evaluation of Proposals and Selection Process: In accordance with its Municipal Code, the City will adhere to the following procedures in evaluating Proposals. An Evaluation Committee, which may include members of the City's staff and possibly one or more outside experts, will screen and review all Proposals according to the weighted criteria set forth above. While price is one basic factor for award, it is not the sole consideration.

- A. Responsiveness Screening:** Proposals will first be screened to ensure responsiveness to the RFP. The City may reject as non-responsive any Proposal that does not include the documents required to be submitted by this RFP. At any time during the evaluation process, the City reserves the right to request clarifications or additional information from any or all Proposers regarding their Proposals.
- B. Initial Proposal Review:** The Committee will initially review and score all responsive written Proposals based upon the Evaluation Criteria set forth above. The Committee may also contact Proposer's references. Proposals that receive the highest evaluation scores may be invited to the next stage of the evaluation process. The City may reject any Proposal in which a Proposer's approach, qualifications, or price is not considered acceptable by the City. An unacceptable Proposal is one that would have to be substantially rewritten to make it acceptable. The City may conclude the evaluation process at this point and recommend award to the lowest responsible bidder. Alternatively, the City may elect to negotiate directly with one or more Proposers to obtain the best result for the City prior to making a recommendation or selection.
- C. Interviews, Reference Checks, Revised Proposals, Discussions:** Following the initial screening and review of Proposals, the Proposers included in this stage of the evaluation process may be invited to participate in an oral interview. Interviews, if held, are tentatively scheduled for **the week of June 24th** and will be conducted at City of Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, CA 92626. The dates are subject to change. The individual(s) from Proposer's organization that will be directly responsible for carrying out the contract, if awarded, should be present at the oral interview. The oral interview may, but is not required to, use a written question/answer format for the purpose of clarifying the intent of any portions of the Proposal.

In addition to conducting an oral interview, the City may during this stage of the evaluation process also contact and evaluate the Proposer's references, contact any Proposer to clarify any response or request revised or additional information, contact any current users of a Proposer's services, solicit information from any available

source concerning any aspect of a Proposal, and seek and review any other information deemed pertinent to the evaluation process.

Following conclusion of this stage of the evaluation process, the Committee will again rank all Proposers according to the evaluation criteria set forth above. The Committee may conclude the evaluation process at this point, and make a recommendation for award, or it may request Best and Final Offers from Proposers. The City may accept the Proposal or negotiate the terms and conditions of the agreement with the highest ranked organization. The City may recommend award without Best and Final Offers, so Proposers should include their best Proposal with their initial submission.

Recommendation for award is contingent upon the successful negotiation of final contract terms. Negotiations shall be confidential and not subject to disclosure to competing Proposers unless an agreement is reached. If contract negotiations cannot be concluded successfully within a time period determined by the City, the City may terminate negotiations and commence negotiations with the next highest scoring Proposer or withdraw the RFP.

5. Protests: Failure to comply with the rules set forth herein may result in rejection of the protest. Any proposals awarded pursuant to the formal procurement procedure set forth in the Proposal procedure may be appealed in accordance with the following procedure:

- The Proposer shall file the written notice of appeal with the purchasing officer at least ten (10) working days prior to proposal award date specified in the notice of recommendation to award.
- The written notice of appeal must include specifics as to the nature of the appeal.
- The Proposer must provide any and all documentation to support the appeal.
- The purchasing officer will respond in writing to the Proposer within five (5) working days.
- In the event the appeal is denied by the purchasing officer, the Proposer may appeal the purchasing officer's ruling to the city council at the next available council meeting.

6. Accuracy of Proposals: Proposers shall take all responsibility for any errors or omissions in their Proposals. Any discrepancies in numbers or calculations shall be interpreted to reflect the cost to the City.

If prior to contract award, a Proposer discovers a mistake in their Proposal which renders the Proposal unwilling to perform under any resulting contract, the Proposer must immediately notify the facilitator and request to withdraw the Proposal. It shall be solely within the City's discretion as to whether withdrawal will be permitted. If the solicitation contemplated evaluation and award of "all or none" of the items, then any withdrawal must be for the entire Proposal. If the solicitation provided for evaluation and award on a line item or combination of items basis, the City may consider permitting withdrawal of specific line item(s) or combination of items.

7. Responsibility of Proposers: The City shall not be liable for any expenses incurred by potential Contractors in the preparation or submission of their Proposals. Pre-contractual expenses are not to be included in the Contractor's Pricing Sheet. Pre-contractual expenses are defined as, including but not limited to, expenses incurred by Proposer in:

- Preparing Proposal in response to this RFP;
- Submitting that Proposal to the City;
- Negotiating with the City any matter related to the Proposal; and,
- Any other expenses incurred by the Proposer prior to the date of the award and execution, if any, of the contract.

8. Confidentiality: The California Public Records Act (Cal. Govt. Code Sections 6250 et seq.) mandates public access to government records. Therefore, unless information is exempt from disclosure by law, the content of any request for explanation, exception, or substitution, response to this RFP, protest, or any other written communication between the City and Proposer, shall be available to the public. The City intends to release all public portions of the Proposals following the evaluation process at such time as a recommendation is made to the City Council.

If Proposer believes any communication contains trade secrets or other proprietary information that the Proposer believes would cause substantial injury to the Proposer's competitive position if disclosed, the Proposer shall request that the City withhold from disclosure the proprietary information by marking each page containing such proprietary information as confidential. Proposer may not designate its entire Proposal as confidential nor designate its Price Proposal as confidential.

Submission of a Proposal shall indicate that, if Proposer requests that the City withhold from disclosure information identified as confidential, and the City complies with the Proposer's request, Proposer shall assume all responsibility for any challenges resulting from the non-disclosure, indemnify and hold harmless the City from and against all damages (including but not limited to attorney's fees and costs that may be awarded to the party requesting the Proposer information), and pay any and all costs and expenses related to the withholding of Proposer information. Proposer shall not make a claim, sue, or maintain any legal action against the City or its directors, officers, employees, or agents concerning the disclosure, or withholding from disclosure, of any Proposer information. If Proposer does not request that the City withhold from disclosure information identified as confidential, the City shall have no obligation to withhold the information from disclosure and may release the information sought without any liability to the City.

9. Ex Parte Communications: Proposers and Proposers' representatives should not communicate with the City Council members about this RFP. In addition, Proposers and Proposers' representatives should not communicate outside the procedures set forth in this RFP with an officer, employee or agent of the City, including any member of the evaluation panel, with the exception of the RFP Facilitator, regarding this RFP until after Contract Award. Proposers and their representatives are not prohibited, however, from making oral statements or presentations in public to one or more representatives of the City during a public meeting.

A "Proposer" or "Proposer's representative" includes all of the Proposer's employees, officers, directors, consultants and agents, any subcontractors or suppliers listed in the Proposer's Proposal, and any individual or entity who has been requested by the Proposer to contact the City on the Proposer's behalf. Proposers shall include the Ex Parte Communications Form, **Appendix C** with their Proposals certifying that they have not had or directed prohibited communications as described in this section.

10. Conflict of Interest: The Proposer warrants and represents that it presently has no interest and agrees that it will not acquire any interest which would present a conflict of interest under

California Government Code Sections 1090 et seq., or Sections 87100 et seq., during the performance of services under any Agreement awarded. The Proposer further covenants that it will not knowingly employ any person having such an interest in the performance of any Agreement awarded. Violation of this provision may result in any Agreement awarded being deemed void and unenforceable.

11. Disclosure of Governmental Position: In order to analyze possible conflicts that might prevent a Proposer from acting on behalf of the City, the City requires that all Proposers disclose in their Proposals any positions that they hold as directors, officers, or employees of any governmental entity. Additional disclosure may be required prior to contract award or during the term of the contract. Each Proposer shall disclose whether any owner or employee of the firm currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months using the attached Disclosure of Government Positions Form, **Appendix C**.

12. Conditions to Agreement: The selected Proposer will execute a Professional Service Agreement for Services with the City describing the Scope of Services to be performed, the schedule for completion of the services, compensation, and other pertinent provisions. The contract shall follow the sample form of Agreement provided as **Appendix B** to this RFP, which may be modified by the City.

All Proposers are directed to particularly review the indemnification and insurance requirements set forth in the sample Agreement. **The terms of the agreement, including insurance requirements have been mandated by the City and can be modified only if extraordinary circumstances exist.**

Submittal of a Proposal shall be deemed acceptance of all the terms set forth in this RFP and the sample agreement for services unless the Proposer includes with its Proposal, in writing, any conditions or exceptions requested by the Proposer to the proposed Agreement.

13. Disqualification Questionnaire: Proposers shall complete and submit, under penalty of perjury, a standard form of questionnaire inquiring whether a Proposer, any officer of a proposer, or any employee of a Proposer who has a proprietary interest in the Proposer, has **ever** been disqualified, removed, or otherwise prevented from proposing on, or completing a federal, state, or local government project because of a violation of law or safety regulation and if so, to explain the circumstances. A Proposal may be rejected on the basis of a Proposer, any officer or employee of such Proposer, having been disqualified, removed, or otherwise prevented from proposing on, or completing a federal, state, or local project because of a violation of law or a safety regulation, **Appendix C**.

14. Standard Terms and Conditions: The City reserves the right to amend or supplement this RFP prior to the Proposal due date. All addendum(s) and additional information will be posted via PlanetBids. Proposers should check this web page daily for new information.

APPENDIX A

SCOPE OF WORK FOR PROFESSIONAL ARCHITECTURAL & ENGINEERING DESIGN SERVICES

1. GENERAL SERVICES

The architect shall provide general services designated necessary to assist in the administration of the project and include the design of the temporary living and operational quarters for personnel during construction. The architect will serve as the lead consultant in managing the design of the facility. The civil engineering, electrical engineering, mechanical engineering and all other sub-consultants should be included in the various scope items below. This item of work shall include, but not be limited to, all the activities required to coordinate among project disciplines, agencies, sub-consultants, utility companies, adjacent developers and City.

Provide architectural design services and all relevant construction documents including but not limited to: Civil Work, Architectural, Mechanical, Electrical, Plumbing or otherwise for the renovation and accessible restroom update of the Costa Mesa Communications Center, 99 Fair Drive in Costa Mesa, CA. Approximate square footage: 4,530 sf.

2. PROGRAM CONFIRMATION

The architect shall work closely with the City of Costa Mesa Public Works Department and City of Costa Mesa Communications team to confirm the design requirements for the proposed project. This shall include, but not be limited to, the following:

- Remove partition in entry way of main building to create an open space
- Remove cabinets/remodel work area room in front office area copy room
- Seal up/privatize existing two (2) managers' offices
- Bathroom renovation and reconfiguration to accommodate accessible stalls and the addition of a shower and locker room
- Level floor in comm area, construct two (2) supervisor office spaces (training/supervisor)
- Remove glass separation panels in comm area
- Remove all carpet on walls
- Remove window between dispatch and equipment room
- Replace carpet
- Replace t-bar ceiling and lighting
- Install exterior window(s) (to be explained during job walk)
- Remove/replace exterior canopy outside of break room
- Replace all existing exterior windows
- Nine () new dispatch consoles (this have already been decided on and we have estimates)

3. ENTITLEMENT

Architect shall provide all services necessary to submit documents to the appropriate governing agencies for review and architect shall obtain all approvals necessary to construct the project.

4. SITE DESIGN

Architect shall coordinate and confirm with his sub-consultants the engineering design constraints, including but not limited to, the following:

- Existing and future infrastructure
- Environmental conditions and remediation
- Zoning requirements
- Drainage systems
- On-site and off-site uses
- Utilities

5. SCHEMATIC DESIGN

This item of work shall include preparing schematic design documents. Documents shall consist of drawings and other documents to fix and describe the size and character of the entire project, including architectural, structural, mechanical, electrical systems, materials and such other elements as may be appropriate and as described in general as follows:

A. ARCHITECTURAL DESIGN / DOCUMENTATION

The architectural design and documentation shall include a demolition plan, site plan, building plan, building sections and elevations, building systems / materials selection, dimensions / areas, and site wall elevations.

B. STRUCTURAL DESIGN

The structural design shall be per essential facilities requirements.

C. ELECTRICAL DESIGN

The electrical design shall include, but not be limited to, power service and distribution, lighting, fire detection and alarm, smoke detection, operations alerting system, and emergency power requirements.

D. MECHANICAL DESIGN

The mechanical design shall include, but not be limited, to heating, ventilating, air conditioning, dehumidification, plumbing, apparatus exhaust extraction system, fire protection, and fire sprinkler design.

E. PLUMBING

The plumbing design shall include but no be limited to, the complete water, sewer, gas, fire sprinkler and all other plumbing systems for the project.

F. FIRE PROTECTION / SPRINKLER SYSTEM

The fire sprinkler and smoke detection system design and installation for the fire station shall comply with the CMFD regulations and National Fire Protection Association (NFPA) standards. The entire station shall be protected by an automatic-monitored fire sprinkler system.

G. INTERIOR DESIGN

Architect shall provide interior design for the project including an itemized Furniture, Fixtures, & Equipment (FF&E) list with responsibilities for the general contractor.

6. DESIGN DEVELOPMENT SERVICES

The architect shall prepare from the approved schematic design documents, the design development documents consisting of site and floor plans, furniture plans, exterior elevations

and building sections with the necessary structural, mechanical and related systems and outline specifications necessary to fix and define the character of the project and indicate the materials to be used. The design development documents, when approved in writing, may form the basis for the construction documents.

A. ARCHITECTURAL DESIGN / DOCUMENTATION

- Demolition Plan
- Hazardous materials study and abatement plan
- Site plan
- Building Plan
- Section elevations
- Site Wall elevations
- Building Systems / materials selection
- Dimensions / Areas

B. STRUCTURAL DESIGN / DOCUMENTATION

Structural design / documentation services during design development phase consist of design regarding basic structural materials and systems, analyses and development of conceptual design solutions for gravity and lateral design loads.

C. CIVIL DESIGN / DOCUMENTATION

Civil design / documentation services during design development phase consist of topographic survey of the entire property and adjoining streets, grading, utilities, storm drain, Americans with Disabilities Act (ADA) path of travel, and striping. A comprehensive geotechnical study shall be completed for the entire project site.

D. LANDSCAPE DESIGN / DOCUMENTATION

Landscape design / documentation services during design development phase consisting of plant palettes, landscaping limits, irrigation and smart controller.

E. MECHANICAL AND PLUMBING DESIGN/DOCUMENTATION

Mechanical and plumbing design / documentation service during the design development phase consisting of consideration of alternate materials, split system HVAC, and plumbing.

- Energy conservation
- Heating and Ventilating
- Air Conditioning
- Plumbing
- Fire Protection / Fire Sprinkler Drawings
- Special Maintenance Systems
- General Space Requirements
- Apparatus exhaust extraction system

F. ELECTRICAL DESIGN / DOCUMENTATION

Electrical design/documentation during the design development phases consisting of materials, systems, and equipment.

- Power Service and distribution
- Lighting design
- Telephones / data distribution
- Internet and Ethernet infrastructure and connections
- Fire detection and alarms
- General space requirements
- Operations alerting system
- Smoke detection system

G. MATERIALS RESEARCH / SPECIFICATIONS

- Identification of potential architectural and interior finish materials, systems and equipment, and their criteria and quality standards consistent with the conceptual design
- Coordination of similar activities of other disciplines

H. INTERIOR DESIGN / DOCUMENTATION

Interior Design / Documentation services during the design development phases consisting of solutions for architectural, mechanical, electrical and equipment requirements in order to establish:

- Building interior design elements
- Preliminary building equipment areas
- Space allocation and utilization plans to review functional relationships
- Placement of major FF&E items

I. TELECOMMUNICATIONS

Refer to communications and CMIT for telecommunications requirements for dispatch needs.

7. CONSTRUCTION DRAWINGS AND DOCUMENT SERVICES

Based on the approved design development documents, the architect shall prepare the working drawings and specifications which shall set forth and prescribe in detail the work to be done and materials, workmanship, finishes, and equipment required for the architectural, structural, mechanical, and electrical work, as well as the site work and landscaping. Construction drawings and specifications shall be signed and stamped by the licensed architect and sub-consultants in their respective specialties. Architect shall conduct in-house constructability reviews as well as retain the services of a third-party to conduct one additional constructability review.

A. ARCHITECTURAL DESIGN / DOCUMENTATION

- Review design development
- Demolition Plans
- Site plan and details
- Building plans
- Enlarged plans
- Sections / elevations
- Building systems / material selection

- Details
- Dimensions / permit related areas
- Cost estimates
- Design of temporary living and operational needs for the dispatchers during construction.

B. TRAFFIC PRE-EMPTION DESIGN / DOCUMENTATION

- NA

C. STRUCTURAL DESIGN / DOCUMENTATION

- Prepare structural system documents

D. CIVIL DESIGN / DOCUMENTATION

- Site plan
- Utility plan

E. LANDSCAPE DESIGN / DOCUMENTATION

- NA

F. MECHANICAL DESIGN / DOCUMENTATION

- Prepare Title 24 Energy calculations
- Documentation for HVAC, including units, drops and mechanical system distribution
- Prepare building plumbing documents
- Prepare fire protection system documents (fire sprinkler drawings)

G. ELECTRICAL DESIGN

- Prepare electrical system documents
- Prepare Title 24 lighting calculations

H. MATERIALS RESEARCH/SPECIFICATIONS

- Preparation of specifications
- Compilation of project manual

I. INTERIOR DESIGN

- Interior Plans
- Reflected Ceiling Plans
- Interior Elevations
- Details and Sections
- Millwork
- FF&E

J. SIGNAGE / GRAPHIC DESIGN

- Design of site identity and building signage
- Construction Document Signage
- Interior Signage
- Station monument sign

8. BIDDING AND CONSTRUCTION SUPPORT

Attend one bid coordination meeting and prepare technical specifications, project appendices, bid form and architect's Estimate. Attend two pre-bid meetings and provide full size exhibits for use in the pre-bid meeting presentations. During bid process, the architect shall be responsible for preparing addenda, clarifying the construction documents, answering bidder's questions, issuing revised bid form, plans, exhibits, and technical specifications as required. During the construction phase, the architect and his sub-consultants shall review / approve submittals and respond to contractor's Requests for Information (RFIs), provide review and input on contractor change order requests, attend weekly construction progress meetings, and prepare final as-builts.

9. COST ESTIMATES

The architect shall provide detailed cost estimates during the schematic design phase, one cost estimate during the design development phase, and two construction cost estimates based on a material take-off from the construction documents at stages identified by the City.

10. MEETINGS

The architect will be required to attend meetings with the City. The architect shall include hours for all necessary project meetings.

11. PROCESSING OF PLANS AND PERMITS

The architect shall process the construction documents with the City of Costa Mesa Building Division, answer plan check comments, and if necessary, revise construction documents. Once an approved set is achieved contractor will be responsible for pulling necessary permits.

APPENDIX B
SAMPLE
PROFESSIONAL SERVICE AGREEMENT

**CITY OF COSTA MESA
PROFESSIONAL SERVICES AGREEMENT
WITH**

THIS AGREEMENT is made and entered into this ___ day of _____, 20__ ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and _____, a [state] [type of corporation] ("Consultant").

W I T N E S S E T H :

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to _____, as more fully described herein; and

B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and

C. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit "A" (the "Project") and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

D. WHEREAS, no official or employee of City has a financial interest, within the provisions of Sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Services. Consultant shall provide the professional services described in the City's Request for Proposal ("RFP"), attached hereto as Exhibit "A," and Consultant's Response to City's RFP (the "Response") attached hereto as Exhibit "B," both incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the complete satisfaction of the City and within the hereinafter specified. Evaluations of the work will be done by the City Manager or his or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;

- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.5. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

2.0. COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C," attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant's total compensation shall not exceed _____ Dollars (\$ _____.00).

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Consultant's Proposal unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such

additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to the City for approval on a progress basis, but no more often than two times a month. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the Effective Date.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Said services shall be performed in strict compliance with the Project Schedule approved by City as set forth in Exhibit "D," attached hereto and incorporated herein by this reference. The Project Schedule may be amended by mutual agreement of the parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of _____ months, ending on _____, 20____, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of

termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed

boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant."

- (b) Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to City.
- (c) Other insurance: "The Consultant's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.
- (e) The Consultant's 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.

5.3. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance. Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement. The certificates of insurance shall be attached hereto as Exhibit "E" and incorporated herein by this reference.

5.5. Non-limiting. Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his or her designee shall be the representative of

City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

 Tel: _____
 Fax: _____
 Attn: _____

IF TO CITY:

City of Costa Mesa
 77 Fair Drive
 Costa Mesa, CA 92626
 Tel: (714) 754-
 Fax: (714) 754-
 Attn: _____

Provide courtesy copy to:
 City of Costa Mesa
 77 Fair Drive
 Costa Mesa, CA 92626
 Attn: Finance Department

6.5. Drug-free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "F" and incorporated herein by reference. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment. Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless. Consultant agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Consultant, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Consultant, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

6.10. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall 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 further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.11. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.12. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.13. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.14. Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 *et seq.*). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.15. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, *et seq.*) and Government Code Section 1090. During the term of

this Agreement, Consultant and its officers, employees, associates and sub-consultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or sub-consultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.16. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.17. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.18. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.19. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.20. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.21. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.22. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.23. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.24. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of

those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.25. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.26. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.27. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF COSTA MESA,
A municipal corporation

[Mayor or City Manager] Date: _____

CONSULTANT

Signature Date: _____

Name and Title

Social Security or Taxpayer ID Number

ATTEST:

City Clerk and ex-officio Clerk
of the City of Costa Mesa

APPROVED AS TO FORM:

City Attorney Date: _____

APPROVED AS TO INSURANCE:

Risk Management Date: _____

APPROVED AS TO CONTENT:

Project Manager Date: _____

DEPARTMENTAL APPROVAL

Department Director Date: _____

APPROVED AS TO PURCHASING:

Finance Director Date: _____

APPENDIX C FORMS

**Vendor Application Form
Ex Parte Communications Certification
Disclosure of Government Positions
Disqualification Questionnaire
Company Profile & References
Bidder/Applicant/Contractor Campaign Contribution**



**VENDOR APPLICATION FORM
FOR
RFP No. 24-11 PROFESSIONAL ARCHITECTURAL & ENGINEERING DESIGN SERVICES**

TYPE OF APPLICANT: ☐ NEW ☐ CURRENT VENDOR

Legal Contractual Name of Corporation: _____

Contact Person for Agreement: _____

Title: _____ E-Mail Address: _____

Business Telephone: _____ Business Fax: _____

Corporate Mailing Address: _____

City, State and Zip Code: _____

Contact Person for Proposals: _____

Title: _____ E-Mail Address: _____

Business Telephone: _____ Business Fax: _____

Is your business: (check one)

☐ NON PROFIT CORPORATION ☐ FOR PROFIT CORPORATION

Is your business: (check one)

☐ CORPORATION ☐ LIMITED LIABILITY PARTNERSHIP
☐ INDIVIDUAL ☐ SOLE PROPRIETORSHIP
☐ PARTNERSHIP ☐ UNINCORPORATED ASSOCIATION

Names & Titles of Corporate Board Members

(Also list Names & Titles of persons with written authorization/resolution to sign contracts)

Names	Title	Phone

Federal Tax Identification Number: _____

City of Costa Mesa Business License Number: _____

(If none, you must obtain a Costa Mesa Business License upon award of contract.)

City of Costa Mesa Business License Expiration Date: _____

EX PARTE COMMUNICATIONS CERTIFICATION

Please indicate by signing below one of the following two statements. **Only sign one statement.**

I certify that Proposer and Proposer's representatives have not had any communication with a City Councilmember concerning informal **RFP No. 24-11 PROFESSIONAL ARCHITECTURAL & ENGINEERING DESIGN SERVICES** at any time after May 13, 2024.

Signature

Date: _____

Print

OR

I certify that Proposer or Proposer's representatives have communicated after May 13, 2024 with a City Councilmember concerning informal **RFP No. 24-11 PROFESSIONAL ARCHITECTURAL & ENGINEERING DESIGN SERVICES**. A copy of all such communications is attached to this form for public distribution.

Signature

Date: _____

Print

DISQUALIFICATION QUESTIONNAIRE

The Contractor shall complete the following questionnaire:

Has the Contractor, any officer of the Contractor, or any employee of the Contractor who has proprietary interest in the Contractor, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or safety regulation?

Yes _____ No _____

If the answer is yes, explain the circumstances in the following space.

DISCLOSURE OF GOVERNMENT POSITIONS

Each Proposer shall disclose below whether any owner or employee of Contractor currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months. List below or state "None."

COMPANY PROFILE & REFERENCES

Company Legal Name:

Company Legal Status (corporation, partnership, sole proprietor etc.):

Active licenses issued by the California State Contractor's License Board:

Business Address:

Website Address:

Telephone Number:

Facsimile Number:

Email Address:

Length of time the firm has been in business:

Length of time at current location:

Is your firm a sole proprietorship doing business under a different name: ____Yes ____No

If yes, please indicate sole proprietor's name and the name you are doing business under:

Federal Taxpayer ID Number:

Regular Business Hours:

Regular holidays and hours when business is closed:

Contact person in reference to this solicitation:

Telephone Number:

Facsimile Number:

Email Address:

Contact person for accounts payable:

Telephone Number:

Facsimile Number:

Email Address:

Name of Project Manager:

Telephone Number:

Facsimile Number:

Email Address:

COMPANY PROFILE & REFERENCES (Continued)

Submit the company names, addresses, telephone numbers, email, contact names, and brief contract descriptions of at least three clients, preferably other municipalities for whom comparable projects have been completed or submit letters from your references which include the requested information.

Company Name:

Contact Name:

Contract Amount:

Email:

Address:

Brief Contract Description:

Company Name:

Telephone Number:

Contact Name:

Contract Amount:

Email:

Address:

Brief Contract Description:

Company Name:

Telephone Number:

Contact Name:

Contract Amount:

Email:

Address:

Brief Contract Description:

Company Name:

Telephone Number:

Contact Name:

Contract Amount:

Email:

Address:

Brief Contract Description:

Company Name:

Telephone Number:

Contact Name:

Contract Amount:

Email:

Address:

Brief Contract Description:



BIDDER/APPLICANT/CONTRACTOR CAMPAIGN CONTRIBUTION
DISCLOSURE FORM

Proposer/Consultant/Applicant is required to identify any campaign contribution or cumulative contributions greater than \$249 to any city council member in the twelve months prior to submitting an application, proposal, statement of qualifications or bid requiring approval by the City Council.

[illegible]

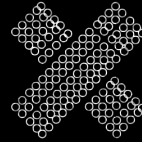
Except as described above, I/we have not made any campaign contribution in the amount of \$250 or more to any Costa Mesa City Council Member in the twelve months preceding this Application/Proposal.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Bidder/Applicant/Proposer

Date _____

EXHIBIT B
CONSULTANT'S PROPOSAL



Project Proposal

June 4, 2024

Proposal for: *Patrick Bauer, Deputy Public Works Director*
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

Dear Mr. Bauer,

The specific project requirements for the renovation and updates to the Costa Mesa Communications Center uniquely fit into the experience and interests of ITZEN. We thrive on having a portfolio full of various project types and are excited to bring that varied experience to this project. More specifically, having worked on numerous renovation projects for essential facilities, we are primed for the experience and level of detail that is required for these specific types of structures. We are delighted to share with you the vision and experience represented at ITZEN Architects.

Ms. Itzen has had a long history of work with the Orange County Fire Authority and their essential facilities. Currently ITZEN is in the process of design work with OCFA for multiple station renovations throughout Orange County. OCFA Station 4 in Irvine, is nearing construction completion for significant ADA renovations and improvements. In 2018, ITZEN completed the renovation and expansion of Fire Station #63 in Buena Park with great success. Prior to ITZEN, Jana worked on Hesperia Police Facility and more than 5 Fire Stations throughout Irvine and Laguna Niguel during her time at LPA, Inc. In addition to ITZEN's civic work mentioned above, during her time at LPA, Jana was integral to numerous municipal projects with the cities of Hesperia, Temecula, Orange, and Chino Hills.

ITZEN understands the key roles each team member plays in the success of the project, from the engineering team to the owner, the tenant or the end user. We work together as an expert team to find the best solutions for each unique project, attending to the prioritization of needs and values for user and owner. As you will see, our design team does a blend of civic, commercial, and residential work. This client centric blend of project types ideally suits us for this renovation of the Costa Mesa Communications Center.

We are honored to be considered for this opportunity and look forward to expanding on a great working relationship with the City of Costa Mesa in the years to come.

Sincerely

Jana SB Itzen

Table of Contents

1 : Cover Letter

2 : Background & Project Summary

3-5 : Project Approach & Methodology

6-8 : Qualifications & Experience for the Firm

*Financial Capacity (provided upon award of contract as needed)

9-10 : Key Personnel

*Cost Proposal (provided under separate file)

BACKGROUND & PROJECT SUMMARY

City of Costa Mesa Communications Center

We have read and reviewed the extents of RFP 24-11.

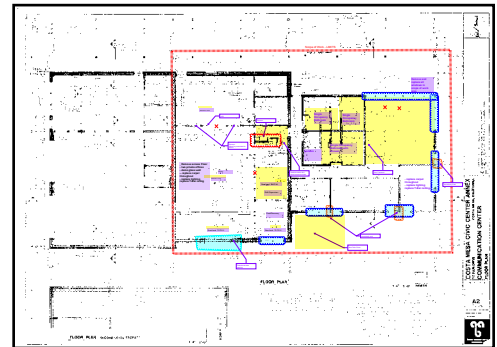
ITZEN Architects is well versed in providing professional architectural services for renovations and ADA updates to existing essential facilities similar to the 4,530 sf Communications Center at the heart of the City of Costa Mesa. We understand the unique needs of the facility and are ready to coordinate with the end users; the City of Costa Mesa Communications Team and the city of Costa Mesa Public Works Department.

After a thorough site visit to establish the existing conditions we were able to confirm the programmed scope of work as follows:

- Remove existing furniture partitions in the entry vestibule
- Remove and redesign millwork in copy room (including removal of door frame to create passthrough)
- Acoustical updates for 2 managers offices
- ADA Accessibility updates for toilets/ showers/ locker rooms
- Eliminate raised flooring and glass partition in gallery
- Eliminate raised flooring in supervisors areas and create 2 private supervisors spaces
- Coordinate with user regarding the specifications for the new dispatch consoles
- Update finishes throughout (including flooring finishes, wall finishes, acoustic ceiling tiles) and provide new lighting
- Remove and replace exterior canopy/ patio cover outside break room
- Remove and replace all exterior windows, with an alternate to just reseal/glaze existing windows to improve performance.
- 8 coordination/progress meetings with the city

This scope specifically excludes:

- Landscape Design
- 3rd party constructibility review
- Geotechnical Report
- Audio Visual
- Fire Sprinklers (deferred submittal)
- Structural or Civil work for Temp Structure



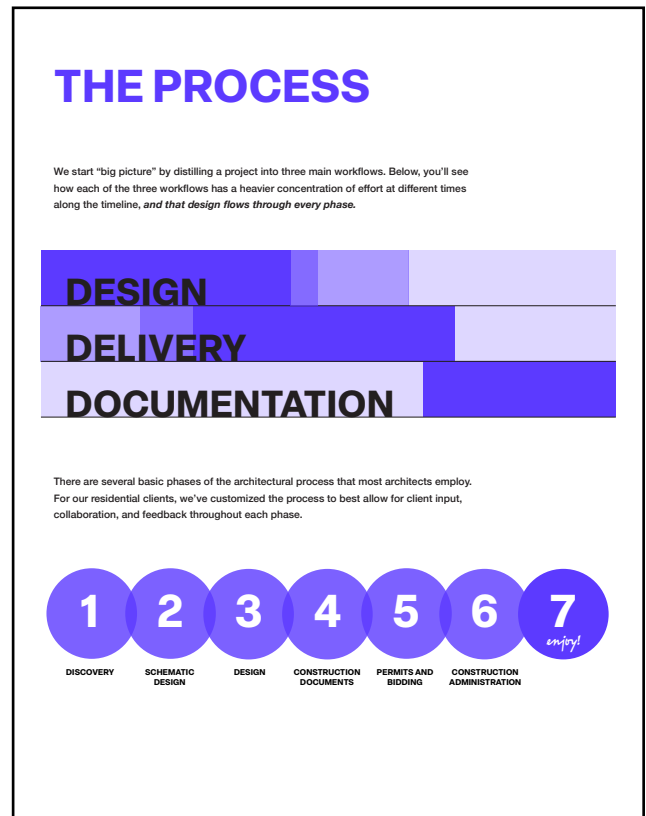
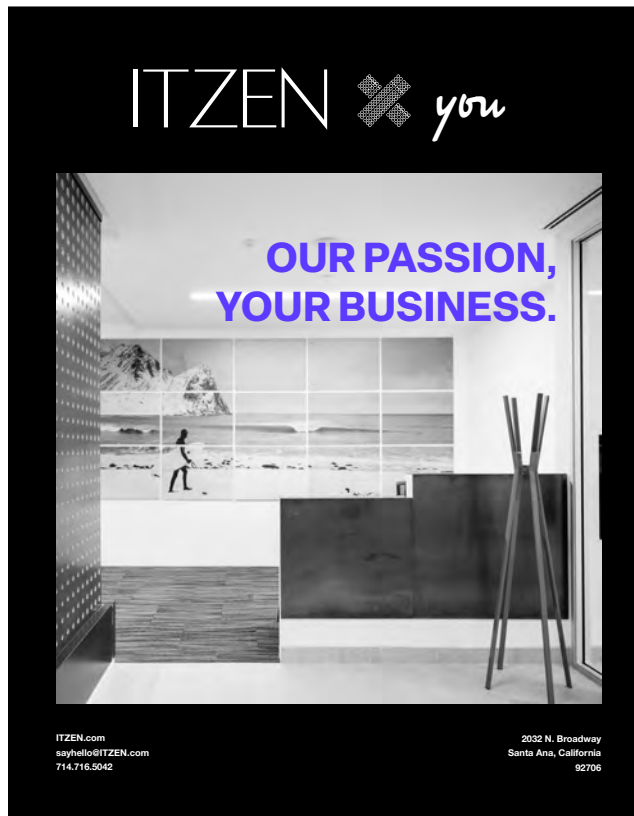
PROJECT APPROACH & METHODOLOGY

Over the course of several years, ITZEN architects has provided professional architectural services to the Orange County Fire Authority for numerous renovations and additions to their essential facility fire stations. ITZEN Architects has compiled a top tier team to lead in these renovation projects. The proposed team of designers and engineers have worked together extensively, providing expert communication and coordination, for projects of this particular size and scale.

With ITZEN at the helm you can count on leadership of the design team and a direct point of contact and coordination for the City of Costa Mesa. You will have direct access to principals Jana and William through every step of the design process.

We will work closely with the city to ensure all the necessary electrical and communications needs are correctly identified on the construction project requirements to maintain operation of temporary facilities for dispatch while construction is taking place.

ITZEN's systematic approach to documenting and developing the design plans are outlined in the following diagrams and descriptions:

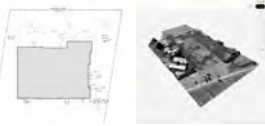


DISCOVERY

GATHER

During this phase we gather information from multiple sources: you, the city, and all applicable building code data. We'll visit the property to document the existing conditions and scan the applicable area of work. We'll employ a combination of photography, 3D scanning, laser measurements, and even a few old-fashioned tape measurements.

Documenting the existing conditions includes noting the location of visible mechanical, electrical, and plumbing equipment, in addition to structural and architectural components of the property. Our preliminary code research is provided as a resource to inform constraints of the design. The information we gather is then documented using BIM (building information model) software to produce what is commonly referred to as "as-built" or "as-measured" drawings.



1

ENVISION

This phase is at the heart of crafting your story. Architecture has a rich history that includes a multitude of materials, environments, styles, and forms. We'll sit down together (probably over nearly good coffee) and ask a lot of questions. We'll then begin to develop outlined project goals and principles that we use to make design decisions throughout the life of the project.

SCHEMATIC DESIGN

THE PLAN

Schematic design is when we begin to incorporate all the inspiration we discovered in our envisioning session. We'll start to include the impacts of our zoning and environmental analysis by studying massing models and space plans.

As we start to look at 3D models and programming, your project is going to start feeling very real, but this is just the beginning! We'll continue to use the inspirational imagery to shape the 3D models, and the space plans we develop are the start of the spatial organization of your floor plan.



2

what our client's say

"We've worked with ITZEN on several projects, and when a friend went against our advice and started a project without an architect we said are you out of your mind? They take the weight off our shoulders and alleviate any stress, effectively working with the contractor to figure out the inevitable issues when they arise. It's a unique collaboration, Jana is amazing!"



PROJECT: HOFOWITZ GROUP

DESIGN DEVELOPMENT

THE PLAN

The design development phase brings another level of depth and decision making to your project. Building on the schematic phase, we now start to incorporate the more technical aspects of a project—materials, product specifications, and utilities.

Our communication and feedback loop continues to be a key factor in the success of the project development. Many significant design choices are made during this time. Together we'll explore materials with physical samples and understand your preferences.

Beyond the schematic organization of structural systems and utilities, we now start to coordinate the specifics of these systems. Looking closely at how one choice impacts other systems, and vice versa.

3

THE PLAN

A more robust architectural drawing package is organized during this phase that reflects the design developing towards construction. Dimensions, quantities, and product specifications in the documentation set up the design for initial contractor pricing and the next phase of design with our team of engineers.

DESIGN DEVELOPMENT PACKAGE TYPICALLY INCLUDES:

- Updated 3D Rendered & Panoramic Views
- Cover Sheet with Code Analysis
- Site Plan
- Demolition Plans
- Floor Plans
- Building & Interior Elevations



INTERIORS

Beyond we continue...

Our approach to design is holistic, and the interior design of your residence is integral to the complete design story.

Beyond the design of the building itself, there are many decisions to be made regarding interior finishes, fixtures, equipment, and appliances. Again, we'll work collaboratively with you to select each and every element. For instance, selecting and specifying the flooring, countertops, cabinetry, tile, bathroom and kitchen fixtures, paint colors, low voltage devices, door hardware, and potentially much more.

Here, we'll create enlarged plans and interior elevations of the bathroom, kitchen, and other critical architectural details.

interlude

TYPICAL INTERIOR DESIGN SERVICES

- Finish architectural drawings for each room
- Select and specify materials
- Select and specify fixtures
- Select and specify equipment and pricing of fixtures
- Address 3D rendering (interior design only)

EXAMPLES OF FINISHES SPECIFIED

- Wall and floor tile for bathrooms and kitchens
- Floor finishes such as carpet and hardwood
- Paint colors and finishes
- Cabinet tops
- Cabinet styles, finishes, and hardware
- Wall coverings
- Door window trim and casing detailing
- Door hardware
- Plumbing fixtures



CONSTRUCTION DOCUMENTS

THE PLANS

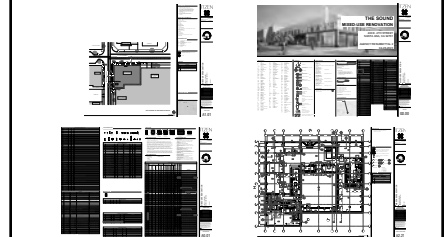
This phase of design is focused on the technical aspects, constructability (basically, it's a thing), and coordination of engineering systems. The design decisions we've already made are coordinated to a final level through architectural detailing. Essentially, we're creating the set of drawings and written instructions that describe the design intent and project scope for the general contractor and subcontractors.

Construction documents are formatted in a very particular way to very clearly communicate to the authorities with jurisdiction over your project our intent to meet the code requirements—these are design layout to the way materials interface with one another.

4

TYPICAL DOCUMENTS

- Updated 3D rendered & panoramic views
- Cover sheet with code analysis
- Schedules and Specifications (finishes, light fixtures, plumbing fixtures, equipment and door hardware)
- Site Plan
- Demolition Plans
- Floor Plans
- Reflected Ceiling Plans
- Finish Plans
- Power Plans
- Building & Interior Elevations
- Schedule & Interior Detailing
- Structural, Mechanical, Plumbing and Electrical Plans (as needed)



PERMITS & BIDDING

THE PAPERWORK

We assist with the building permit application and submission of permit drawings to the building department. We'll coordinate with you to ensure all necessary documents are addressed by modifying or clarifying the existing drawings or adding additional drawing information to the application.

Addressing comments from these departments may result in design changes and/or additional information from the general contractor.

We've worked with many cities and municipalities over the years, and continue to work with new ones as our client base grows. Each city has a different permit review period. In the last several years we have seen an increase in this review period, 2-4 months in some cases.

5

THE MATCH-UP

While a project is with the jurisdiction for permitting, it's an ideal time for the design phase. This is when distributing construction documents and other relevant design information to contractors, walking them through the project, answering questions, and assisting bidders as they determine costs.

The effort associated with this phase is frequently underestimated. Successful bidding requires that all bidders receive the same documents and of construction to clearly intend. Ensuring that all bidders have identical information is critical to receiving "apple-to-apple" bid information. We're here to help and will continue to be a resource as you bid the project.



what our client's say

ITZEN stayed with us throughout the project, holding the contractors to a high standard of executing the plan, just as we had envisioned it.

CONSTRUCTION ADMINISTRATION

THE BUILD

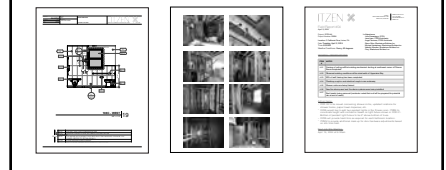
Our design services continue right through construction (aka construction administration). During this phase we make scheduled visits to the construction site to observe and confirm that the work has been done according to the construction documents. We provide notes, comments, and follow up regarding items that are discovered.

We make ourselves available to assist in resolving any unforeseen issues that come up during construction. Our goal is to always work as a team along with you and the contractor to come to a solution that works for everyone.

The project is going to have challenges along the way, and it's important that these are resolved in a timely, thoughtful, and cost-effective manner, while keeping the design intent intact.

Deliverables include field reports and any additional architectural sketches needed to clarify or modify the design due to unforeseen conditions. We'll review shop drawings and product submittals to verify that they comply with our design intent. Typically provided by a subcontractor or manufacturer, shop drawings and submittals serve to illustrate in detail how the contractor plans to construct the work.

Towards the end of construction, we'll prepare a punch list that gets the same team on the same page with details that need just a final touch or fix before we reach the finish line.



Schedule

ITZEN Proposes the following timeline schedule for review and discussion with client and end user.

The design process is scheduled to be completed in approximately 7 months from authorization to proceed. Since there are no recent as-built field verification of the original documents, the project will initiate with 3d scans and field verifications of critical project dimensions. Entitlements and bidding phases taking approximately 3 months and proceeding concurrently to minimize time spent on jurisdictional reviews and approvals. Construction is slated for approximately 26 weeks.

Phase Summary

D1	Discovery
Jul 5, 2024 - Jul 26, 2024	
SD	Schematic Design
Jul 27, 2024 - Sep 6, 2024	
DD	Design Development
Sep 6, 2024 - Nov 1, 2024	
CD	Construction Documentation
Nov 1, 2024 - Jan 24, 2025	
EB	Entitlements & Bidding
Jan 24, 2025 - Apr 30, 2025	
CA	Contract Administration
May 1, 2025 - Oct 31, 2025	

Gantt Chart



QUALIFICATIONS & EXPERIENCE FOR THE FIRM

Project Team for Costa Mesa Communications Center:

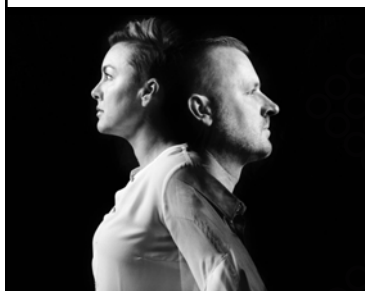
With ITZEN at the helm you can count on leadership of the design team and a direct point of contact and coordination for the City of Costa Mesa. You will have direct access to principals Jana and William through every step of the design process. ITZEN has compiled a top tier team to lead in these renovation projects. The proposed team of designers and engineers have worked together extensively, providing expert communication and coordination for projects of this particular size and scale.

OUR STUDIO

ITZEN is a full service architecture design firm rooted in the heart of Santa Ana, California.

We're located on the north end of Broadway, bridging the gap of a wonderfully historic residential neighborhood and our ever-changing downtown.

Our team is focused on creative collaboration throughout each stage of a project. We believe your architectural journey should be thoughtful, exciting, forward thinking, and FUN. We've customized the architectural design process to best allow for client input, collaboration, and feedback throughout each phase. It's tempting to jump right into the schematic or design development phase, but we know that gathering and envisioning is so very important to what we do. It gives us the opportunity to explore the vision of what YOU truly need and desire.



YOUR STORY

While our work spans size, market segments, and budget, the common thread is our ability to uncover and explore to tell your story through architecture and design.

Our design solutions are focused on a blend of function and aesthetics. Each client and each project is unique, so our designs reflect that. There's no need to limit your project to a specific architectural style. We love gathering all the attributes that inform the function and constraints of your project to develop the precise form and style that will serve you for years to come.



Architect / Interior Design / Signage

ITZEN Architects Inc.

1800 N Bristol Street, C-418
Santa Ana, CA 92706
jana@itzen.com
714-716-5042 x2
Jana SB Itzen, AIA

Structural Engineer

Cross Engineering

3198-G Airport Loop Drive
Costa Mesa, CA 92626
kcross@crosseng.com
714-556-5475
Kirk Cross, S.E.

Mechanical, Electrical, and Plumbing Engineer

Goss Engineering Inc

255 E Rincon St., Suite 301
Corona, CA 92879
nubrun@goss-eng.com
(951) 340-1977
Nick Ubrun, P.E.

Civil Engineer

Delane Engineering Inc.

4909 Murphy Canyon Rd, Ste 330
San Diego, CA 92123
jprince@delanegroup.com
(619) 787-5566
John Prince

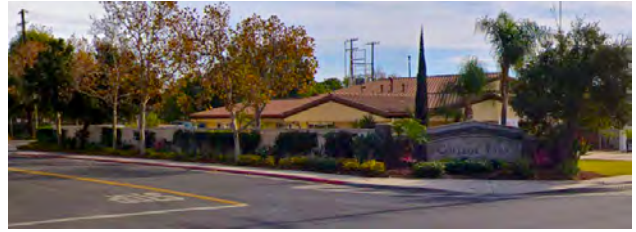
Cost Estimating

HLCM

678 North Lemon Hill Trail
Orange, CA 92869
jhelekar@hlcm.com
(714) 941-9294
Jay Helekar

Client Profiles & Relevant Experience

- OCFA Fire Station #4 - Irvine
- OCFA Fire Station #23 - Orange
- OCFA Fire Station #32 - Yorba Linda
- OCFA Fire Station #63 - Buena Park
- The Sound - Santa Ana Foursquare
- Palmdale Water District
- Rowland Water District
- City of Tracy
- The Irvine Company
- The Music Center - Grand Park
- Los Angeles Master Chorale
- Horowitz Group
- ACS Development
- Stream Realty
- Lojistic Headquarters
- Graceworks

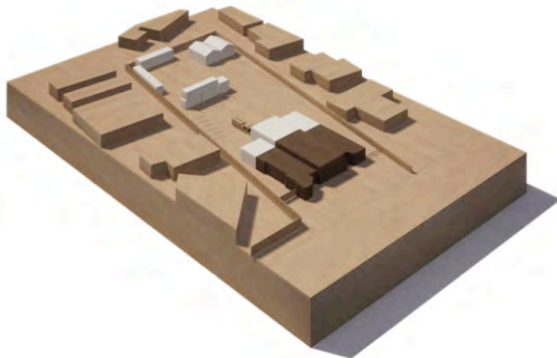


OCFA Fire Station #63

Buena Park, CA
900 SF expansion

Dorm and fitness room renovation and expansion. ITZEN provided professional service from design through construction admin.

Client: Orange County Fire Authority
Iris Lee, Deputy Director of Public Works
ilee@sealbeachca.gov
(562) 431-2527, x1322



OCFA Fire Station #23

Orange, CA
2,600 SF Expansion and 4,600 SF Renovation

Complete overhaul of this fire station includes new dorms, kitchen and fitness rooms. Substantial site work includes entry ADA and parking upgrades, vehicle storage strategies and an exterior patio.

Client: Orange County Fire Authority
Julie Samaniego, Construction and Facilities Division Manager
JulieSamaniego@ocfa.org (714) 573-6480



City of Tracy: Westside Market

Tracy, CA
9,000 SF

Re-envisioning of streetscape facade of the Westside Market Building. ITZEN was tasked with enlivening the facade of multiple structures along the main thoroughfare that had become run down and an eyesore to the community. The design incorporated multiple outdoor breakout/gathering spaces with various types of shading.

Client Profiles & Relevant Experience



The Sound

Santa Ana, CA
45,000 SF

Historic renovation of a masonry structure originally constructed in 1901. This reimagined mixed use event space covers two floors of vibrant community focused activity with a rooftop garden and secondary event space. This project was not only approved by the typical building and planning departments, but also the Historic Resource Commission in the city of Santa Ana.

Client Contact: Foursquare Church
Janae Klatt (2024)
janaeklatt@gmail.com (805) 320-0715

Brian Heney (liaison from 2020-2024)
(714) 955-1742



OCFA Fire Station #4

Irvine, CA

8 restroom updates (three of which were ADA restroom updates) to this 1968 facility. Renovation design (1,165 sf) incorporated an expanded fitness area with new rollup door for access to outdoor workout spaces. New roof 10,000 sf replacement and covered patio area. ITZEN provided design services from schematic through construction admin.

Client: Orange County Fire Authority
Julie Samaniego, Construction and Facilities Division Manager
JulieSamaniego@ocfa.org (714) 573-6480



OCFA Fire Station #32

Yorba Linda, CA
600 SF Renovation

ITZEN is providing professional design services to envision an expanded kitchen for this client. Modernizing the facility with new finishes, equipment, and lighting.

Client: Orange County Fire Authority
Julie Samaniego, Construction and Facilities Division Manager
JulieSamaniego@ocfa.org (714) 573-6480



Rowland Water District

Rowland Heights, CA
2,200 SF

Board Room and Customer Service renovation. ITZEN provided professional services from Schematic Design through Construction Admin.

Client Contact: Rowland Water District
Tom Coleman, General Manager
tcoleman@rowlandwater.com (562) 697-1726

KEY PERSONNEL

JANA SB ITZEN, AIA California Licensed Architect #C 31791

Throughout the course of my career, I have sought to contribute to thoughtful, place making architecture which responds to its context and environment.



EXPERIENCE

President, Architect

Jana has developed a strong passion for effective communication. She works with clients and team members to cast the project vision and keep the vision at the forefront of the project delivery. She participates in all phases of design from conception to construction administration providing a continuity to ensure project schedules, budgets, and goals align.

Alternate Experiences:

LPA Inc., Irvine, CA 2004-2011
Orange Coast College, Costa Mesa, CA 2009-2014
KTTY Group, Irvine, CA 2002-2004
Ferrier Baudet Architects, Brisbane, Australia 2000
Parish Clarke Architects, Brisbane, Australia 2000

EDUCATION

California Polytechnic State University

San Luis Obispo, CA - Bachelor of Architecture

University of Queensland

Brisbane, Australia - Undergraduate Work

SPEAKER

- Vanguard University, Costa Mesa, CA : Marketing & Entrepreneurial Leadership, 2017 & 2016
- AIA Orange County : Firm Management Panel Discussion, 2016
- California Utility Executive Management Association (CUEMA) : 2014 Fall Leadership Summit, Monterey

WRITING

- Cal PolyMagazine, "CEO Roundtable", Winter 2017
- California Buildings News, "Q & A with Jana Itzen", Q1 2017

OTHER PROFESSIONAL ROLES

- AIA, Co-Chair, Members Voice Task Force, 2021-2023
- AIA, Strategic Council, 2018-2020
- AIA California Council, President 2017
- CASH Awards Jury, 2017
- Committee Members - AIACC Monterey Design Conference, 2017
- BIM Thoughts Podcast, Episode 2017/03, 2017
- Committee Member - Women in Building Design and Construction, 2016
- AIA California Council, President Elect, 2016
- Committee Member - AIACC Planning and Finance Committee
- AIA San Joaquin Valley Design Awards Jury, 2016
- Vice President, Academy for Emerging Professionals, AIA California Council, 2014-2015
- CASH Awards Jury, 2015
- Committee Member - Now Next Future Conference, 2014 & Monterey Design Conference, 2013
- Southern California Young Architects Forum Regional Director, AIA California Council 2013
- Progression Conference Committee Chair, 2012
- Southern California Young Architects Forum Regional Director Elect, AIA California Council 2012
- Southern California Associate Director, AIA California Council, 2007
- Southern California Associate Director-Elect, AIA California Council, 2006
- Associate Chair, AIA Orange County, 2005
- Vice Chair, College of Architecture and Environmental Design Student Council, Cal Poly SLO 1998

WILLIAM ITZEN, AIA

California Licensed Architect #C 31793
NCARB

EXPERIENCE

Vice President, Architect

Effectively communicate with clients and project team. Coordination and production of design and construction documentations, knowledge of building codes, integration of sustainable principles, and 3D modeling. Duties include the day to day administrative duties required for managing and running an office as well as the architectural vision and design for the firm.

Alternate Experiences:

LPA Inc., Irvine, CA 2004-2012

Orange Coast College, Costa Mesa, CA 2009-2017

Art Institute Orange County, Costa Mesa, CA
2008-2009

Mark J. Paone, AIA, Orange, CA 2002-2004

pgal, Alexandria, VA 2000

EDUCATION

California Polytechnic State University

San Luis Obispo, CA - Bachelor of Architecture

Virginia Tech - WAAC

Alexandria, VA - Undergraduate Work

Stanford University

Stanford, CA - Virtual Design & Construction
Certificate

SELECTED PROJECTS

- OCFA Station #63, Buena Park, CA
- The Sound, Santa Ana, CA
- Rowland Water District, Rowland Heights, CA

ANGEL TERRONES

EXPERIENCE

Project Designer

Angel is integral throughout all phases of project design and development, through documentation up until project completion. His expert 3d modeling and rendering skills assist the team in high level collaboration to identify potential conflicts prior to construction as well as providing visual renderings to facilitate clients envisioning these new spaces coming to life.

EDUCATION

California Polytechnic State University

Pomona, CA - Bachelor of Architecture

SELECTED PROJECTS

- OCFA Station #4, Irvine, CA
- OCFA Station #23, Orange, CA
- OCFA Station #32, Yorba Linda, CA
- The Sound, Santa Ana, CA

EXHIBIT C
FEE SCHEDULE



CM Communications Center - RFP 24-11 Team Fees Revised

	Item	Approximate hours	Amount	Timeframe
Name:		Sum:	Sum:	
▼ Task 1: Pre-Design/Discovery		93	\$19,532.00	
	ITZEN Architecture - Building As Built	48	\$8,000.00	6w
	Civil Engineering - Site Survey (Allowance)	30	\$8,000.00	
	Structural	4	\$1,000.00	
	Mechanical, Electrical, Plumbing	11	\$2,532.00	
▼ Task 2: Schematic Design (SD)		206	\$36,972.00	
	ITZEN Architecture + Interiors	97	\$16,100.00	6w
	Civil Engineering - Site Design (Allowance)	18	\$5,000.00	
	Structural	0	\$0.00	
	Mechanical, Electrical, Plumbing	39	\$6,432.00	
	Cost Estimating	40	\$7,440.00	
	Specifications - Outline	12	\$2,000.00	
▼ Task 3: Design Development (50% Plans)		214	\$35,700.00	
	ITZEN Architecture + Interiors	195	\$32,200.00	8w
	Structural	4	\$1,000.00	
	Mechanical, Electrical, Plumbing	0	\$0.00	
	Cost Estimating	0	\$0.00	
	Specifications	15	\$2,500.00	
▼ Task 4: Construction Documents (90% and 100%)		297	\$50,223.00	
	ITZEN Architecture + Interiors	177	\$29,205.00	12w
	Structural	33	\$5,650.00	
	Mechanical, Electrical, Plumbing	37	\$6,648.00	
	Cost Estimating - 90% CD Set	20	\$3,720.00	
	Specifications - CSI Division Master Format	30	\$5,000.00	
▼ Task 5: Bidding/Entitlements		46	\$7,590.00	
	ITZEN Architecture + Interiors	46	\$7,590.00	12w
▼ Task 6: Construction Administration		162	\$28,287.00	
	ITZEN Architecture + Interiors	135	\$22,275.00	26w
	Structural	11	\$2,400.00	
	Mechanical, Electrical, Plumbing	16	\$3,612.00	
Total			\$178,304.00	

	Item	Discipline	Hours
Name:			Sum:
▼ Task 1: Pre-Design/Discovery			93
	Jurisdictional Research and Coordination	Arch	5
	Review Building and Planning Approval Process with the respective agencies	Arch	2
	Field Verification of existing conditions • Site Measurements, photos, 3d Scans • Identify existing electrical/utility service locations and constraints	Arch	16
	3D modeling of existing conditions/building - based on PDF files provided by client	Arch	20
	Schedule and Coordinate Kick-Off Meeting	Arch	3
	Attend Kick-Off Meeting	MEP/Struct/Civil	7
	Perform Site Work/Field Investigation	MEP/Struct	10
	Site Work Investigation	Civil	30
▼ Task 2: Schematic Design			206
	Schematic Design : Sketches, Space Plans, Massing models, 3d forms	Arch	23
	Develop and evaluate project priorities	Arch	6
	Preliminary code analysis	Arch	16
	Preliminary cost estimate coordination	Arch/CE	42
	3d Model Rendering(s) and Walkthrough - <i>Monochromatic</i>	Arch	12
	Preliminary Lighting Design	Arch / Elec	12
	Preliminary Finish Design	Arch	18
	Client Meetings/Reviews 1. Initial schematic design ideas 2. Schematic Design development	Arch	8
	Develop Mechanical Drawings Based on Conceptual Design	Mech	10
	Develop Electrical Drawings Based on Conceptual Design	Elec	9
	Develop Plumbing Drawings Based on Conceptual Design	Plumb	9
	Multi-disciplinary Coordination	MEP	5
	Cost Estimation Review	MEP	3
	Review Meeting	MEP	3
	Outline Specifications	Arch	12
	Civil Site Design	Civil	18
▼ Task 3: Design Development (50% Plans)			214
	Develop approved Schematic Design into further detail. Confirm design direction through a drawing set to include: 1. Floor Plan (dimensioned) 2. Demo Plan 3. Finish Plan 4. Reflected Ceiling Plan (dimensioned) 5. Interior Elevations (dimensioned) 6. Window/Door Schedule 7. Power, Signal and Equipment Plan	Arch	89
	Updated 3d Model Rendering(s) and Walkthrough - <i>Color/Materials</i>	Arch	30
	Lighting Design Finalized and Coordinated	Arch / Elec	12
	Finish Design Finalized and Coordinated	Arch	12

	Item	Discipline	Hours
	Digital Finishes Material Board - <i>physical samples as need</i>		18
	Product Packet - <i>cut sheets</i>		10
	Coordinate with engineer(s) team	All	12
	Client Meetings/Reviews 1. Design Development Review - Progress Set 2. Design Development Finishes Review 3. Design Development Final Review	Arch	12
	Develop Structural Drawings Based on Conceptual Design	Struct	2
	Multi-disciplinary Coordination	Struct	2
	Cost Estimate – DD	CE	0
	Specifications - DD Progress Draft	Arch	15
▼ Task 4: Construction Documents (90% and 100%)			297
	Develop the design phase documentation into construction documents for review/ approval, plan check, permitting and construction. Drawing set to include: 1. Reference Site Plan 2. Exiting/Code Analysis Plan 3. Floor Plan 4. Demo Plan 5. Finish Plan 6. Reflected Ceiling Plan 7. Interior Elevations 8. Window/Door Schedules, Hardware Schedule 9. Finish Schedules 10. Power, Signal and Equipment Plan 11. Architectural Detailing 12. Window/Door Detailing 13. Casework Detailing	Arch	119
	Model and documents set coordination with Engineers	All	20
	Furniture Specification/Coordination (allowance)	Arch	10
	Signage Schedule and Plan 1. Size of all interior signs 2. Type of all interior signs	Arch	18
	Meeting(s) to review documents 1. 50% Construction Document Review 2. 90% Construction Document Review	Arch	10
	Prepare Structural Construction Documents	Struct	24
	Plan Check Coordination	Struct	9
	Prepare Mechanical Construction Documents	Mech	6
	Prepare Electrical Construction Documents	Elect	6
	Prepare Plumbing Construction Documents	Plumb	6
	Title - 24	Elect/Mech	4
	Photometrics	Elect	2
	Cost Estimate Review	MEP	2
	City Plan Check Coordination	MEP	8
	Review Meeting	MEP	3
	Cost Estimating - 90% CD Set	CE	20
	Specifications - CSI Division Master Format	Arch	30
▼ Task 5: Bidding/Entitlements/Construction Admin.			46
	Permit Application(s) Assist	Arch	3

	Item	Discipline	Hours
	Submit Documents for Permitting	Arch	4
	Respond to City Comments	Arch	15
	Respond to bid RFIs and provide feedback on contractor bids	Arch	12
	Issue Bid Addendum	Arch	12
▼ Task 6: Contract Administration			162
	Construction Kick-Off Meeting	Arch	6
	RFIs, Submittals and Field Reports	Arch	85
	Intermediate Site Visits (6)	Arch	24
	Final Walk Through - Punch List	Arch	12
	Punch List On-Site review/confirmation	Arch	8
	Construction Kick-Off Meeting	MEP	2
	Review Contractor Submittals	MEP	7
	Respond to Contractor RFI's	MEP	7
	Construction Kick-Off Meeting	Struct	2
	Review Contractor Submittals	Struct	2
	Respond to Contractor RFI's	Struct	3
Total			1018

EXHIBIT D
CITY COUNCIL POLICY 100-5

CITY OF COSTA MESA, CALIFORNIA

COUNCIL POLICY

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

POLICY

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;
 - B. Establishing a Drug-Free Awareness Program to inform employees about:

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	2 of 3

1. The dangers of drug abuse in the workplace;
 2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
 3. Any available drug counseling, rehabilitation and employee assistance programs; and
 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
- D. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
1. Abide by the terms of the statement; and
 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- E. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
- F. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
1. Taking appropriate personnel action against such an employee, up to and including termination; or
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	3 of 3

- G. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.
2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
 - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;
 - b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
 - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
 3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.



CITY OF COSTA MESA

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 24-296

Meeting Date: 9/3/2024

TITLE:

AMENDMENT NO. 1 TO NON-EXCLUSIVE FRANCHISE AGREEMENT(S) FOR DISCARDED MATERIALS MANAGEMENT FOR MULTI-FAMILY AND COMMERCIAL GENERATORS AND FOR PROVIDING TEMPORARY SOLID WASTE HANDLING SERVICES

DEPARTMENT: PUBLIC WORKS DEPARTMENT/GENERAL SERVICES
DIVISION

PRESENTED BY: RAJA SETHURAMAN, PUBLIC WORKS DIRECTOR

CONTACT INFORMATION: PATRICK BAUER, DEPUTY PUBLIC WORKS DIRECTOR, (714) 754-5029

RECOMMENDATION:

Staff recommends the City Council:

1. Approve the language of Amendment No. 1 to the Non-Exclusive Franchise Agreements for Discarded Materials Management for Multi-Family and Commercial Generators and for providing Temporary Solid Waste Handling Services allowing customers increased flexibility to opt out of hauler service agreements.
2. Authorize the Public Works Director to execute Amendment No. 1 to the Non-Exclusive Franchise Agreements with each of the seven waste haulers, in substantial form as set forth in Attachment No. 2.

BACKGROUND:

On October 5, 2021, the City Council approved the non-exclusive Solid Waste Hauler Franchise Agreement to ensure compliance with new State mandates such as Senate Bill 1383 (Attachment 1).

The City elected to retain a non-exclusive hauling franchise to continue offering competition for services to multi-family residents and businesses receiving commercial solid waste service (Residential service, including smaller multi-family residences, is provided under a separate Costa Mesa Sanitary District exclusive franchise). While there have historically been relatively few issues regarding hauler-contract enforcement issues, staff have recently encountered multiple complaints regarding hauler contracts and their use to circumvent competitive pricing for new and mandatory programs under Senate Bill 1383.

Senate Bill 1383 (SB 1383) Lara, Chapter 395, Statutes of 2016 is a state-wide effort to reduce emissions of short-lived climate pollutants (SLCP). SB 1383 directed local governments to incorporate its significant regulations and requirements into their code of ordinances prior to January

2022. Among these adopted regulations is the City's requirement to enforce mandatory recycling and organic waste recycling programs to all generators, and to enforce mandatory programs through penalties for non-compliance. Failure to enforce SB 1383 in this manner opens the City to State enforcement action and penalties of up to \$10,000 per day.

ANALYSIS:

FRANCHISE AGREEMENTS

Currently, seven (7) haulers offer solid waste program services to commercial accounts and multifamily dwellings consisting of 5 units or more under the City's Non-Exclusive Franchise Hauler system. The City does not play a role in negotiations and allows these seven haulers to negotiate service rates and agreement terms directly with account holders. The Franchise Agreement requires haulers to provide the following services regardless of rates or contract terms:

- Collection and processing of materials through SB 1383 compliant programs.
- Contamination monitoring of routes annually.
- Annual education and outreach to all customers covering all SB 1383 programs.
- Extensive record keeping and reporting to assist City compliance requirements.

In May of 2023, staff conducted a meeting with Costa Mesa Franchise Waste Haulers (CR&R Inc., Haul Away Rubbish, Ware Disposal, Roberts Waste & Recycling, Universal Waste Systems, Waste Management, and Rainbow Disposal Co., Inc.) to discuss a variety of hauler contracting terms that had recently resulted in complaints to the City. Many of these complaints involved the high pricing of mandatory services required by SB 1383 and the hauler's unwillingness to allow these customers to seek competitive pricing for new programs from other franchise haulers. In most instances, agreement terms featured automatic renewals for multiple-year periods, with limited time windows to initiate a cancellation process. Agreement terms also conferred rights to provide new programs required by law. Customers wishing to end their contracts are often faced with contract provisions that require payment for the remaining term of their agreements, plus liquidated damage provisions.

In order to address these issues, the City is proposing an Amendment to our non-exclusive franchise agreement that adds the following provisions:

1. All non-exclusive franchised hauler contracts shall be required to allow contract cancellations no later than six (6) months after a customer provides a hauler notice of their intent to cancel. Cancellation "windows of time," or any other contract provision which impinges upon a customer's ability to reasonably terminate their relationship with a hauler beyond six (6) months after stating their intention to terminate, is not allowed. Haulers may require customers to complete a simple cancellation form to officially terminate their relationship with them, provided they are not unreasonably difficult to fill out, that access to the form is provided immediately upon request, and that the form allows the initial contact date to be the start of the six (6) month cancellation period.

2. Customers that have been with the same hauler for 24 consecutive months or longer shall be allowed to cancel with three (3) months' notice.
3. Liquidated damage provisions are not allowed in any contract used for customers within the City's franchise. Customers who fail to honor the full three or six-month cancellation period can only be charged for the remaining months of service within their established cancellation period. Partial months remaining shall be pro-rated by dividing the monthly charge by the remaining days of service.

All haulers were amenable to the general framework of this Amendment, though some would prefer a longer contract term be guaranteed. All franchise haulers have also demonstrated a strong willingness to work with the City, provided a level playing field is maintained.

The City Attorney's Office was involved throughout this process to ensure the new agreement meets the State's requirements and effectively formalizes hauler responsibilities. This Amendment will allow for reasonable movement of hauler customers to other waste haulers when pricing and service issues prompt such action. Therefore, staff requests City Council approval of the amendment to the Franchise Hauler Agreement.

ALTERNATIVES:

The City Council may decline to authorize the proposed Amendment. However, without the proposed Amendment, residents and business owners will be forced to adhere to existing terms of the agreements, with few options to conveniently exit their agreements.

FISCAL REVIEW:

There is no fiscal impact to the City for the approval of the recommended action.

LEGAL REVIEW:

The City Attorney's Office has reviewed this agenda report, the proposed Amendment (Attachment 2) and approves them both as to form.

CITY COUNCIL GOALS AND PRIORITIES:

This item works toward achieving the following City Council Goal:

- Maintain and Enhance the City's Infrastructure, Facilities, Equipment, and Technology

CONCLUSION:

Staff recommends the City Council:

1. Approve the language of Amendment No. 1 to the Non-Exclusive Franchise Agreements for Discarded Materials Management for Multi-Family and Commercial Generators and for providing Temporary Solid Waste Handling Services allowing customers increased flexibility to opt out of hauler service agreements.
2. Authorize the Public Works Director to execute Amendment No. 1 to the Non-Exclusive Franchise Agreements with each of the seven waste haulers, in substantial form as set forth in Attachment No. 2.

**NON-EXCLUSIVE FRANCHISE AGREEMENT
FOR
DISCARDED MATERIALS MANAGEMENT
FOR MULTI-FAMILY AND COMMERCIAL GENERATORS
AND FOR PROVIDING
TEMPORARY SOLID WASTE HANDLING SERVICES**

BETWEEN

CITY OF COSTA MESA

AND

[NAME]

EFFECTIVE JANUARY 1, 2022

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**NON-EXCLUSIVE FRANCHISE AGREEMENT
FOR
DISCARDED MATERIALS MANAGEMENT
FOR MULTI-FAMILY AND COMMERCIAL GENERATORS
AND FOR PROVIDING
TEMPORARY SOLID WASTE HANDLING SERVICES
BETWEEN
CITY OF COSTA MESA
AND
CR&R INCORPORATED**

This Non-Exclusive Franchise Agreement for Discarded Materials Management for Commercial Generators and for Providing Temporary Solid Waste Services ("Agreement") is entered into this 23rd day of November, 2021, by and between the City of Costa Mesa ("City") and CR&R Incorporated ("Contractor") (collectively, the "Parties"), for the Collection and subsequent Transfer, Transportation, Recycling, Processing, and/or Disposal of Discarded Materials and provision of other related services.

R E C I T A L S:

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 ("AB 939"), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the handling of all Solid Waste within their jurisdictions.

WHEREAS, the State of California has found and declared that the amount of Solid Waste generated in California, coupled with diminishing Disposal capacity and interest in minimizing potential environmental impacts from landfilling and the need to conserve natural resources, have created an urgent need for State and local agencies to enact and implement an aggressive integrated waste management program. The State has, through enactment of AB 939 and subsequent related legislation including, but not limited to: the Jobs and Recycling Act of 2011 (AB 341), the Event and Venue Recycling Act of 2004 (AB 2176), SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383), directed the responsible State agency, and all local agencies, to promote a reduction in Landfill Disposal and to maximize the use of feasible waste reduction, Reuse, Recycling, and composting options in order to reduce the amount of material that must be Disposed; and,

WHEREAS, SB 1383 establishes regulatory requirements for jurisdictions, Generators, haulers, Solid Waste facilities, and other entities to support achievement of State-wide Organic Waste Disposal reduction targets; and,

WHEREAS, SB 1383 Regulations require the City to implement Collection programs, meet Processing facility requirements, conduct contamination monitoring, provide education, maintain records, submit reports, monitor compliance, conduct enforcement, and fulfill other requirements; and the City has chosen to delegate some of its responsibilities to the Contractor, acting as City's designee, through this Agreement; and

WHEREAS, pursuant to California Public Resources Code Section 40059(a)(2) and Chapter IV of Title 8 of the Costa Mesa Municipal Code, the City Council has determined that the public health, safety, and well-being require that Non-Exclusive Franchise Agreements for Discarded Materials Management for Multi-Family and Commercial Customers be awarded to qualified companies for the Collection and subsequent Transfer, Transportation, Recycling, Processing, and/or Disposal of Discarded Materials; and

WHEREAS, Contractor desires to engage in the business of Collecting Discarded Materials in the City; and

WHEREAS, City wishes to utilize the Contractor's services to offer Discarded Materials Collection services to Multi-Family and Commercial Generators in the City; and

WHEREAS, it is the intent of the Parties to this Agreement that compliance with the operative requirements hereof shall commence on January 1, 2022.

NOW, THEREFORE, in consideration of the promises above stated and the terms, conditions, covenants, and agreements contained herein, the Parties do hereby agree as follows:

SECTION 1. RECITALS

The Parties acknowledge the above recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2. DEFINITIONS

Whenever any term used in this Agreement has been defined by the California Public Resources Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement.

2.1 AB 341

"AB 341" shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011).

2.2 AB 876

"AB 876" means the Assembly Bill approved by the Governor of the State of California on October 8, 2015, which added Section 418214 to the Public Resources Code, relating to Solid Waste as amended, supplemented, superseded, and replaced from time to time.

2.3 AB 901

“AB 901” means the Assembly Bill approved by the Governor of the State of California on October 10, 2015, which amended Section 41821.5 of, amended, renumbered and added Section 41821.6 of, and added Sections 41821.7 and 41821.8 to, the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time.

2.4 AB 939

“AB 939” shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended from time to time.

2.5 SB 1383

“SB 1383” shall mean Senate Bill 1383, the Short-Lived Climate Pollutants Bill of 2016, from the 2015-2016 Regular Session of the California Legislature (Chapter 395, Statutes of 2016).

2.6 AB 1594

“AB 1594” shall mean Assembly Bill 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014).

2.7 AB 1826

“AB 1826” shall mean Assembly Bill 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.8 Affiliate

“Affiliate” means a business in which Contractor owns a direct or indirect ownership interest, a business (including corporations, limited and general partnerships and sole proprietorships) which has a direct or indirect ownership interest in Contractor and/or a business which is also owned, controlled or managed by any business or individual which has a direct or indirect ownership interest in Contractor. For purposes of determining whether an indirect ownership interest exists, the constructive ownership provisions of Section 318(a) of the Internal Revenue Code of 1986, as in effect on the date of this Agreement, shall apply; provided, however, that (i) “ten percent (10%)” shall be substituted for “fifty percent (50%)” in Section 318(a)(2)(C) and in Section 318(a)(3)(C) thereof; and (ii) Section 318(a)(5)(C) shall be disregarded. For purposes of determining ownership under this paragraph and constructive or indirect ownership under Section 318(a), ownership interest of less than ten percent (10%) shall be disregarded and percentage interests shall be determined on the basis of the percentage of voting interest or value which the ownership interest represents, whichever is greater.

2.9 Alternative Daily Cover (ADC)

“Alternative Daily Cover” or “ADC” has the same meaning as in 27 CCR Section 20690.

2.10 Alternative Intermediate Cover (AIC)

“Alternative Intermediate Cover” or “AIC” has the same meaning as in 27 CCR Section 20700.

2.11 Animal Waste

“Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.12 Applicable Laws

“Applicable Laws” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation City’s Municipal Code, AB 341, AB 939, AB 1594, AB 1826 and SB 1383.

2.13 Approved C&D Processing Facility

“Approved C&D Processing Facility” means the Facility Name at Facility Address, which is owned and operated by Owner Name, that is a C&D Processing Facility and was Contractor selected and City approved.

2.14 Approved Disposal Facility

“Approved Disposal Facility” means the Facility Name at Facility Address, which is owned and operated by Owner Name, that is a Disposal Facility and was Contractor selected and City approved.

2.15 Approved Facilities

“Approved Facility(ies)” means any one of or any combination of the: Approved C&D Processing Facility; Approved Disposal Facility; Approved High Diversion Organic Waste Processing Facility; Approved Organic Waste Processing Facility; Approved Source Separated Recyclable Materials Processing Facility; and, Approved Transfer Facility, each of which are defined in this Section.

2.16 Approved High Diversion Organic Waste Processing Facility

“Approved High Diversion Organic Waste Processing Facility” means the Facility Name at Facility Address, that is a High Diversion Organic Waste Processing Facility and was Contractor selected and City approved.

2.17 Approved Organic Waste Processing Facility

“Approved Organic Waste Processing Facility” means the Facility Name at Facility Address, which is owned and operated by Owner Name, that is an Organic Waste Processing Facility and was Contractor selected and City approved.

2.18 Approved Source Separated Recyclable Materials Processing Facility

“Approved Source Separated Recyclable Materials Processing Facility” means the Facility Name at Facility Address, which is owned and operated by Owner Name, that is a Source Separated Recyclable Materials Processing Facility and was Contractor selected and City approved.

2.19 Approved Transfer Facility

“Approved Transfer Facility” means the Facility Name at Facility Address, which is owned and operated by Owner Name, that is a Transfer Facility and was Contractor selected and City approved.

2.20 Back-Haul

“Back-Haul” means generating and transporting Organic Waste to a destination owned and operated by the Generator using the Generator’s own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

2.21 Billings

“Billings” or “Billing” or “Bill” means the statements of charges provided to Customers or Responsible Customers for services rendered by Contractor pursuant to the terms of this Agreement.

2.22 Bins

“Bins” shall mean a Container, including dumpsters, compactors, and any similar such devices with a capacity of under ten (10) cubic yards.

2.23 Blue Container or Blue Lid

“Blue Container” has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and Collection of Source Separated Recyclable Materials or SSBCOW.

2.24 Brown Container or Brown Lid

“Brown Container” has the same meaning as in 14 CCR Section 18982.2(a)(5.5) and shall be used for the purpose of storage and Collection of Source Separated Food Waste.

2.25 Bulky Items

"Bulky Items" means Solid Waste that cannot and/or would not typically be accommodated within a Cart or Bin including specifically: furniture (including chairs, sofas, mattresses, and rugs); appliances (including refrigerators with and without Freon, ranges, washers, dryers, water heaters, dishwashers, plumbing, small household appliances and other similar items, commonly known as "white goods"); residential wastes (including wood waste, tree branches, scrap wood, in the aggregate not exceeding one cubic yard per Collection); and clothing. For purposes of this Agreement, and notwithstanding any provision hereof to the contrary, Bulky Items shall specifically include items commonly known in the waste industry as "brown goods," "e-waste" and "universal waste" (including, without limitation all types of electronic waste, stereos, televisions, computers and monitors, cellular phones, VCRs, microwaves and other similar type of equipment and products). Bulky Items do not include car bodies, Construction and Demolition Debris, Hazardous Waste, or (with the exception of appliances/white goods described above) items that cannot reasonably and safely be loaded and unloaded into a vehicle by two people using equipment of the type which, pursuant to industry standards, would normally be carried in a vehicle used in Collecting Bulky Items. In the event a question arises as to whether a specific item, or category of items meets the definition of Bulky Items, City shall be responsible to determine whether said definition shall apply, which determination shall be final and binding on the Parties.

2.26 C&D

"C&D" means Construction and Demolition Debris.

2.27 C&D Collection Site

"C&D Collection Site" means properties where construction and demolition work is performed as evidenced by City issuance of a land clearing, building, or demolition permit, or from a non-permitted municipal project or as otherwise stated in Section 5-10 of the Municipal Code.

2.28 California Code of Regulations (CCR)

"California Code of Regulations" or "CCR" means the State of California Code of Regulations. CCR references in this Agreement are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR, Division 7, Chapter 12" refers to Title 14, Division 7, Chapter 12 of the California Code of Regulations).

2.29 CalRecycle

"CalRecycle" means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on jurisdictions and other regulated entities.

2.30 Cart

"Cart" means a plastic Container with a hinged lid and wheels serviced by an automated or semi-automated process, as opposed to a manual process of lifting and dumping.

2.31 City

“City” shall mean the City of Costa Mesa, a municipal corporation, located in Orange County, California.

2.32 City Council

“City Council” shall mean the City Council of City.

2.33 City Limits

“City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Costa Mesa, and which are from time to time amended to reflect changes.

2.34 Collect/Collection/Collecting

“Collect,” “Collection,” or “Collecting” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.35 Collection Vehicle

“Collection Vehicle” shall have the meaning ascribed in Section 9 of this Agreement.

2.36 Commercial Business (Commercial)

“Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, or industrial facility, or as otherwise defined in 14 CCR Section 18982(a)(6), with the exception that Multi-Family is excluded from the definition of Commercial Business for the purposes of this Agreement.

2.37 Commercial Edible Food Generators

“Commercial Edible Food Generators” includes Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators, or as otherwise defined in 14 CCR Section 18982(a)(7). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators, or as otherwise specified by 14 CCR Section 18982(a)(7).

2.38 Community Composting

“Community Composting” means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or as otherwise defined in 14 CCR Section 18982(a)(8).

2.39 Compostable Plastics

“Compostable Plastics” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

2.40 Compost

“Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the Effective Date of this Agreement, that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized Facility.

2.41 Construction and Demolition Debris (C&D)

“Construction and Demolition Debris” means the nonhazardous waste building material, Inerts, soil, packaging, Yard Trimmings, rubble, and other used or Discarded Materials resulting from construction or demolition.

2.42 Container(s)

“Container(s)” means a receptacle for temporary storage of Discarded Materials. Containers may include Bins, Carts, Roll-Off Boxes, compactors, cans, buckets, bags, or other storage instruments to the extent such Containers are permitted by the City for use for Collection services provided under the Agreement.

2.43 Contractor

“Contractor” means the Party (other than the City) that executed this Non-Exclusive Franchise Agreement and its Affiliates, DBAs, and Subcontractors that perform services on Contractor’s behalf.

2.44 County Agreement

“County Agreement” shall mean that certain waste disposal agreement entered between various Orange County cities, including specifically the City of Costa Mesa, and the County of Orange relating to the use of County landfills for the disposal of Solid Waste collected in such cities, and which is on file in the office of City’s City Clerk, as the same may be amended from time to time.

2.45 Customer

“Customer” or “Customers” shall mean any Person receiving Solid Waste Collection services from Contractor within the Franchise Area.

2.46 Director

“Director” means the Director of Public Services of the City or his/her designee. The Director is also referred to in this Agreement as the “City Contract Manager.”

2.47 Discarded Materials

“Discarded Materials” are a form of Solid Waste, and shall be regulated as such. For purposes of this Agreement, material is deemed to have been discarded, without regard to whether it is destined for Recycling or Disposal, and whether or not it has been separated from other Solid Wastes, in all cases where a fee or other compensation, in any form or amount, is directly or indirectly solicited from, or levied, charged, or otherwise imposed on, or paid by, the Generator or Customer in exchange for handling services. As used herein, handling services include, without limitation, the Collection, removal, Transportation, delivery, and Processing and/or Disposal of the material. Discarded Materials do not include Edible Food that is recovered for human consumption and is not discarded. For the purposes of this Agreement, Discarded Materials include Source Separated Recyclable Materials, SSBCOW, SSGCOW, Food Waste, Gray Container Waste or Mixed Waste, and C&D once the materials have been placed in Containers for Collection.

2.48 Disposal

“Disposal” or “Dispose” means the final disposition of any Solid Waste Collected by the Contractor or Residue from Contractor’s Processing activities at a permitted Landfill or other permitted Solid Waste Facility.

2.49 Diversion

“Diversion (or any variation thereof including “Divert”)” means activities which reduce or eliminate Discarded Materials from Disposal, including, but not limited to, source reduction, Reuse, salvage, Recycling, and composting.

2.50 Dual Stream (or Dual-Stream)

“Dual Stream” or “Dual-Stream” means a Collection method in which the Generators are instructed to separate Source Separated Recyclable Materials (such as, but not limited to, SSBCOW and Non-Organic Recyclables) or SSGCOW (such as, but not limited to, Yard Trimmings and Food Waste) into two streams of materials for placement in two sections of a Split Container or into two different Containers, and in which the Contractor maintains the separation of the two streams during Collection and Processes each stream separately.

2.51 Edible Food

“Edible Food” means food intended for human consumption. For the purposes of this Agreement, Edible Food is not Solid Waste if it is recovered and not discarded. Nothing in this Agreement requires or authorizes the recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code. If the definition in 14 CCR Section 18982(a)(18) for Edible Food differs from this definition, the definition in 14 CCR Section 18982(a)(18) shall apply to this Agreement.

2.52 Effective Date

“Effective Date” means the date on which the Agreement becomes binding upon the Parties, which is the date when the latter of the Parties has executed this Agreement.

2.53 Environmental Laws

“Environmental Laws” means all federal and State statutes and City ordinances concerning public health, safety, and the environment including, by way of example and not limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC Section 9601, 6; the Resource Conservation and Recovery Act, 42 USC Section 6901, et seq.; the Federal Clean Water Act, 33 USC Section 1251, et seq.; the Toxic Substance Control Act, 15 USC Section 2601, et seq.; the Occupational Safety and Health Act, 29 USC Section 651, et seq.; the California Hazardous Waste Control Act, California Health and Safety Code Section 25100, et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code Section 25300, et seq.; the Porter-Cologne Water Quality Control Act, California Water Code Section 13000, et seq.; the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code Section 25249.5, et seq.; all as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.54 Excluded Waste

“Excluded Waste” means Hazardous Substance, Hazardous Waste, Infectious Waste, Designated Waste, volatile, corrosive, Medical Waste, infectious, regulated radioactive waste, and toxic substances or material that Approved Facility operator(s) reasonably believe(s) would, as a result of or upon acceptance, Transfer, Processing, or Disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be Disposed of in Class III Landfills or accepted at the Facility by permit conditions, waste that in Contractor’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose Contractor or City to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe Collection, Processing, Recycling, treatment, and Disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.

2.55 Facility(ies)

“Facility(ies)” means any plant, site, or operation used for the purpose of handling Discarded Materials, including, but not limited to, Disposal, Transfer, Recycling, composting, and Processing facilities or operations.

2.56 Food Recovery

“Food Recovery” means actions to collect and distribute food for human consumption which otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

2.57 Food Recovery Organization

“Food Recovery Organization” means an entity that primarily engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities, including, but not limited to:

- A. A food bank as defined in Section 113783 of the Health and Safety Code;
- B. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and
- C. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this Agreement.

2.58 Food Recovery Service

“Food Recovery Service” means a Person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery; or as otherwise defined in 14 CCR Section 18982(a)(26).

2.59 Food Scraps

“Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.

2.60 Food-Soiled Paper

“Food-Soiled Paper” means compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.

2.61 Food Waste

“Food Waste” means Source Separated Food Scraps, Food-Soiled Paper, and Compostable Plastics (if an approved material in Contractor’s program). Food Waste is a subset of SSGCOW. Edible Food separated for Food Recovery shall not be considered Food Waste.

2.62 Franchise Area

“Franchise Area” shall mean all Premises within the City Limits, including Premises which may be annexed and thereby added to the City Limits following the Effective Date.

2.63 Franchise Fee

“Franchise Fee” shall mean the franchise fee set forth and more fully defined in Section 11 hereof.

2.64 Generator

“Generator” means any Person whose act first causes Discarded Materials to become subject to regulation under Chapter IV of Title 8 of the Municipal Code or under federal, State, or local regulations.

2.65 Gray Container

“Gray Container” has the same meaning as in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and Collection of Gray Container Waste or Mixed Waste.

2.66 Gray Container Waste

“Gray Container Waste” means Solid Waste that is collected in a Gray Container that is part of a three-Container Organic Waste Collection service that prohibits the placement of Organic Waste in the Gray Container as specified in 14 CCR Sections 18984.1(a) and(b) or as otherwise defined in 14 CCR Section 17402(a)(6.5). For the purposes of this Agreement, Gray Container Waste includes carpet and textiles.

2.67 Green Container

“Green Container” has the same meaning as in 14 CCR Section 18982(a)(29) and shall be used for the purpose of storage and Collection of SSGCOW.

2.68 Gross Receipts

“Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by Contractor and any Affiliate of Contractor attributable to the Solid Waste Handling Services carried out by or on behalf of Contractor pursuant to this Agreement. Gross Receipts includes, without limitation, monthly or quarterly Customer charges that are received by Contractor for Collection of Solid Waste, without subtracting Franchise Fees, fees imposed and collected pursuant to this Agreement, sums collected in connection with Temporary Services, and transportation charges. Gross Receipts does not include revenue from the sale of Recyclable Material, Green Waste, food waste, and other material which is diverted from disposal.

2.69 Hauler Route

“Hauler Route” means the designated itinerary or sequence of stops for each segment of the City’s Collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).

2.70 Hazardous Substance

“Hazardous Substance” shall mean any of the following: (a) any substance defined, regulated or listed (directly or by reference) as “hazardous substances”, “hazardous materials”, “hazardous wastes”, “toxic waste”, “pollutant” or “toxic substances” or similarly identified as hazardous to human health or the environment, in or pursuant to (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC Section 9601, et seq.;

(ii) the Hazardous Materials Transportation Act, 49 USC Section 5101, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC Section 6901, et seq.; (iv) the Clean Water Act, 33 USC Section 1251, et seq.; (v) California Health and Safety Code Sections 25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC Section 7401, et seq.; and (vii) California Water Code Section 13050; (b) any amendments, rules, or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereinafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste, or pollutant identified as hazardous or toxic or regulated under any other applicable federal, State, and local environmental laws currently existing or hereinafter enacted, including without limitation, friable asbestos, polychlorinated biphenyl ("PCBs"), petroleum, natural gas and synthetic fuel products, and by-products.

2.71 Hazardous Waste

"Hazardous Waste" or "Hazardous Wastes" means any waste which meets the definitions set forth in 22 CCR Section 66261.3, et seq. and is required to be managed; or as otherwise defined in 14 CCR Section 17402(a)(7). Hazardous Waste includes hazardous wood waste, which means wood that falls within the definition of "treated wood" or "treated wood waste" in 22 CCR Section 67386.4, or as otherwise defined in 14 CCR Section 18982(a)(30.5).

2.72 High Diversion Organic Waste Processing Facility

"High Diversion Organic Waste Processing Facility" means a High Diversion Organic Waste Processing Facility as defined in 14 CCR Section 18982(a)(33).

2.73 Inerts

"Inerts" means materials such as concrete, soil, asphalt, and ceramics.

2.74 Landfill

"Landfill" means a "Solid Waste Landfill" defined by Public Resources Code Section 40195.1.

2.75 Large Event

"Large Event" means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this Agreement.

2.76 Large Venue

"Large Venue" means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of 14 CCR, Division 7, Chapter 12 and this Agreement, a venue facility

includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of 14 CCR, Division 7, Chapter 12 and this Agreement, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this Agreement.

2.77 Medical Waste

“Medical Waste” means any Solid Waste that is generated or has been used in the diagnosis, treatment, or immunization of human beings or animals, or research pertaining thereto, and shall include, but not be limited to, biomedical, biohazardous and medical waste, or other Solid Waste resulting from medical activities or services as defined by Chapter IV of Title 8 of the Municipal Code or any State or federal law or regulation, all as currently enacted or subsequently amended.

2.78 Mixed Waste

“Mixed Waste” means Mixed Waste Organic Collection Stream and Solid Waste Collected in a Container that is required by 14 CCR Sections 18984.1, 18984.2, or 18984.3 to be Transported to a High Diversion Organic Waste Processing Facility.

2.79 Mixed Waste Organic Collection Stream

“Mixed Waste Organic Waste Collection Stream” means Organic Waste Collected in a Container that is required by 14 CCR Sections 18984.1, 18984.2, or 18984.3 to be Transported to a High Diversion Organic Waste Processing Facility, or as otherwise defined in 14 CCR Section 17402(a)(11.5).

2.80 Mulch

“Mulch” means a layer of material applied on top of soil, and, for the purposes of the Agreement, Mulch shall conform with the following conditions, or conditions as otherwise specified in 14 CCR Section 18993.1(f)(4):

- i. Meets or exceeds the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in 14 CCR Section 17852(a)(24.5)(A)(1) through (3).
- ii. Was produced at one or more of the following types of Facilities:
 - a. A compostable material handling operation or facility as defined in 14 CCR Section 17852(a)(12), that is permitted or authorized under 14 CCR, Division 7, other than a chipping and grinding operation or facility as defined in 14 CCR Section 17852(a)(10);
 - b. A Transfer/Processing Facility or Transfer/Processing operation as defined in 14 CCR Section 17402(a)(30) and (31), respectively, that is permitted or authorized under 14 CCR, Division 7; or

- c. A Solid Waste Landfill as defined in PRC Section 40195.1 that is permitted under 27 CCR, Division 2.

2.81 Multi-Family or Multi-Family Dwelling Unit

“Multi-Family” means of, from, or pertaining to residential Premises with five (5) or more dwelling units. A “Residential Multi-Family Premises” is a residential Premises with four (4) or less dwelling units. A “Commercial Multi-Family Premises” is a residential Premises with five (5) or more dwelling units. Multi-Family Premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses. References to “Multi-Family Dwelling Unit” refer to an individual residential unit of the Multi-Family Premises.

2.82 Municipal Code

“Municipal Code” shall mean the Costa Mesa Municipal Code.

2.83 Non-Compostable Paper

“Non-Compostable Paper” includes, but is not limited to, paper that is coated in a plastic material that will not breakdown in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).

2.84 Non-Exclusive Franchise Agreement (NEFA)

“Non-Exclusive Franchise Agreement” or “NEFA” means this Agreement entered into between the Contractor and the City where the Contractor agrees to Collect Discarded Materials, and subsequently Transport, Transfer, Process, and/or Dispose of the Discarded Materials that Contractor has Collected in the City.

2.85 Non-Organic Recyclables

“Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable wastes including, but not limited to, bottles, cans, metals, plastics, and glass, or as otherwise defined in 14 CCR Section 18982(a)(43). Non-Organic Recyclables are a subset of Source Separated Recyclable Materials.

2.86 Organic Waste

“Organic Waste” means Solid Wastes containing material originated from living organisms and their metabolic waste products including, but not limited to, food, Yard Trimmings, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges, or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined in 14 CCR Section 18982(a)(4) and 14 CCR Section 18982(a)(16.5), respectively.

2.87 Paper Products

“Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling; or as otherwise defined in 14 CCR Section 18982(a)(51).

2.88 Parent Company

“Parent Company” means a company that has a controlling interest in another company, enabling the Parent Company to control management and operations of the Affiliate or Subsidiary company.

2.89 Party or Parties

“Party” or “Parties” refers to the City and Contractor, individually or together.

2.90 Person

“Person” has the same meaning as in Public Resources Code Section 40170, which states, as of the Effective Date of this Agreement, that a Person includes an individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

2.91 Premises

“Premises” means a tract of land with or without habitable buildings or appurtenant structures.

2.92 Printing and Writing Papers

“Printing and Writing Papers” include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).

2.93 Process, Processed, or Processing

“Process”, “Processed”, or “Processing” means the controlled separation, recovery, volume reduction, conversion, or Recycling of Solid Waste including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines, or volume reduction equipment, or as otherwise defined in 14 CCR Section 17402(a)(20).

2.94 Prohibited Container Contaminants

Option 1: Three-Container Collection service (Blue, Green, and Gray Containers) “Prohibited Container Contaminants” means the following: (i) Discarded Materials placed in the Blue

Container that are not identified as acceptable Source Separated Recyclable Materials for the City's Blue Container; (ii) Discarded Materials placed in the Green Container that are not identified as acceptable SSGCOW for the City's Green Container; (iii) Discarded Materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or SSGCOW to be placed in City's Green Container and/or Blue Container ; and (iv) Excluded Waste placed in any Container.

Option 2a: Two-Container Collection Service for SSGCOW and Mixed Waste (Green and Gray Containers) "Prohibited Container Contaminants" means the following: (i) Discarded Materials placed in the Green Container that are not identified as acceptable SSGCOW for the City's Green Container; (ii) Discarded Materials placed in the Gray Container that are identified as acceptable SSGCOW, which are to be separately collected in City's Green Container; and, (iii) Excluded Waste placed in any Container.

Option 2b: Two-Container Collection Service for Source Separated Recyclable Materials and Mixed Waste (Blue and Gray Containers) "Prohibited Container Contaminants" means the following: (i) Discarded Materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for City's Blue Container; (ii) Discarded Materials placed in the Gray Container that are identified as acceptable Source Separated Recyclable Materials, which are to be separately Collected in City's Blue Container; and, (iii) Excluded Waste placed in any Container.

2.95 Property Owner

"Property Owner" means the owner of real property, or as otherwise defined in 14 CCR Section 18982(a)(57).

2.96 Public Resources Code (PRC)

"Public Resources Code" or "PRC" means the California Public Resources Code.

2.97 Putrescible Waste

"Putrescible Waste" means wastes that are capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances because of odors, gases, or other offensive conditions, and includes materials such as, but not limited to Food Waste, offal, and dead animals; or as otherwise defined in 14 CCR Section 17402(a)(21).

2.98 Rate

"Rate" means the amount, expressed as a dollar unit, that Contractor bills a Customer for providing specified services under this Agreement.

2.99 Recycle/Recycling

"Recycle" or "Recycling" means the process of Collecting, sorting, cleansing, treating, and reconfiguring materials for the purpose of returning them to the economic mainstream in the form of raw material for new, Reused, or reconstituted products that meet the quality standards

necessary to be used in the marketplace. Recycling includes processes deemed to constitute a reduction of Landfill Disposal pursuant to 14 CCR, Division 7, Chapter 12, Article 2. Recycling does not include gasification or transformation as defined in Public Resources Code Section 40201.

2.100 Remnant Organic Material

“Remnant Organic Material” means the Organic Waste that is Collected in a Gray Container that is part of the Gray Container Collection stream, or as otherwise defined in 14 CCR 17402(a)(23.5).

2.101 Renewable Natural Gas (RNG)

“Renewable Natural Gas” or “RNG” means gas derived from Organic Waste that has been diverted from a Landfill and Processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recover Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

2.102 Residual (or Residue)

“Residual” or “Residue” means the Solid Waste destined for Disposal, further transfer/processing as defined in 14 CCR Section 17402(a)(30) or 14 CCR Section 17402(a)(31), or transformation which remains after Processing has taken place and is calculated in percent as the weight of Residual divided by the total incoming weight of materials.

2.103 Responsible Customer

“Responsible Customer” means the Customer who is responsible for making arrangements with Contractor to ensure Collection services are provided at Commercial Premises or Residential Premises in circumstances where a management company, homeowner association, or similar type entity arranges Collection services for such Premises. In the event of any dispute as to whether a right or obligation set forth herein is held by a Customer or a Responsible Customer, the Director is authorized to resolve such dispute in a manner that he determines best implements the intent of this Agreement.

2.104 Reusable Items

“Reusable Items” means items that are capable of being Reused after minimal Processing. Reusable Items may be Collected Source Separated or recovered through a Processing Facility. Reusable Items may include, but are not limited to, clothing, furniture, and/or sporting equipment.

2.105 Reuse

“Reuse” or any variation thereof, means the use, in the same, or similar, form as it was produced, of a material which might otherwise be discarded, or as otherwise defined in 14 CCR Section 17402.5(b)(2).

2.106 Roll-Off Box

“Roll-Off Box” means an open- or closed-top metal Container, roll-top Container, or closed compactor Container serviced by a roll-off truck and with a Container capacity of 10 to 50 cubic yards. Roll-off boxes are also known as drop boxes or debris boxes.

2.107 Salvageable Material (or Salvaged Material)

“Salvageable Material” or “Salvaged Material” means an object or material that results from salvaging, where salvaging means the controlled separation of Solid Waste material which do not require further processing for Reuse or Recycling prior to Transfer activities, or as otherwise defined in 14 CCR Section 17402(a)(24).

2.108 SB 1383

“SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

2.109 SB 1383 Regulations

“SB 138 Regulations” or “SB 1383 Regulatory” refers to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted in 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.

2.110 Self-Hauler (or Self-Haul)

“Self-Hauler” or “Self-Haul” means a Person who hauls Solid Waste, Organic Waste, or recovered material solely using the Person’s equipment and employees, without payment of compensation or discounted fees of any kind to any third party they have generated to another Person, or as otherwise defined in 14 CCR Section 18982(a)(66). Self-Hauler also includes a Person who Back-Hauls waste.

2.111 Service Level

“Service Level” refers to the number and size of a Customer’s Container(s) and the frequency of Collection service, as well as ancillary services such as lock/unlock service, Container push/pull service, etc.

2.112 Solid Waste

“Solid Waste” has the same meaning as defined in PRC Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes,

abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

- (1) Hazardous waste, as defined in PRC Section 40141.
- (2) Radioactive waste regulated pursuant to the Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code).
- (3) Medical waste regulated pursuant to the Medical Waste Management Act (Part 14, commencing with Section 117600, of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a solid waste Landfill, as defined in PRC Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to PRC, Division 30.

2.113 Source Separated

“Source Separated” means materials, including commingled Recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or Processing those materials for Recycling or Reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of the Agreement, Source Separated shall include separation of materials by the Generator, Property Owner, Property Owner’s employee, property manager, or property manager’s employee into different Containers for the purpose of Collection such that Source Separated materials are separated from Gray Container Waste or Mixed Waste and other Solid Waste for the purposes of Collection and Processing.

2.114 Source Separated Blue Container Organic Waste (SSBCOW)

“Source Separated Blue Container Organic Waste” or “SSBCOW” means Source Separated Organic Waste that can be placed in a Blue Container that is limited to the Collection of those Organic Wastes and Non-Organic Recyclables as defined in 14 CCR Section 18982(a)(43); or as otherwise defined by 14 CCR Section 17402(a)(26.7). The accepted types of SSBCOW and process for modifying the accepted types of SSBCOW are specified in Section 7.

2.115 Source Separated Green Container Organic Waste (SSGCOW)

“Source Separated Green Container Organic Waste” or “SSGCOW” means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate Collection of Organic Waste by the Generator, excluding SSBCOW, carpets, Non-Compostable Paper, and textiles. The accepted types of SSGCOW and process for modifying the accepted types of SSGCOW are specified in Section 7. SSGCOW is a subset of Organic Waste.

2.116 Source Separated Recyclable Materials

“Source Separated Recyclable Materials” means Source Separated Non-Organic Recyclables and SSBCOW. The accepted types of Source Separated Recyclable Materials and process for modifying the accepted types of Source Separated Recyclable Materials are specified in Section 7.

2.117 Split Container or Split-Container

“Split Container” or “Split-Container” means a Container that is split or divided into segregated sections, instead of an entire Container, or as otherwise allowed pursuant to 14 CCR, Division 7, Chapter 12, Article 3.

2.118 State

“State” means the State of California.

2.119 Subcontractor

“Subcontractor” means any Person, firm, or entity hired by Contractor to carry out any of Contractor’s duties under this Agreement.

2.120 Subsidiary

“Subsidiary” means an Affiliate with fifty percent (50%) or more of its ownership controlled by Contractor.

2.121 Temporary Service

“Temporary Service” shall mean Solid Waste Handling Services provided by Contractor on an as-needed and temporary basis to any Premises within the City in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Rolloff Boxes.

2.122 Term

“Term” means the duration of this Agreement, including extension periods if granted, as provided for in Section 5.

2.123 Tier One Commercial Edible Food Generators

“Tier One Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following, each as defined in 14 CCR Section 18982:

- A. Supermarket.
- B. Grocery Store with a total facility size equal to or greater than 10,000 square feet.
- C. Food Service Provider.
- D. Food Distributor.
- E. Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this Agreement.

2.124 Tier Two Commercial Edible Food Generators

“Tier Two Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following, each as defined in 14 CCR Section 18982:

- A. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- B. Hotel with an on-site food facility and 200 or more rooms.
- C. Health facility with an on-site food facility and 100 or more beds.
- D. Large Venue.
- E. Large Event.
- F. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- G. A local education agency with an on-site food facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this Agreement.

2.125 Ton

“Ton” or “Tonnage” or “Tons” means a unit of weight equal to 2,000 pounds (907.18474 kg).

2.126 Transfer

“Transfer” means the act of transferring Discarded Materials Collected by Contractor from Contractor’s Collection vehicles into larger vehicles at a Transfer Facility for Transport to other Facilities for Processing or Disposing of such materials. Transfer allows for removal of materials excluded or prohibited from handling at the Transfer Facility (e.g., removal of Hazardous Waste).

2.127 Transformation

“Transformation” means incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

2.128 Transportation or Transport

“Transportation” or “Transport” means the act of conveying Collected materials from one location to another.

2.129 Universal Waste (or U-Waste)

“Universal Waste” or “U-Waste” means all wastes defined by 22 CCR Subsections 66273.1 through 66273.9. These include, but are not limited to, batteries, fluorescent light bulbs, mercury switches, and electronic waste.

2.130 Work Days

“Work Days” or “Working Days” means days on which the Contractor is required to provide regularly scheduled Collection services under this Agreement.

2.131 Yard Trimmings

“Yard Trimmings” means types of SSGCOW resulting from normal yard and landscaping installation, maintenance, or removal that the Generators Source Separate and set out in Green Containers for Collection for the purpose of Processing by the Contractor. The accepted types of Yard Trimmings and process for modifying the accepted types of Yard Trimmings are specified in Section 7. Yard Trimmings are a subset of SSGCOW.

SECTION 3. GRANT OF NON-EXCLUSIVE FRANCHISE FOR DISCARDED MATERIALS MANAGEMENT FOR MULTI-FAMILY AND COMMERCIAL GENERATORS AND FOR PROVIDING TEMPORARY SOLID WASTE HANDLING SERVICE

3.1 Scope of Franchise

Except as hereinafter expressly set forth, City hereby grants to Contractor and Contractor hereby accepts from City, for the Term hereof, the non-exclusive franchise, right and privilege to Collect, Transport, and Dispose of Solid Waste generated or accumulated within the Franchise Area. The non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City granted to Contractor by this Agreement shall be interpreted to be consistent with all applicable state and federal laws, now in effect and adopted during the Term of this Agreement, and the scope of this Agreement shall be limited by all applicable current and developing laws and regulations. In the event that future interpretations of current law or future enactments limit the ability of City to lawfully grant Contractor the scope of services as specifically set forth herein, Contractor agrees that the scope of this Agreement will be limited to those services and materials which may be lawfully provided, and that City shall not be responsible for any lost profits claimed by Contractor as a result thereof.

3.2 Matters Excluded from Scope of Franchise

Notwithstanding any other provisions set forth in this Agreement to the contrary, the non-exclusive franchise granted herein shall exclude the Collection, transportation, recycling, and disposal of:

- (A) any Solid Waste otherwise within the scope of this Agreement which is transported by a Self-Hauler as that term is used in the Municipal Code, or any other City

ordinance, resolution, regulation or policy, as such may be adopted or amended from time to time;

(B) any Solid Waste otherwise within the scope of this Agreement during a locally proclaimed emergency (defined as a "local emergency" pursuant to Section 8630 of the California Emergency Services Act) or subsequent recovery period, provided that Contractor lacks the ability to perform the necessary work in a timely manner, or for any other reason determined by City related to public health, safety or welfare;

(C) the sale, donation, or transfer of Recyclable Material by the person or entity that generated such Recyclable Material (the "Generator") to any person or entity other than Contractor; provided, however, if the Generator is required to pay monetary or non-monetary consideration of any consideration for the Collection, Transportation, Transfer, or Processing of Recyclable Material to any person or entity other than Contractor, including the Generator receiving a reduction or discount in price (or in other terms of the consideration the Generator is required to pay), such arrangements shall not be considered a sale or donation;

(D) any Solid Waste otherwise within the scope of this Agreement which is Collected or Transported to a Disposal or Recycling Facility by City agents or employees in the course and scope of services provided for the City;

(E) any Solid Waste Collected at any City sponsored event if City does not request Contractor provide Collection services for the City sponsored event;

(F) the Collection, Transportation, or Disposal of Hazardous Waste; universal waste; E-Waste; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; or other materials which do not constitute Solid Waste;

(G) the Collection, Transportation, and Disposal of Construction and Demolition Waste by a contractor, handyman, repairman, or other similar service provider, using its own equipment, as an incidental part of the services provided to its Customers, rather than as a hauling service, provided that such waste is not Collected or Transported by a third party hired for the primary purpose of Collecting and transporting said materials;

(H) the Collection, Transportation, and Disposal of Green Waste, including, but not limited to Green Waste and related Solid Waste by a gardener, or landscaper, as an incidental part of the gardening or landscaping services provided to its customers, rather than as a hauling service provided that such Solid Waste is not collected or transported by a third party hired for the primary purpose of Collecting and Transporting said materials; and

(I) Solid Waste Handling Services provided by any Person having a legal right to continue doing so, pursuant to Public Resources Code Section 49520, et seq., or otherwise, as long as and to the extent such legal right continues to exist; except that to the degree any territory in which Contractor has a franchise granted by another governmental entity is annexed into City during the Term, Contractor agrees the provisions of this

Agreement shall apply to such territory and further acknowledges that this Agreement constitutes any notice required by the Public Resources Code in connection therewith.

(J) **Edible Food.** Edible Food that is collected from a Generator by other Person(s), such as a Person from a Food Recovery Organization or Food Recovery Service, for the purposes of Food Recovery; or that is Transported by the Generator to another location(s), such as the location of a Food Recovery Organization, for the purposes of Food Recovery, regardless of whether the Generator donates, sells, or pays a fee to the other Person(s) to collect or receive the Edible Food from the Generator.

(K) **Food and Beverage Byproducts.** The hauling of byproducts from the processing of food or beverages and use of such material as animal feed if the byproducts originate from agricultural or industrial sources, do not include animal (including fish) processing byproducts, are Source Separated by the Generator of the byproducts, and are not discarded; and, if the use as animal feed is in accordance with 14 CCR Section 18983.1(b)(7). "Food and Beverage Byproducts" does not include Solid Waste, Organic Waste or Recyclable Materials from restaurants, grocery stores, supermarkets or discount warehouse outlets.

(L) **On-Site or Community Composting.** Organic Waste that is composted or otherwise legally managed at the site where it is generated or at a Community Composting site.

SECTION 4. ACCEPTANCE; WAIVER

Contractor agrees to be bound by and comply with all the requirements of this Agreement. Contractor waives Contractor's right to challenge the terms of this Agreement under federal, state, or local law, or administrative regulation. Contractor waives any right or claim to serve the City or any part of the City under any prior grant of franchise, contract, license, or permit issued or granted by any governmental entity including any right under Section 49520 of the Public Resources Code.

SECTION 5. TERM

The term of this Agreement (the "Term") shall be for an approximate period of seven (7) years commencing on the Effective Date. The Solid Waste Collection services provided to Customers shall commence on January 1, 2022 ("Service Commencement Date"). The Term of this Agreement shall end at midnight on December 31, 2028 unless this Agreement is terminated sooner pursuant to Section 18 hereof, or otherwise. Unless Contractor provides written notice to City on or before January 1, 2028 for the first option, and January 1, 2033 for the second option, that it desires to opt out of the City's right to unilaterally extend this Agreement as provided herein, the City Council shall have the option to exercise two (2) five (5) year extensions to the Term of this Agreement such that if the two (2) five (5) year extension options are exercised, the Term of this Agreement would expire at midnight on December 31, 2038. Prior to exercising an extension option, the City Council may, at its discretion, require the Director to conduct a performance

review during the preceding fiscal year after receiving an advance deposit from Contractor to cover the cost of such review, in an amount subject to the Director's reasonable determination, and said performance review will be separate from and in addition to the performance review set forth in Section 17. This performance review may include, but is not limited to, an assessment of opportunities for Contractor to reduce vehicle miles traveled based on data acquired by Contractor pursuant to Section 9.3(T), as well as an assessment of the greenhouse gas emissions generated by Contractor during Contractor's performance of this Agreement.

If the City Council does not exercise the option to extend the Term as set forth above, as evidenced by a formal action of the City Council taken in a duly noticed open meeting, on or before September 30, 2028 for the first option, and September 30, 2033 for the second option, said option shall expire and this Agreement shall automatically terminate at 11:59 p.m. on December 31, 2028, or December 31, 2033 if the first option is exercised. The decision to exercise each extension option shall be subject to the City Council's sole, absolute and unfettered discretion.

SECTION 6. CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement, and a condition of Contractor's continued right to the benefits conveyed herein:

6.1 Accuracy of Representation

All representations and warranties made by Contractor and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

6.2 Absence of Litigation

There shall be no litigation pending in any court challenging the award of this Agreement to Contractor or the execution of this Agreement or seeking to restrain or enjoin its performance.

6.3 Furnishing of Insurance and Bonds, Letter of Credits, or Asset Pledge

Contractor shall have furnished evidence of the insurance and sureties required by Sections 14 and 15 hereof, and shall comply with all ongoing requirements relating thereto.

6.4 Effectiveness of City Council Action

The City Council's action approving this Agreement shall have become effective pursuant to California law.

6.5 Payment of Fees and Costs

Contractor shall have made payment to City of all fees, costs and other payments due as more fully set forth in Section 11.

SECTION 7.
SOLID WASTE HANDLING SERVICES
PROVIDED BY CONTRACTOR

7.1 General

- A. **Overall Performance Obligations.** The scope of services to be performed by Contractor pursuant to this Agreement shall include the furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform all requirements of the Agreement. The enumeration of, and specification of requirements for, particular items of labor or equipment shall not relieve the Contractor of the duty to furnish all others, as may be required, whether enumerated or not.

The scope of services to be performed by Contractor pursuant to this Agreement shall be accomplished in a manner so that Customers are provided reliable, courteous, and high-quality Collection services and other services described in this Agreement at all times. The enumeration of, and specification of requirements for, particular aspects of service quality shall not relieve Contractor of the duty of accomplishing all other aspects in the manner generally provided in this Section for the delivery of services, whether such other aspects are enumerated elsewhere in the Agreement or not.

Contractor shall not knowingly Collect Blue, Green, Brown, or Gray Containers that include Prohibited Container Contaminants.

- B. **Requirements for Parent Company and Affiliates.** Upon approval by City, Contractor, its Parent Company, and Affiliates operating under the terms of this Agreement are allowed, at their option, to use each entity's name to comply with Collection vehicle and Container labeling requirements and may use each entity's name on any education and outreach materials.
- C. **Ownership of Discarded Materials.** By operation of this Agreement, ownership and the right to possession of all Discarded Materials shall be transferred to Contractor from the Person discarding the materials (Customer and/or Generator) once such materials are placed in Containers and properly placed for Collection. If Prohibited Container Contaminants are found in Containers set out for Collection, the materials shall be considered not properly placed for Collection, and Contractor shall have the right to reject Collection of the contaminated Containers pursuant to Section 8.3, and the ownership of materials shall remain with the Person discarding the materials (Customer and/or Generator). Except as required in the City's sole discretion for law enforcement purposes, at no time shall the City obtain any right of ownership or possession of Discarded Materials placed for collection and nothing in this Agreement shall be construed as giving rise to any inference that City has such rights. Refer to Section 8.1 for transfer of ownership of Discarded

Materials from Contractor to Facility operator(s) of Approved/Designated Facilities.

7.2 Three-Container System (Blue, Green, and Gray Containers)

- A. **General.** No later than January 1, 2022 or insert earlier date, if desired, Contractor shall provide a three-Container Collection program for the separate Collection of Source Separated Recyclable Materials, SSGCOW, and Gray Container Waste or Mixed Waste as specified in this Section, using Containers that comply with the requirements of Section 7.9.7.
- B. **Source Separated Recyclable Materials Collection (Blue Container).** Contractor shall provide Blue Containers to Customers for Collection of Source Separated Recyclable Materials and shall provide Source Separated Recyclable Materials Collection service. Contractor shall Transport the Source Separated Recyclable Materials to (i) the Approved/Designated Source Separated Recyclable Materials Processing Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to the Approved/Designated Source Separated Recyclable Materials Processing Facility, as specified in Section 8.1.

Source Separated Recyclable Materials that are to be accepted for Collection in the Source Separated Recyclable Materials Collection program include the following: The Parties agree that the list of accepted types of Source Separated Recyclable Materials may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City provided that in all cases SSGCOW is included for Collection. Contractor shall not add or remove materials to or from this list without written approval from the City Contract Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld. Prohibited Container Contaminants shall not be Collected in the Blue Containers. The Containers shall comply with the requirements of Section 7.9.7.

C. **SSGCOW Collection (Green Container).**

- 1. **Option 1: Established SSGCOW Collection Program with Commingling of Yard Trimmings and Food Waste (Green Container)**

Contractor shall provide Green Containers to Customers for Collection of SSGCOW and shall provide SSGCOW Collection service. Contractor shall Transport the SSGCOW to (i) the Approved/Designated Organic Waste Processing Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to Approved/Designated Organic Waste Processing Facility, as specified in Section 8.1.

SSGCOW that are to be accepted for Collection in the SSGCOW Collection program include the following: Food Scraps; Food-Soiled Paper; Yard Trimmings, which are defined below; and Compostable Plastics, which are optional to include. The Parties agree that types of SSGCOW may be added

to or removed from this list from time to time by mutual consent or at the sole discretion of the City. Contractor shall not add or remove materials to or from this list without written approval from the City Contract Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld. Carpets, non-Compostable Paper, textiles, and Prohibited Container Contaminants shall not be Collected in the Green Containers.

Yard Trimmings that are to be accepted for Collection in the SSGCOW Collection program will be submitted to the City annually, at the time and in the format established by the City Contract Manager. The Parties agree that accepted types of Yard Trimmings may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City. Contractor shall not add or remove materials to or from this list without written approval from the City Contract Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld.

Contractor shall have the option to Collect Compostable Plastics in the Green Containers for Processing at the Approved/Designated Organic Waste Processing Facility. If Compostable Plastics are an accepted material, Contractor shall provide written notification to the City that the Facility can Process and recover these Compostable Plastics. Annually, Contractor shall provide written notification to the City that the Facility has and will continue to have the capabilities to Process and recover the Compostable Plastics. If, at any time during the Term of the Agreement, the Approved Organic Waste Processing Facility can no longer accept Compostable Plastics, Contractor shall notify the City within thirty (30) days of the Facility's inability to accept the Compostable Plastics. The notification shall include: a description of the reasons the Facility is no longer able to Process and recover the Compostable Plastics; the period of time the Facility will not Process and recover these materials; and, the Contractor's proposed plan to assist in education and outreach of Customers in the event these materials are no longer accepted for Collection. Such changes shall be handled as a change in scope.

2. Option 2: Established Yard Trimmings Collection Program; Plan to Expand to Include Food Waste Collection (Green Container)

Contractor shall provide Green Containers to Customers for Collection of Yard Trimmings and shall provide Yard Trimmings Collection service. Contractor shall Transport the Yard Trimmings to (i) the Approved/Designated Organic Waste Processing Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to the Approved/Designated Organic Waste Processing Facility, as specified in Section 6.1.

Yard Trimmings that are to be accepted for Collection in the SSGCOW Collection program will be submitted to the City annually, at the time and in the format established by the City Contract Manager. The Parties agree that accepted types of Yard Trimmings may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City. Contractor shall not add or remove materials to or from this list without written approval from the City Contract Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld. Carpets, Non-Compostable Paper, textiles, and Prohibited Container Contaminants shall not be Collected in the Green Containers. The Containers shall comply with the requirements of Section 7.9.7.

No later than January 1, 2022 or insert earlier date if desired, Contractor shall implement a Food Waste Collection program that allows Generators to intentionally commingle Food Waste and Yard Trimmings in the Green Containers. Contractor shall provide SSGCOW Collection service and Transport the SSGCOW to (i) the Approved/Designated Organic Waste Processing Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to an Approved/Designated Organic Waste Processing Facility.

Contractor shall have the option to Collect Compostable Plastics in the Green Containers for Processing at the Approved/Designated Organic Waste Processing Facility. If Compostable Plastics are an accepted material, Contractor shall provide written notification to the City that the Facility can Process and recover these Compostable Plastics. Annually, Contractor shall provide written notification to the City that the Facility has and will continue to have the capabilities to Process and recover the Compostable Plastics. If, at any time during the Term of the Agreement, the Approved Organic Waste Processing Facility can no longer accept Compostable Plastics, City may deem such failure an event of default. Contractor shall notify the City within thirty (30) days of the Facility's inability to accept Compostable Plastics. The notification shall include: a description of the reasons the Facility is no longer able to Process and recover Compostable Plastics; the period of time the Facility will not Process and recover Compostable Plastics; and, the Contractor's proposed plan to assist in education and outreach of Customers in the event that Compostable Plastics are no longer accepted for Collection. Such changes shall be handled as a change in scope.

3. Option 3: Established Yard Trimmings Collection Program; Plan for Food Waste to be Separately Collected (Green Container and Brown Container)

As of the Commencement Date, Contractor shall provide Green Containers for Customers for Collection of Yard Trimmings and shall provide Yard Trimmings Collection service. Contractor shall Transport the Yard Trimmings to (i) the Approved/Designated Organic Waste Processing

Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to an Approved/Designated Organic Waste Processing Facility, as specified in Section 8.1.

Yard Trimmings that are to be accepted for Collection in the SSGCOW Collection program will be submitted to the City annually, at the time and in the format established by the City Contract Manager. The Parties agree that accepted types of Yard Trimmings may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City. Contractor shall not add or remove materials to or from this list without written approval from the City Contract Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld. Carpets, Non-Compostable Paper, textiles, and Prohibited Container Contaminants shall not be Collected in the Green Containers. The Containers shall comply with the requirements of Section 7.9.7.

No later than January 1, 2022 or insert earlier date if desired, Contractor shall implement a Food Waste Collection program for all Customers. Contractor shall provide Brown Containers to Customers for Collection of Source Separated Food Waste and shall provide Food Waste Collection service. Contractor shall Transport the Food Waste to (i) the Approved/Designated Organic Waste Processing Facility, or (ii) Approved/Designated Transfer Facility for Transfer and Transport to an Approved/Designated Organic Waste Processing Facility, as specified in Section 8.1.

Contractor shall have the option to Collect Compostable Plastics in the Brown Containers for Processing at the Approved/Designated Organic Waste Processing Facility. The Containers shall comply with the requirements of Section 7.9.7. If Compostable Plastics are an accepted material, Contractor shall provide written notification to the City that the Facility can Process and recover these Compostable Plastics. Annually, Contractor shall provide written notification to the City that the Facility has and will continue to have the capabilities to Process and recover the Compostable Plastics. If, at any time during the Term of the Agreement, the Approved Organic Waste Processing Facility can no longer accept Compostable Plastics, City may deem such failure an event of default. Contractor shall notify the City within thirty (30) days of the Facility's inability to accept Compostable Plastics. The notification shall include: a description of the reasons the Facility is no longer able to Process and recover Compostable Plastics; the period of time the Facility will not Process and recover Compostable Plastics; and, the Contractor's proposed plan to assist in education and outreach of Customers in the event that Compostable Plastics are no longer accepted for Collection. Such changes shall be handled as a change in scope.

4. **Option 4: New Collection Program needed for SSGCOW (including Yard Trimmings and Food Waste) (Green Container)**

No later than January 1, 2022 or insert earlier date if desired, Contractor shall provide Green Containers to Customers for SSGCOW Collection, and shall provide SSGCOW Collection service. Contractor shall Transport the SSGCOW to (i) the Approved/Designated Organic Waste Processing Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to an Approved/Designated Organic Waste Processing Facility, as specified in Section 8.1.

SSGCOW that are to be accepted for Collection in the SSGCOW Collection program include the following: Food Scraps, Food-Soiled Paper, Compostable Plastics, and Yard Trimmings. The Parties agree that types of SSGCOW may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City. Contractor shall not add or remove materials to or from this list without written approval from the City Contract Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld. Carpets, Non-Compostable Paper, textiles, and Prohibited Container Contaminants shall not be Collected in the Green Containers. The Containers shall comply with the requirements of Section 7.9.7.

Contractor shall have the option to Collect Compostable Plastics in the Green Containers for Processing at the Approved/Designated Organic Waste Processing Facility. If Compostable Plastics are an accepted material, Contractor shall provide written notification to the City that the Facility can Process and recover these Compostable Plastics. Annually, Contractor shall provide written notification to the City that the Facility has and will continue to have the capabilities to Process and recover the Compostable Plastics. If, at any time during the Term of the Agreement, the Approved Organic Waste Processing Facility can no longer accept Compostable Plastics, City may deem such failure an event of default. Contractor shall notify the City within thirty (30) days of the Facility's inability to accept Compostable Plastics. The notification shall include: a description of the reasons the Facility is no longer able to Process and recover Compostable Plastics; the period of time the Facility will not Process and recover Compostable Plastics; and, the Contractor's proposed plan to assist in education and outreach of Customers in the event that Compostable Plastics are no longer accepted for Collection. Such changes shall be handled as a change in scope.

D. **Gray Container Waste Collection (Gray Container).**

Contractor shall provide Gray Containers to Customers for Collection of Gray Container Waste, and shall provide Gray Container Waste Collection service. Contractor shall Transport the Gray Container Waste to (i) the

Approved/Designated Disposal Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to an Approved/Designated Disposal Facility, as specified in Section 8.1. Contractor may allow carpets and textiles to be placed in the Gray Containers. Prohibited Container Contaminants shall not be Collected in the Gray Containers. The Containers shall comply with the requirements of Section 7.9.7.

E. Mixed Waste Collection (Gray Container).

Contractor shall provide Gray Containers to Customers for Collection of Mixed Waste, and shall provide Mixed Waste Collection service. Contractor shall Transport the Mixed Waste to (i) the Approved/Designated High Diversion Organic Waste Processing Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to an Approved/Designated High Diversion Organic Waste Processing Facility, as specified in Section 8.1. Contractor may allow carpets and textiles to be placed in the Gray Containers. Prohibited Container Contaminants shall not be Collected in the Gray Containers.

7.3 Two-Container System

A. Option 1: SSGCOW and Mixed Waste Two-Container System (Green and Gray Containers)

No later than January 1, 2022 or insert earlier date if desired, Contractor shall provide a two-Container Collection program for all Customers for Collection of SSGCOW and Mixed Waste, as specified in this Section.

Contractor shall provide Green Containers to Customers for the Collection of SSGCOW, and shall Transport the SSGCOW to (i) the Approved/Designated Organic Waste Processing Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to the Approved/Designated Organic Waste Processing Facility, as specified in Section 8.1.

SSGCOW that are to be accepted for Collection in the SSGCOW Collection program include the following: Food Scraps; Food-Soiled Paper; Yard Trimmings, which are defined below; and Compostable Plastics (which are optional to include). The Parties agree that types of SSGCOW may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City. Contractor shall not add or remove materials to or from this list without written approval from the City Contract Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld. Carpet, Non-Compostable Paper, textiles, and Prohibited Container Contaminants shall not be Collected in the Green Containers.

Yard Trimmings that are to be accepted for Collection in the SSGCOW Collection program will be submitted to the City annually, at the time and in the format established by the City Contract Manager. The Parties agree that accepted types of Yard Trimmings may be added to or removed from this list from time to time by mutual consent or at the sole discretion

of the City. Contractor shall not add or remove materials to or from this list without written approval from the City Contract Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld.

Contractor shall have the option to Collect Compostable Plastics in the Green Containers for Processing at the Approved/Designated Organic Waste Processing Facility. If Compostable Plastics are an accepted material, Contractor shall provide written notification to the City that the Facility can Process and recover these Compostable Plastics. Annually, Contractor shall provide written notification to the City that the Facility has and will continue to have the capabilities to Process and recover the Compostable Plastics. If, at any time during the Term of the Agreement, the Approved Organic Waste Processing Facility can no longer accept Compostable Plastics, City may deem such failure an event of default. Contractor shall notify the City within thirty (30) days of the Facility's inability to accept Compostable Plastics. The notification shall include: a description of the reasons the Facility is no longer able to Process and recover Compostable Plastics; the period of time the Facility will not Process and recover Compostable Plastics; and, the Contractor's proposed plan to assist in education and outreach of Customers in the event that Compostable Plastics are no longer accepted for Collection. Such changes shall be handled as a change in scope.

Contractor shall provide Gray Containers to Customers for Collection of Mixed Waste, and shall allow Generators to intentionally commingle all Mixed Waste, excluding SSGCOW, in the Gray Containers. Contractor shall Transport the contents of the Gray Containers to (i) the Approved/Designated High Diversion Organic Waste Processing Facility, or (ii) the Approved/Designated Transfer Facility for subsequent Transfer and Transport to the Approved/Designated High Diversion Organic Waste Processing Facility, as specified in Section 8.1. Prohibited Container Contaminants shall not be Collected in the Gray Containers.

The Containers shall comply with the requirements of Section 7.9.7.

B. Option 2: Source Separated Recyclable Materials and Mixed Waste (Blue and Gray Containers)

No later than January 1, 2022 or insert earlier date if desired, Contractor shall provide a two-Container Collection program for all Customers for Collection of Source Separated Recyclable Materials and Mixed Waste as specified in this Section.

Contractor shall provide Blue Containers to Customers for the Collection of Source Separated Recyclable Materials, and shall Transport the Source Separated Recyclable Materials to (i) the Approved/Designated Source Separated Recyclable Materials Processing Facility, or (ii) the Approved/Designated Transfer Facility for subsequent Transport to the Approved/Designated Source Separated Recyclable Materials Processing Facility, as specified in Section 8.1.

Source Separated Recyclable Materials that are to be accepted for Collection in the Source Separated Recyclable Materials Collection program will be submitted to the City annually,

at the time and in the format established by the City Contract Manager. The Parties agree that Source Separated Recyclable Materials may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City provided that in all cases SSBCOW is included for Collection. Contractor shall not add or remove materials to or from this list without written approval from the City Contract Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld. Prohibited Container Contaminants shall not be Collected in the Blue Containers.

Contractor shall provide Gray Containers to Customers for Collection of Mixed Waste, and shall allow Generators to intentionally commingle all Mixed Waste, excluding Source Separated Recyclable Materials, in the Gray Containers. Contractor shall Transport the contents of the Gray Container to (i) the Approved/Designated High Diversion Organic Waste Processing Facility, or (ii) the Approved/Designated Transfer Facility for subsequent Transfer and Transport to the Approved/Designated High Diversion Organic Waste Processing Facility, as specified in Section 8.1. Prohibited Container Contaminants shall not be Collected in the Gray Containers.

The Containers shall comply with the requirements of Section 7.9.7.

C. Option 3: Use of Split Containers (see Section 7.4, Use of Split Container Systems)

7.4 Use of Split-Container Systems

A. **Example Split-Container Systems**

Examples of Split-Containers that can be used include, but are not limited to, the following:

1. Split-Container Options for Three-Stream System
 - a. Gray/Green Split-Container (Gray Container Waste/SSGCOW) and a Blue Container (Source Separated Recyclable Materials);
 - b. Blue/Gray Split-Container (Source Separated Recyclable Materials/Gray Container Waste) and a Green Container (SSGCOW); or,
 - c. Blue/Green Split-Container (Source Separated Recyclable Materials/SSGCOW) and a Gray Container (Gray Container Waste)
2. Split-Container Options for Three-Plus-Stream System
 - a. Gray/Brown Split-Container (Gray Container Waste/Food Waste) with a Blue Container (Source Separated Recyclable Materials) and Green Container (SSGCOW);
 - b. Blue Split-Container (Dual-Stream SSBCOW and Non-Organic Recyclables) with Gray Container (Gray Container Waste) and Green Container (SSGCOW);

- c. Gray/Blue Split-Container (Gray Container Waste/Source Separated Recyclable Materials), Green/Brown Split Container (SSGCOW/Food Waste);
 - d. Gray/Green Split-Container (Gray Container Waste/SSGCOW), Blue Split-Container (Dual-Stream SSBCOW and Non-Organic Recyclables); or,
 - e. Blue/Gray Split-Container (Source Separated Recyclable Materials/Gray Container Waste), Green/Brown Split Container (SSGCOW/Food Waste).
3. Split Container Options for Two-Stream Split-Container Systems
- a. Gray/Blue Split-Container (Mixed Waste/Source Separated Recyclable Materials); or,
 - b. Gray/Green Split-Container (Mixed Waste/SSGCOW).

B. Split-Container Collection Description

1. Option 1: Two-Stream Split-Container System (Blue and Gray Split-Container) Contractor shall provide Split-Containers to Customers and Split-Container Collection service. Contractor shall allow Generators to place Mixed Waste in the gray section of the Split-Container and shall Collect and Transport the Mixed Waste to (i) the Approved/Designated High Diversion Organic Waste Processing Facility, or (ii) the Approved/Designated Transfer Facility for subsequent Transport to the Approved/Designated High Diversion Organic Waste Processing Facility, as specified in Section 8.1. Prohibited Container Contaminants shall not be Collected in the gray portion of the Split Containers.

Contractor shall allow Generators to place Source Separated Recyclable Materials in the blue section of the Split Container and shall Collect and Transport the Source Separated Recyclable Materials to (i) the Approved/Designated Source Separated Recyclable Materials Processing Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to the Approved/Designated Source Separated Recyclable Materials Processing Facility, as specified in Section 8.1. The Split-Containers shall comply with the requirements of Section 7.9.7.

Source Separated Recyclable Materials that are to be accepted for Collection in the Source Separated Recyclable Materials Collection program will be submitted to the City annually, at the time and in the format established by the City Contract Manager. The Parties agree that accepted types of Source Separated Recyclable Materials may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City provided that in all cases SSBCOW is included for Collection. Contractor shall not add or remove materials to or from this list without written approval from the City Contract Manager or signed

amendment to the Agreement, and such approval shall not be unreasonably withheld. Prohibited Container Contaminants shall not be Collected in the Blue portion of the Split-Containers.

2. Option 2: Three-Stream Split-Container System (Blue and Gray Split-Container, Green Container). Contractor shall provide Split-Containers to Customers and Split-Container Collection service. Contractor shall allow Generators to place Gray Container Waste in the gray section of the Split-Container and shall Collect and Transport the Gray Container Waste to the Approved/Designated Transfer Facility or the Approved/Designated Disposal Facility, as specified in Section 8.1. Prohibited Container Contaminants shall not be Collected in the gray portion of the Split-Containers.

Contractor shall allow Generators to place Source Separated Recyclable Materials in the blue section of the Split Container and shall Collect and Transport the Source Separated Recyclable Materials to (i) the Approved/Designated Source Separated Recyclable Materials Processing Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to the Approved/Designated Source Separated Recyclable Materials Processing Facility, as specified in Section 8.1.

Source Separated Recyclable Materials that are to be accepted for Collection in the Source Separated Recyclable Materials Collection program will be submitted to the City annually, at the time and in the format established by the City Contract Manager. The Parties agree that the list of accepted types of Source Separated Recyclable Materials may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City provided that in all cases SSBCOW is included for Collection. Contractor shall not add or remove materials to or from this list without written approval from the City Contract Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld. Prohibited Container Contaminants shall not be Collected in the Blue portion of the Split-Containers.

Contractor shall provide Green Containers to Customers for Collection of SSGCOW and shall provide SSGCOW Collection services. Contractor shall Transport the SSGCOW to Approved/Designated Organic Waste Processing Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to Approved/Designated Organic Waste Processing Facility, as specified in Section 8.1. The Split Containers shall comply with the requirements of Section 7.9.7.

SSGCOW that are to be accepted for Collection in the SSGCOW Collection program include the following: Food Scraps; Food-Soiled Paper; Compostable Plastics (optional item) and Yard Trimmings, which are defined below. The Parties agree that types of SSGCOW may be added to

or removed from this list from time to time by mutual consent or at the sole discretion of the City. Contractor shall not add or remove materials to or from this list without written approval from the City Contract Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld. Carpets, Non-Compostable Paper, textiles, and Prohibited Container Contaminants shall not be Collected in the Green Containers.

Yard Trimmings that are to be accepted for Collection in the SSGCOW Collection program will be submitted to the City annually, at the time and in the format established by the City Contract Manager. The Parties agree that accepted types of Yard Trimmings may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City. Contractor shall not add or remove materials to or from this list without written approval from the City Contract Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld.

Contractor shall have the option to Collect Compostable Plastics in the Green Containers for Processing at the Approved/Designated Organic Waste Processing Facility. If Compostable Plastics are an accepted material, Contractor shall provide written notification to the City that the Facility can Process and recover these Compostable Plastics. Annually, Contractor shall provide written notification to the City that the Facility has and will continue to have the capabilities to Process and recover the Compostable Plastics. If, at any time during the Term of the Agreement, the Approved Organic Waste Processing Facility can no longer accept Compostable Plastics, City may deem such failure an event of default. Contractor shall notify the City within thirty (30) days of the Facility's inability to accept the Compostable Plastics. The notification shall include: a description of the reasons the Facility is no longer able to Process and recover the Compostable Plastics; the period of time the Facility will not Process and recover these materials; and, the Contractor's proposed plan to assist in education and outreach of Customers in the event these materials are no longer accepted for Collection. Such changes shall be handled as a change in scope.

3. Option 3: Three-Plus-Stream Split-Container System (Gray and Brown Split-Container, Green Container, Blue Container). Contractor shall provide a three-Container system that relies on use of a Split-Container and two, undivided Containers. Contractor shall provide Split-Containers to Customers and Split-Container Collection service for Gray Container Waste and Food Waste. Contractor shall allow Generators to place Gray Container Waste in the gray section of the Split Container and shall Collect and Transport the Gray Container Waste to (i) the Approved/Designated Disposal Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to the Approved/Designated Disposal Facility, as

specified in Section 8.1. Prohibited Container Contaminants shall not be Collected in the gray portion of the Split-Containers. Contractor shall allow Generators to place Source Separated Food Waste in the brown section of the Split-Container and shall Collect and Transport the Food Waste to (i) the Approved/Designated Organic Waste Processing Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to an Approved/Designated Organic Waste Processing Facility, as specified in Section 8.1.

Contractor shall have the option to Collect Compostable Plastics in the Brown Containers for Processing at the Approved/Designated Organic Waste Processing Facility. If Compostable Plastics are an accepted material, Contractor shall provide written notification to the City that the Facility can Process and recover these Compostable Plastics. Annually, Contractor shall provide written notification to the City that the Facility has and will continue to have the capabilities to Process and recover the Compostable Plastics. If, at any time during the Term of the Agreement, the Approved Organic Waste Processing Facility can no longer accept Compostable Plastics, City may deem such failure an event of default. Contractor shall notify the City within thirty (30) days of the Facility's inability to accept Compostable Plastics. The notification shall include: a description of the reasons the Facility is no longer able to Process and recover Compostable Plastics; the period of time the Facility will not Process and recover Compostable Plastics; and, the Contractor's proposed plan to assist in education and outreach of Customers in the event that Compostable Plastics are no longer accepted for Collection. Such changes shall be handled as a change in scope.

Contractor shall provide Green Containers to Customers for Yard Trimmings Collection and shall Transport the Yard Trimmings to (i) the Approved/Designated Organic Waste Processing Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to an Approved/Designated Organic Waste Processing Facility, as specified in Section 8.1.

Yard Trimmings that are to be accepted for Collection in the Yard Trimmings Collection program will be submitted to the City annually, at the time and in the format established by the City Contract Manager. The Parties agree that the accepted types of Yard Trimmings may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City. Contractor shall not add or remove materials to or from this list without written approval from the City Contract Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld. Carpets, Non-Compostable Paper, textiles, and Prohibited Container Contaminants shall not be Collected in the Green Containers.

Contractor shall provide Blue Containers to Customers for Source Separated Recyclable Materials Collection and shall Transport the Source Separated Recyclable Materials to (i) the Approved/Designated Source Separated Recyclable Materials Processing Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to an Approved/Designated Source Separated Recyclable Materials Processing Facility, as specified in Section 8.1.

Source Separated Recyclable Materials that are to be accepted for Collection in the Source Separated Recyclable Materials Collection program will be submitted to the City annually, at the time and in the format established by the City Contract Manager. The Parties agree that the list of accepted types of Source Separated Recyclable Materials may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City, provided that in all cases SSBCOW are included for Collection. Contractor shall not add or remove materials to or from this list without written approval from the City Contract Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld. Prohibited Container Contaminants shall not be Collected in the Blue Containers.

The Containers shall comply with the requirements of Section 7.9.7.

7.5 Use of Plastic Bags for SSGCOW Collection

A. Option 1: Food Waste in Plastic Bags in the Green Containers

Contractor shall allow Customers and Generators to place Food Waste in plastic bags and put the bagged Food Waste in the Green Container. At least one (1) month prior to the commencement of the use of plastic bags for the Food Waste program, Contractor shall provide written notification to the City that allowing the use of bags does not inhibit the ability of the City to comply with SB 1383 Regulations, and that the Approved Organic Waste Processing Facility can Process and remove plastic bags when it recovers SSGCOW. Annually, in accordance with Exhibit G, Contractor shall provide written notification to the City that the Facility has and will continue to have the capabilities to Process and remove plastic bags when it recovers SSGCOW. If, at any time during the Term of the Agreement, the Approved Organic Waste Processing Facility can no longer accept plastic bags, City may deem such failure an event of default. Contractor shall notify the City within fifteen (15) days of the Facility's inability to accept plastic bags. The notification shall include: a description of the reasons the Facility is no longer able to Process and recover plastic bags; the period of time the Approved Facility will not Process and recover plastic bags; and, the Contractor's proposed plan to assist in education and outreach of Customers in the event that plastic bags are no longer accepted for Collection. Such changes shall be handled as a change in scope.

B. Option 2: SSGCOW in Plastic Bags in the Green Containers

Contractor shall allow Customers and Generators to place SSGCOW in plastic bags and put the bagged SSGCOW in the Green Container. At least one (1) month prior to the commencement of the use of plastic bags for the SSGCOW program, Contractor shall provide written notification to the City that allowing the use of bags does not inhibit the ability of the City to comply with SB 1383 Regulations, and that the Approved Organic Waste Processing Facility can Process and remove plastic bags when it recovers SSGCOW. Annually, Contractor shall provide written notification to the City that the Facility has and will continue to have the capabilities to Process and remove the plastic bags when it recovers SSGCOW. If, at any time during the Term of the Agreement, the Approved Organic Waste Processing Facility can no longer accept plastic bags, City may deem such failure an event of default. Contractor shall notify the City within fifteen (15) days of the Facility's inability to accept plastic bags. The notification shall include: a description of the reasons the Facility is no longer able to Process and recover plastic bags; the period of time the Approved Facility will not Process and recover plastic bags; and, the Contractor's proposed plan to assist in education and outreach of Customers in the event that plastic bags are no longer accepted for Collection. Such changes shall be handled as a change in scope.

7.6 Food Waste Collection (Brown Containers)

No later than January 1, 2022 or insert earlier date if desired, Contractor shall provide Brown Containers to Customers for Collection of Source Separated Food Waste, and shall provide Food Waste Collection service. Contractor shall Transport the Food Waste to (i) the Approved/Designated Organic Waste Processing Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to an Approved/Designated Organic Waste Processing Facility, as specified in Section 8.1.

Prior to program implementation, Contractor shall develop a detailed plan and timeline for distribution of new Brown Containers to Customers. Contractor shall submit the plan to the City Contract Manager a minimum of one hundred and twenty (120) days prior to the commencement date of the Food Waste program for review and approval by City Contract Manager. When the distribution of Containers commences, Contractor shall provide a daily email or verbal report to the City Contract Manager on the status of the Container distribution process, areas of concerns and proposed resolutions, and other relevant information. The detailed plan shall include a description of the education and outreach efforts that will accompany the Container distribution process and commencement of the Food Waste program.

Contractor shall have the option to Collect Compostable Plastics in the Brown Containers for Processing at the Approved/Designated Organic Waste Processing Facility. If Compostable Plastics are an accepted material, Contractor shall provide written notification to the City that the Facility can Process and recover these Compostable Plastics. Annually, Contractor shall provide written notification to the City that the Facility has, and will continue to have, the capabilities to Process and recover the Compostable Plastics. If, at any time during the Term of the Agreement, the Approved Organic Waste

Processing Facility can no longer accept Compostable Plastics, City may deem such failure an event of default. Contractor shall notify the City within thirty (30) days of the Facility's inability to accept Compostable Plastics. The notification shall include: a description of the reasons the Facility is no longer able to Process and recover Compostable Plastics; the period of time the Approved Facility will not Process and recover Compostable Plastics; and, the Contractor's proposed plan to assist in education and outreach of Customers in the event that Compostable Plastics bags are no longer accepted for Collection. Such changes shall be handled as a change in scope.

7.7 Other Organic Streams

Contractor shall offer Collection of insert material type using insert unique color Containers, pursuant to Section 7.9.7. This material shall be Processed at an Approved/Designated Processing Facility and not Disposed. The Tonnage of material type Collected shall be reported in the Contractor's monthly Tonnage report.

7.8 C&D Collection

Non-Exclusive Right to Collect C&D Materials

Contractor shall Collect C&D materials from C&D Collection Sites from Customers that subscribe to its C&D Collection services and Transport the C&D to (i) the Approved/Designated C&D Processing Facility, or (ii) the Approved/Designated Transfer Facility for Transfer and Transport to an Approved/Designated C&D Processing Facility, as specified in Section 8.1. Contractor shall provide C&D Collection and Processing services. Contractor shall charge Customers for C&D Collection services at Rates agreed upon by Generators and Contractor.

7.9 Multi-Family Bulky Items and Reusable Materials Collection

Contractor shall offer Bulky Item Collection services to Multi-Family Customers as a recurring for-fee service. In addition, twice each year free Bulky Items collections, for up to two-items per-household, shall be provided to Multi-Family Customers free of charge. Contractor shall Transport all Bulky Items and Reusable Materials Collected under this Agreement to the appropriate facility.

7.9.1 Equipment

Contractor shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all services required by the terms of this Agreement.

7.9.2 Performance Standards

Contractor shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and all relevant provisions of Applicable Laws.

7.9.3 Noise and Disruption

Contractor shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic.

7.9.4 Collection Times

Contractor shall not commence Collection of Solid Waste for Customers until 7:00 a.m., nor shall such activities occur after 5:00 p.m. at Multi-Family Premises and after 8:00 p.m. for Commercial Premises. No Solid Waste Collection shall occur on Sundays at Multi-Family Premises or Commercial Premises, except in exceptional circumstances for which specific approval is given by the Director. Solid Waste Collection shall not occur on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

7.9.5 Collection Schedule

All Collection routes shall be subject to final approval by the Director. Customers at all Residential and Commercial Premises within the City shall have not less than one (1) established Collection day each week. Contractor shall provide notice to each Customer of its established Collection day(s), and shall provide at least thirty (30) days' notice to Customers of any change in their established Collection day(s). Notwithstanding any provision herein to the contrary, should any established Collection day fall on a legal holiday, or on any other holiday which is observed by either a landfill or other lawful disposal site to which Solid Waste is taken for disposal, or a recycling facility to which Recyclable Material is taken, Contractor shall provide for Collection one (1) day later during the pick-up week, and the regular Collection schedule shall be resumed the following week. A pick-up week shall be defined as Monday through Saturday. Contractor may not change its established Collection schedules without obtaining the prior written consent of the Director.

7.9.6 Commingling of Routes

Contractor shall not during its Collection process commingle Solid Waste Collected hereunder with Solid Waste Collected in any other city, or on behalf of any other entity operating or existing within City that is not subject to this Agreement, and is specifically prohibited from combining Collection routes related to services provided pursuant to this Agreement with Collection routes for other jurisdictions it may service.

7.9.7 Contractor's Containers

A. Provision of Containers by Contractor and Color Standards

1. General

a. Option 1: Colors Already Compliant

Contractor shall provide all Customers with Collection Containers that comply with the Container color requirements specified in this Section 7.9.7 or as otherwise specified in 14 CCR Section 18982; 14 CCR, Division 7, Chapter 12, Article 3; or other Applicable Law. At least thirty (30) days in advance of Contractor Container purchases or repainting of metal Containers, Contractor shall present proposed colors to the City for review and approval.

b. Option 2: Colors Not Compliant; Containers Replaced Upon Commencement

As of the Commencement Date of this Agreement, Contractor shall provide all Customers with new Collection Containers that comply with the Container color requirements specified in this Section or as otherwise specified in 14 CCR Section 18982; 14 CCR, Division 7, Chapter 12, Article 3; or other Applicable Law.

Contractor shall develop a detailed plan and timeline for distribution of new Containers to Customers and the emptying and removal of existing Containers from Customers, which may involve coordination with the City's current contractor. Contractor shall submit the plan to the City Contract Manager at a minimum of thirty (30) days prior to the Commencement Date for review and approval by City Contract Manager. When the distribution of Containers commences, Contractor shall provide a daily email or verbal report to the City Contract Manager on the status of the Container distribution process, areas of concerns and proposed resolutions, and other relevant information. The detailed plan shall include a description of the education and outreach efforts that will accompany the Container distribution process.

c. Option 3: Colors Not Compliant; Containers Replaced During the Term of the Agreement

Contractor shall use the Contractor-provided Collection Containers that are currently located at Customers' Premises or provide Customers with Collection Containers from Contractor's current inventory.

No later than March 1, 2022, Contractor shall provide all Customers with Collection Containers that comply with the Container color requirements specified in this Section or as otherwise specified in 14 CCR Section 18982; 14 CCR, Division 7, Chapter 12, Article 3; or other Applicable Law. At least thirty (30) days in advance of Contractor Container purchases or repainting of metal Containers, Contractor shall present proposed colors to the City for review and approval. If an existing Container breaks or is otherwise rendered non-functional on or after January 1, 2022, the Contractor shall replace the non-functional Container with a Container that complies with the color requirements of this Section. Notwithstanding this Section, the Contractor is not required to replace functional Containers, including Containers purchased prior to January 1, 2022, that do not comply with the color requirements of this Section prior to the end of the useful life of those Containers, or prior to January 1, 2036, whichever comes first.

2. **Blue Containers (Source Separated Recyclable Materials)**

Option 1: Blue Containers must have a lid that is blue in color; and a body that is insert any other color in color. Hardware such as hinges and wheels on the Blue Containers may be a different color.

Option 2: Blue Containers must have a body that is blue in color, and a lid that is gray in color. Hardware such as hinges and wheels on the Blue Containers may be a different color.

Option 3: Blue Containers must have a lid and body that is blue in color. Hardware such as hinges and wheels on the Blue Containers may be a different color.

3. **Green Containers (SSGCOW)**

Option 1: Green Containers must have a lid that is green in color; and a body that is insert any other color in color. Hardware such as hinges and wheels on the Green Containers may be a different color.

Option 2: Green Containers must have a body that is green in color, and a lid that is gray in color. Hardware such as hinges and wheels on the Green Containers may be a different color.

Option 3: Green Containers must have a lid and body that are green in color. Hardware such as hinges and wheels on the Green Containers may be a different color.

4. **Gray Containers (Gray Container Waste or Mixed Waste)**

Option 1: Gray Containers must have a lid that is gray in color, and a body that is insert any other color in color. Hardware such as hinges and wheels on the Gray Container may be a different color.

Option 2: Gray Containers must have a lid and body that are gray in color. Hardware such as hinges and wheels on the Gray Container may be a different color.

5. Brown Containers (Food Waste)

Option 1: Brown Containers must have a lid that is brown in color; and a body that is insert any other color in color. Hardware such as hinges and wheels on the Brown Containers may be a different color.

Option 2: Brown Containers must have a body that is brown in color, and a lid that is gray in color. Hardware such as hinges and wheels on the Brown Containers may be a different color.

Option 3: Brown Containers must have a lid and body that are brown in color. Hardware such as hinges and wheels on the Brown Containers may be a different color.

6. Split Containers

Option 1: Blue Split-Container (Dual-Stream Source Separated Recyclable Materials Collection)

For Split Containers that segregate SSBCOW and Non-Organic Recyclables, Contractor shall provide Split Containers with the section of the Container designated for the Collection of SSBCOW with a lid that is blue in color and a body that is insert any color in color. The section of the Container designated for the Collection of Non-Organic Recyclables must have a lid that is a lighter shade of blue than the SSBCOW section of the Container or insert any color not already designated for other materials specified in this Section 7.9.7 and a body that is insert any color. Hardware such as hinges and wheels on the Split Container may be a different color.

Option 2: Split Containers for Other Combinations of Materials

Option 2.a, Split-color Lids; Split-color Bodies: For Split Containers that segregate Material 1 and Material 2, Contractor shall provide Split Containers with the sections of the Containers designated for Collection of Material 1 with lids that are Color 1 (compliant color) in color, and bodies that are Color 2 (any color) in color. The sections of the Containers designated for Collection of Material 2 must have lids that are Color 3 (compliant color) in color, and bodies that are Color 4 (any color) in color. Hardware such as hinges and wheels on the Split Container may be a different color.

Option 2.b, Split-color Lids; Single-color Body: For Split Containers that segregate Material 1 and Material 2, Contractor shall provide Split Containers with the sections of the Containers designated for Collection of

Material 1 with lids that are Color 1 in color. The sections of the Containers designated for Collection of Material 2 must have lids that are Color 2 in color. The bodies of the Split Containers must be Color 3 (insert any color) in color. Hardware such as hinges and wheels on the Split Container may be a different color.

7. **C&D Bins and Roll-Off Boxes.** Bins and Roll-Off Boxes for Collection of C&D may be in any color, provided that the colors do not conflict with the Container color requirements of this Section 7.9.7 and provided that the C&D Container colors are consistent for all C&D Containers. The C&D Container color shall be reviewed and approved by the City.

8. **Colors for Other Organic Streams**

Option 1: (Color X – insert any color not specified above) Lids; Any Color Bodies. Containers for the Collection of Source Separated (insert material type) must have lids that are Color X in color and bodies that are insert any color in color. Hardware such as hinges and wheels on Color X Containers may be a different color. Guidance: An example of how this option can be used is as follows: “Maroon Lids, Gray Bodies. Containers for the Collection of Source Separated manure must have lids that are maroon in color and bodies that are gray in color. Hardware such as hinges and wheels on the maroon Containers may be a different color.”

Option 2: (Color X) Bodies; Matching or Gray Lids. Containers for the Collection of Source Separated (insert material type) must have bodies that are Color X in color and lids that are Color X or gray in color. Hardware such as hinges and wheels on Color X Containers may be a different color.

B. Labeling Requirements

Option 1: Labels on New Containers or New Lids

Commencing on or before January 1, 2022 or insert earlier date if desired, Contractor shall place a label on each new Container body or lid that includes language or graphic images, or both, that indicate the primary materials accepted and the primary materials prohibited in that Container. Labels shall clearly indicate items that are Prohibited Container Contaminants for each Container. Prior to ordering labels for Containers, Contractor shall submit a copy of its proposed label, proposed location(s) for placement of labels on each type of Container, and its labeling plan to the City Contract Manager for approval.

Option 2: Imprinted or In-Mold Labels for New Containers or New Lids

On or before January 1, 2022 or insert earlier date if desired, Contractor shall imprint new Container bodies or lids with text or graphic images that indicate the primary materials accepted and the primary materials prohibited in that Container. Labels shall clearly indicate items that are Prohibited Container Contaminants for

each Container. Prior to ordering any Containers or lids with in-mold labels, Contractor shall submit a sample of its proposed label, proposed location(s) for placement of labels on each type of Container, and its labeling plan to the City Contract Manager for approval.

Option 3: Labels for Existing Containers

On or before insert date, Contractor shall place a label on the body or lid of each Container that has been provided to a Customer that includes language or graphic images, or both, that indicate the primary materials accepted and the primary materials prohibited in that Container. Labels shall clearly indicate items that are Prohibited Container Contaminants for each Container. Prior to ordering labels for Containers, Contractor shall submit a copy of its proposed label, proposed location(s) for placement of labels on each type of Container, and its labeling plan to the City Contract Manager for approval.

Option 4: Imprinted or In-Mold Labels for Existing Containers

On or before insert date, Contractor shall imprint the bodies or lids of Containers that have been provided to Customers with text or graphic images that indicate the primary materials accepted and the primary materials prohibited in that Container. Labels shall clearly indicate items that are Prohibited Container Contaminants for each Container. Prior to ordering any Containers or lids with in-mold labels, Contractor shall submit a sample of its proposed label, proposed location(s) for placement of labels on each type of Container, and its labeling plan to the City Contract Manager for approval.

C. Container Standards

- (A) Contractor's Containers shall meet the minimum standards set forth herein.
- (B) Contractor shall be responsible to maintain and replace, as necessary, all Containers.
- (C) All Containers shall be maintained by Contractor in good repair, and any question as to the meaning of this standard shall be resolved by the Director.
- (D) Contractor shall deliver Containers to each Customer at no additional charge.
- (E) Contractor shall ensure it maintains an accurate list that contains the total number of Carts, Bins, and indoor recycling containers at each service address or other identifying location associated with each account and the serial number or other identifying information associated with each Cart or Bin. Contractor shall keep this list up to date at all times, provide it to City upon request, and shall include a current updated list with each quarterly report as set forth in Section 22. In addition, Contractor shall provide this list to City within thirty (30) days of the Service Commencement Date.

(F) Contractor shall, at Responsible Customer's request, refurbish, replace, and steam clean as necessary all Bins and Rolloff Boxes at no charge to Customers up to two (2) times per calendar year. City may require the steam cleaning or replacement of Bins more frequently if it determines such action is needed to protect public health and safety. Additional steam cleaning or replacement shall be provided within 24 hours of notification by City or request by a Responsible Customer.

(G) Contractor shall remove any graffiti that appears on a Container within twenty-four (24) hours (Sundays and holidays excepted) after becoming aware of it at no charge to Customers.

(H) All Bins and Rolloff Boxes shall be kept freshly painted in a uniform fashion. All Bins and Rolloff Boxes shall be identified with Contractor's name and phone number in letters not less than three (3) inches high on its exterior so as to be visible and legible when the Container is placed for use.

(I) At a Customer's request, Contractor shall provide Bins with locking lids and locks and may charge rates to Customers for locking Bins.

(J) Contractor shall mark its Containers with conspicuous warning notices stating disposal of Hazardous Substances in the Containers is prohibited.

(K) Contractor is responsible for cleaning and maintaining Collection Container enclosures in a manner reasonably acceptable to City, including, but not limited to, sweeping and removing litter and debris from the floor of the enclosure after each Collection and annually steam cleaning the enclosure area.

7.9.8 Missed Pick-ups

In case of a missed pick-up called in by a Customer, Contractor shall Collect Solid Waste and Recyclable Material from such Customer by 5:00 p.m. on the day of the call if Contractor was notified before 12:00 p.m. that same day, or, for calls received after 12:00 p.m., within twenty-four (24) hours after the call is received. Records of the addresses of all missed pick-ups shall be maintained by Contractor, and shall be reported to City on a quarterly basis. If Contractor demonstrates to the satisfaction of the Director a pattern of ongoing late "set-outs" by a given Customer, missed pick-ups resulting from late set-outs by that Customer shall not be counted as missed pick-ups in evaluating Contractor's performance hereunder. The Customer service phone system required by Section 10.8.2 hereof is intended, among other things, to serve as a "hotline" for Customers to call in the event Solid Waste placed for Collection is not Collected by Contractor and to facilitate having such Solid Waste Collected as soon as reasonably possible, and in no event later than as required by the provisions hereof.

7.9.9 Record of Non-collection

As more fully set forth herein, Contractor shall Collect all Solid Waste placed for Collection by Customers in Containers, excepting materials that do not meet the definition of Solid Waste (such as hazardous materials) or which are commingled with such materials.

Whenever Contractor determines not to Collect any Solid Waste deposited for Collection, Contractor shall leave a tag at least two inches (2") by six inches (6") in size, indicating the reason for Contractor's refusal to do so. This information may be either handwritten or left by means of a check system (i.e., checking off boxes on a preprinted form). The tag shall provide Contractor's business name and its local telephone number and shall be securely fastened to the Container or the article refused. Contractor shall maintain a record of all such taggings at its place of business. Such record shall contain the date of such notice, street address, reason for non-collection, and a summary of any communications between Contractor and the Customer involved. Such record shall be retained and reported to the City on a quarterly basis. Contractor shall follow-up with all Customers receiving a tag for non-collection by telephone within twenty-four (24) hours.

7.9.10 Commercial Bulky Item Service

Contractor shall provide unlimited Bulky Item Collection services to Commercial Customers on an on-call basis. Contractor may charge rates for such services. Bulky Item Collection service calls shall be responded to within a reasonable time but not longer than seven (7) days from the date of the Customer's call for service. Contractor shall produce, keep current, and provide public information specifically outlining the Bulky Item pick-up service. Bulky Items Collected pursuant to this Section are subject to the diversion and handling requirements set forth herein.

7.9.11 Scout and Push Out Services

Certain Commercial Premises within the City Limits are uniquely configured such that Contractor may determine that a smaller vehicle may be needed to retrieve a Customer's Container in order for a regular Collection vehicle to service the Container ("Scout Service"). Certain Commercial Premises may be configured such that a Customer's Container must be manually moved in order to be serviced by a Collection Vehicle ("Push Out Service"). Contractor shall provide Scout Service and Push Out Service to Commercial Premises as it deems appropriate; however, Contractor may not charge for either Scout Service or Push Out Service.

7.10 Other Collection Programs As May Be Required by Law

In the event CalRecycle, or any federal, state, or local law or regulation, imposes upon City or Contractor a requirement for the implementation of any source separated program for the Collection of any waste material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement, Contractor shall design and present a program to City to comply with such requirement, which program shall meet the Director's reasonable approval ("Proposed Program").

7.11 Temporary Services

Contractor shall provide Temporary Services on an on call basis to any Customer requesting such service pursuant to the following conditions:

(A) Bins and Rolloff Boxes utilized in connection with Temporary Services shall meet the minimum standards set forth herein.

(B) Contractor to determine appropriate charges related to customer use of Bins or Rolloff Boxes.

(C) Temporarily placed Bins may be used for small cleanup type projects at Single Family and Multi-Family Dwellings; provided, however, Bins used for such purposes shall not remain at the same address for a period that exceeds four (4) consecutive weeks. Bins may not be placed in any public rights-of-way so as to create a safety hazard or so as to block any right-of-way to a degree that it is not reasonably usable. Bins placed in City's rights-of-way shall be subject to such requirements as may be imposed by City, and at a minimum shall be equipped with reflectors, reflective tape, reflective paint, or other reflective devices which, to the satisfaction of the Director, make such Bins reasonably visible to vehicle traffic at night.

(D) Contractor shall work with Customers requesting construction and demolition debris Collection services to ensure that requirements under the Municipal Code regulating the recycling and disposal of construction and demolition waste are met, including, but not limited to, ensuring that each covered project meets the minimum required diversion level. Contractor agrees to comply with all provisions of the Municipal Code, as may be amended from time to time, and to provide services for construction contractors in City as may be contemplated by any such Municipal Code provisions at no charge (such as assistance in preparing plans for the collection, recycling and disposal of construction and demolition waste in accordance with this Agreement and providing data for reporting to the City).

(E) In addition to complying with any related requirements that may exist in any City ordinance which may be in effect in City regulating construction and demolition waste, including specific diversion levels that may be required by any such ordinance, Contractor shall make all reasonable efforts to recycle all construction and demolition waste it Collects, especially to the degree such loads contain clean inert materials. Towards this end, Contractor shall make available to Customers involved in construction separate containers within which to Collect different types of marketable materials, such as dirt, steel, concrete and wood.

7.11.1 Extent of Applicable Franchise Rights

Nothing in this Agreement shall be construed as giving Contractor the right to Collect Recyclable Material or Green Waste which has not been discarded and placed for Collection in Containers provided by Contractor in the location designated for that purpose.

7.11.2 AB 939 Obligations, Guarantee, and Indemnification

7.11.2.1 Warranties and Representations

Contractor warrants and represents that it is aware of and familiar with City's Source Reduction and Recycling Element (the "SRRE"), that it is familiar with

City's waste stream, and that it has the ability to and will provide sufficient programs and services to assist its Customers will meet or exceed the diversion requirements set forth in AB 939 and elsewhere in state law. Contractor acknowledges that it is responsible for providing all state mandated recycling programs to its Customers. Contractor specifically acknowledges that the City's current mandated diversion goal as set forth pursuant to the Applicable Laws is fifty percent (50%), and that this is subject to possible modification pursuant to the provisions of AB 341.

7.11.2.2 Mutual Cooperation

City and Contractor shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, SB 1383 and other Applicable Laws. In this regard, City's obligations shall include, without limitation, making such petitions and applications as may be reasonably requested by Contractor for time extensions in meeting diversion goals, or other exceptions from the terms of AB 939, AB 341, SB 1383 and other Applicable Laws.

7.11.2.3 Waste Reduction and Program Implementation

Contractor shall implement the programs identified in the SRRE immediately upon the Service Commencement Date hereof, and will implement any programs required by any amendments or modifications thereto. In meeting this obligation, Contractor shall be mindful of and comply with all requirements of the County Agreement, including specifically, without limitation, the requirements thereof generally relating to (i) the delivery of Solid Waste only to transfer stations that provide quarterly certifications of Solid Waste delivered, and (ii) the disposal of residual Solid Waste that remains after recycling processes have been completed. On and after the Service Commencement Date, Contractor shall provide City with monthly, quarterly and annual written reports in a form adequate to meet City's AB 939 and SB 1383 related filings and reporting requirements to CalRecycle and to the County of Orange throughout the Term of this Agreement wherein City's performance under the above programs shall be set forth in detail. Contractor shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with AB 939, AB 341 and/or SB 1383. Contractor shall reimburse City for any costs City incurs in appearing before CalRecycle and/or the County of Orange in relation thereto.

7.11.2.4 Warranties and Indemnification

Contractor represents and warrants that it will carry out its obligations under this Agreement such that: (i) both it and City will at all times be in compliance with the requirements of all Applicable Laws including specifically AB 939, and SB 1383, and (ii) City will meet or exceed the diversion requirements

(including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in AB 939, SB 1383 and all amendments thereto with respect to waste stream collected by Contractor under this Agreement. In this regard, Contractor agrees that it will, in addition to any other requirement contained herein, at its sole cost and expense:

(A) to the extent legally permitted, defend, with counsel approved by City, indemnify, and hold harmless City and City's officials, employees, and agents from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory agency if: (1) Contractor fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or any Applicable Laws and such failure or refusal prevents or delays City from submitting reports required by Applicable Laws in a timely manner; or (2) the source reduction and recycling goals, diversion goals, program implementation requirements, or any other requirements of Applicable Laws are not met with respect to the waste stream Collected under this Agreement;

(B) assist City in responding to inquiries from CalRecycle;

(C) assist City in preparing for, and participating in, any review of City's SRRE pursuant to Applicable Laws;

(D) assist City in applying for any extension if so directed by City;

(E) assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Laws;

(F) assist City with the development of and implement a public awareness and education program as mutually agreed by Contractor and City that is consistent with the City's SRRE, as well as any related requirements of Applicable Laws;

(G) provide City with recycling, source reduction, and other technical assistance related to compliance with the Applicable Laws;

(H) defend, with counsel acceptable to City, City and City's officials, employees, and agents against the imposition of fines and/or penalties, or any other liabilities, issued by CalRecycle pursuant to AB 939 and SB 1383 that are based on the actions or inactions of Contractor;

(I) be responsible for and pay, any fees, penalties or other costs imposed against the City by CalRecycle, and indemnify and hold harmless City from and against any fines, penalties, or other liabilities, levied against it for violation of AB 939's diversion requirements, or violation of any other

provision of the Applicable Laws, arising from or in any way related to Contractor's performance of its obligations under this Agreement.

7.11.3 Guaranteed Minimum Contractor Recycling Rate

Contractor shall divert a minimum of fifty percent (50%) of all Solid Waste it Collects under this Agreement for each calendar year beginning January 1, 2022 ("Recycling Diversion Requirement"). Diversion of materials not Collected by Contractor shall be counted towards meeting the Recycling Diversion Requirement, provided the Contractor assists the City in verifying this diversion. For the purposes of this section, Contractor diversion includes only Recycling methods, Transformation, and/or other forms of diverting solid waste from landfills which are accepted by the State toward meeting the City's diversion goal under AB 939. Contractor shall not be entitled to a reduction in the Recycling Diversion Requirement, if or when:

- Transformation or other facilities are no longer available for any reason;
- CalRecycle diversion credit under AB 939 or other Applicable Laws is no longer provided for Solid Waste sent to a Transformation facility; or

To comply with this section, Contractor is required to submit timely tonnage reports supporting the Recycling Diversion Requirement, and to provide supporting documentation as may be requested by City or its designee as part of, or independent of, an audit. Failure to meet, and fully support, the Recycling Diversion Requirement may result in termination of this Agreement pursuant to Section 18.

7.11.4 Waste Generation/Characterization Studies

Contractor acknowledges that City must perform Solid Waste generation and disposal characterization studies periodically to comply with the requirements of AB 939. Contractor agrees to participate and cooperate with City and its agents and to accomplish studies and data collection and prepare reports, as needed and directed by City, to determine weights and volumes of Solid Waste Collected and characterize Solid Waste generated, disposed, transformed, diverted or otherwise handled/processed to satisfy the requirements of AB 939.

SECTION 8. OTHER SERVICES

8.1 Transfer, Processing, and Disposal

Option 1: Selection of Facilities by Contractor

- A. Contractor shall Transport all Discarded Materials to the Approved Facility(ies) and shall Transfer, Process, and Dispose of Discarded Materials in accordance with

this Section. The Approved Facilities shall comply with the following requirements.

Option 1A: Three-Container System (Blue, Green, and Gray Containers) (Standard Compliance Approach)

1. **Approved Transfer Facility.** Contractor's Approved Transfer Facility shall be a Transfer Facility or operation that Transfers Single-Family, Multi-Family, and Commercial Source Separated Recyclable Materials, SSGCOW, and Gray Container Waste/Mixed Waste Collected in accordance with this Agreement.
2. **Approved Source Separated Recyclable Materials Processing Facility (Blue Containers).** Contractor's Approved Recyclables Processing Facility shall be a Facility or operation that Processes Single-Family, Multi-Family, and Commercial Source Separated Recyclable Materials to recover materials designated for Collection in the Blue Container.
3. **Approved Organic Waste Processing Facility (Green Containers).** Contractor's Approved Organic Waste Processing Facility shall be a Facility that Processes Single-Family, Multi-Family, and Commercial SSGCOW to recover Source Separated Organic Waste.
4. **Approved Disposal Facility (Gray Containers).** Contractor's Approved Disposal Facility shall be a Disposal Facility that accepts Single-Family, Multi-Family, and Commercial Gray Container Waste Collected in accordance with this Agreement for Disposal.
5. **Approved High Diversion Organic Waste Processing Facility (Gray Containers).** Contractor's Approved High Diversion Organic Waste Processing Facility shall be a facility or operation that: (i) Processes Single-Family, Multi-Family, and Commercial Mixed Waste Collected in accordance with this Agreement; and, (ii) is a High Diversion Organic Waste Processing Facility.

Per SB 1383 Regulations (14 CCR Section 18982(a)(33)), the Facility must be in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meet or exceed an annual average Mixed Waste organic content recovery rate of fifty (50) percent between January 1, 2022 and December 31, 2024, and seventy-five (75) percent after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e), for Organic Waste received from the Mixed Waste Organic Waste Collection Stream

Option 1B: Three-Container System (Blue, Green, and Gray Containers) (Performance-Based Compliance Approach, which specifies Facility types/standards for Source Separated Recyclable Materials and Organic Waste Processing)

1. **Approved Transfer Facility.** Contractor's Approved Transfer Facility shall be a Transfer Facility or operation that Transfers Single-Family, Multi-Family, and Commercial Source Separated Recyclable Materials, SSGCOW, and Gray Container Waste/Mixed Waste Collected in accordance with this Agreement.
2. **Approved Source Separated Recyclable Materials Processing Facility (Blue Containers).** Contractor's Approved Source Separated Recyclable Materials Processing Facility shall be a Facility or operation that Processes Single-Family, Multi-Family, and Commercial Source Separated Recyclable Materials to recover materials designated for Collection in the Blue Container.
3. **Approved Organic Waste Processing Facility (Green Containers).** Contractor's Approved Organic Waste Processing Facility shall be a facility that: (i) Processes Single-Family, Multi-Family, and Commercial SSGCOW Collected in accordance with this Agreement; and, (ii) is a "transfer/processor" or "composting operation" or "composting Facility" as defined within the definition of "Designated Source Separated Organic Waste Processing Facility" in 14 CCR Section 18982(a)(14.5).
4. **Approved Disposal Facility (Gray Containers).** Contractor's Approved Disposal Facility shall be a Disposal Facility that accepts Single-Family, Multi-Family, and Commercial Gray Container Waste Collected in accordance with this Agreement for Disposal.
5. **Approved High Diversion Organic Waste Processing Facility (Gray Containers).** Contractor's Approved High Diversion Organic Waste Processing Facility shall be a facility or operation that: (i) Processes Single-Family, Multi-Family, and Commercial Mixed Waste Collected in accordance with this Agreement; and, (ii) is a High Diversion Organic Waste Processing Facility.

Per SB 1383 Regulations (14 CCR Section 18982(a)(33)), the Facility must be in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meet or exceed an annual average Mixed Waste organic content recovery rate of fifty (50) percent between January 1, 2022 and December 31, 2024, and seventy-five (75) percent after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e), for Organic Waste received from the Mixed Waste Organic Waste Collection Stream.

Option 1C: Two-Container System for Source Separated Recyclable Materials and Mixed Waste (Blue and Gray Containers)

1. **Approved Transfer Facility.** Contractor's Approved Transfer Facility shall be a Transfer Facility or operation that Transfers Single-Family, Multi-Family, and Commercial Source Separated Recyclable Materials and

Mixed Waste Collected in accordance with this Agreement.

2. **Approved Source Separated Recyclable Materials Processing Facility (Blue Containers).** Contractor's Approved Source Separated Recyclable Materials Processing Facility shall be a facility or operation that Processes Single-Family, Multi-Family, and Commercial Source Separated Recyclable Materials to recover materials designated for Collection in the Blue Container.
3. **Approved High Diversion Organic Waste Processing Facility (Gray Containers).** Contractor's Approved High Diversion Organic Waste Processing Facility shall be a facility or operation that: (i) Processes Single-Family, Multi-Family, and Commercial Mixed Waste Collected in accordance with this Agreement; and, (ii) is a High Diversion Organic Waste Processing Facility.

Option 1D: Two-Container System for SSGCOW and Mixed Waste (Green and Gray Containers)

1. **Approved Transfer Facility.** Contractor's Approved Transfer Facility shall be a Transfer Facility or operation that Transfers Single-Family, Multi-Family, and Commercial SSGCOW and Mixed Waste Collected in accordance with this Agreement.
 2. **Approved Organic Waste Processing Facility (Green Containers).** Contractor's Approved Organic Waste Processing Facility shall be an Organic Waste Processing Facility that Processes Single-Family, Multi-Family, and Commercial SSGCOW to recover Source Separated Organic Waste.
 3. **Approved High Diversion Organic Waste Processing Facility (Gray Containers).** Contractor's Approved High Diversion Organic Waste Processing Facility shall be a facility or operation that: (i) Processes Single-Family, Multi-Family, and Commercial Mixed Waste Collected in accordance with this Agreement; and, (ii) is a High Diversion Organic Waste Processing Facility.
- B. **Allowable Organic Waste Facilities.** If Contractor is interested in Transporting Discarded Materials to a type of Facility that is not described above, Contractor shall obtain written approval from the City Contract Manager and such Facilities or activities shall constitute a reduction in Landfill Disposal pursuant to 14 CCR Section 18983.1(b). If Contractor is interested in using a Facility, operation, or activity not listed above and not specifically identified in 14 CCR Section 18983.1(b), Contractor shall be responsible for securing the necessary approvals from CalRecycle, pursuant to 14 CCR Section 18983.2, that the Facility's process

or technology constitutes a reduction in Landfill Disposal prior to the City's final approval of such Facility or activity.

- C. **Guaranteed Capacity and Facility Standards.** Contractor shall guarantee Transfer, Processing, and Disposal capacity at the Approved Facility(ies) to receive all Discarded Materials Collected by the Contractor throughout the Term of the Agreement and shall comply with Facility standards set forth herein.
- D. **Transportation and Facility Costs.** Contractor shall pay all costs for the Transport, Transfer, Processing, and/or Disposal of Discarded Materials Collected in accordance with this Agreement. Contractor's compensation for such services is included in the Rates charged to Customers.
- E. **Subcontractor.** If the Contractor does not own or operate one or more of the Approved Facilities, Contractor shall enter into a subcontract agreement with the owner or operator of such Approved Facility(ies) and the requirements of Section 8.1 shall pertain to the Subcontractor. In addition, Subcontractor requirements or obligations related to indemnification (Section 25) and insurance requirements (Section 15) shall apply, as well as any other Subcontractor requirements or obligations stated in other sections of this Agreement.
- F. **Transportation to Non-Approved Facilities Prohibited.** If Contractor Transports Discarded Materials to a Facility other than the Approved Facility(ies) or an alternative facility without prior City approval, Contractor's failure to comply may result in termination of this Agreement and revocation of Contractor's franchise.

8.2 City reserves right to direct use of City-Designated Facility at a later date

Contractor agrees that the City Council may, upon making a finding of public health, safety, well-being, or benefit, direct Contractor to deliver any or all Source Separated Recyclable Materials, SSGCOW, Mixed Waste, and/or Gray Container Waste Collected within the City to any type of Designated Facility, as City may designate. Such a change shall be considered a City-directed change in scope. The Residue remaining after Processing, or recovery of Source Separated Recyclable Materials, SSGCOW, and C&D shall be subject to the Council's authority to direct Disposal at a Disposal Facility designated by the Council. City shall reserve the right to direct such Residue in accordance with the Council's direction in any agreement with the Facility operator of any Transfer Facility or Processing Facility where Contractor delivers Source Separated Recyclable Materials, SSGCOW, Mixed Waste, and/or Gray Container Waste. Contractor agrees to Transport Discarded Materials to the Designated Facility(ies) designated by the Council, commencing no later than fifteen (15) days from receipt of notice from the Director.

8.3 Contamination Monitoring

8.3.1 Contamination Monitoring Procedures

A. **General.** This Section presents inspection method(s) for Prohibited Container Contaminants to be used by the Contractor in conducting contamination monitoring required by Sections 8.3.2 and 8.3.3/8.3.4.

B. **Container Inspection Methods.**

1. Option 1: Physical Container Inspections. When Contractor's Hauler Route personnel dismounts from Collection vehicles to empty a Container, such personnel shall lift the Container lid and observe the contents. Upon finding Prohibited Container Contaminants in a Container, Contractor shall follow the contamination noticing procedures and contaminated Container handling protocols set forth in Section 8.3.1.C.
2. Option 2: Visual Inspections via On-Board Monitoring System. For Collection vehicles with automated Collection service, the Collection vehicle hopper shall be equipped with a video camera and monitoring system. The Contractor's Hauler Route personnel shall observe, via the hopper video camera and monitoring system, the contents of the Containers as the materials are emptied into the vehicle. Upon finding Prohibited Container Contaminants in a Container, Contractor shall follow the contamination noticing procedures and contaminated Container handling protocols set forth in Section 8.3.1.C.

The next day on which that Customer is to receive service, the Contractor's Hauler Route personnel shall dismount the Collection vehicle, lift the lid of the Container, and visually inspect the contents of the Container. If the Contractor's Hauler Route personnel determines that the Container again contains Prohibited Container Contaminants, Contractor shall follow the contamination noticing procedures and contaminated Container handling protocols set forth in Section 8.3.1.C.

3. Option 3: Visual Inspection via Remote Monitoring.
 - a. Contractor shall install camera equipment in Containers or on Contractor's vehicles and use a cloud-based software that will enable Contractor, City, and/or other applicable enforcement personnel to monitor or review and examine the contents of Multi-Family, and/or Commercial Containers using digital photographic images obtained from the cameras installed in the Containers. The digital images shall be maintained and accessible for examination through the Contractor's cloud-based software platform. Contractor will perform regular and frequent remote monitoring of each Container, automatically, manually, or in combination using the

remote monitoring system.

- b. The Container monitoring system will capture digital pictures or video of the contents of the Container upon Collection to document and visualize various layers of material in the Container. Capturing multiple digital pictures or video is necessary to detect Prohibited Container Contaminants throughout the Container.

C. Actions upon Identification of Prohibited Container Contaminants.

1. **Record Keeping.** The driver or other Contractor representative shall record each event of identification of Prohibited Container Contaminants in a written log or in the on-board computer system including date, time, Customer's address, type of Container (Blue, Green, or Gray Container); and maintain photographic evidence, if required. Contractor shall submit this record to the Contractor's Customer service department, and Contractor's Customer service department shall update the Customer's account record to note the event, if the documentation if the on-board computer system did not automatically update the Customer's account record.
2. **Identification of Excluded Waste.** If Contractor's personnel observe Excluded Waste in an uncollected Container, the Contractor's personnel shall issue a non-Collection notice for this Container in accordance with Section 8.3.1.C.5 and shall not Collect the Discarded Materials that contain Excluded Waste. Contractor's personnel shall record that observation in accordance with Section 8.3.1.C.1 and immediately inform their route supervisor. Contractor shall follow protocols specified in Sections 8.3.1.C.5 and 8.3.1.C.6. The route supervisor shall investigate and initiate applicable action within one (1) Business Day or sooner if the Hazardous Waste may cause immediate danger.
3. **Courtesy Pick-Up Notices.** Upon identification of Prohibited Container Contaminants in a Customer's Container, Contractor shall provide the Customer a courtesy pick-up notice. The courtesy pick-up notification shall: (i) inform the Customer of the observed presence of Prohibited Container Contaminants; (ii) include the date and time the Prohibited Container Contaminants were observed; (iii) include information on the Customer's requirement to properly separate materials into the appropriate Containers, and the accepted and prohibited materials for Collection in the Blue Container, Green Container, and/or Gray Container; (iv) inform the Customer of the courtesy pick-up of the contaminated materials on this occasion with information that following two (2) instances (See guidance in subsection C.4 below) Contractor may assess contamination Processing fees or issue a non-Collection notice; and, (v) may or shall include photographic evidence. Contractor shall leave the courtesy pick-up notice attached to or adhered to the Generators' contaminated Containers; at the

Premises' door or gate; or, subject to City's approval, may deliver the notice by mail, e-mail, text message, or other electronic message.

Contractor shall Collect the contaminated Source Separated Recyclable Materials or SSGCOW and Transport the material to the appropriate Approved Facility for Processing; or, Contractor may Collect the contaminated materials with Gray Container Waste/Mixed Waste and Transport the contaminated materials to the appropriate Approved/Designated Facility for Disposal/ Processing.

4. **Notice of Assessment of Contamination Processing Fees.** If the Contractor observes Prohibited Container Contaminants in a Generator's Container on more than two (2) consecutive occasions and issued courtesy pick-up notices on each of those occasions, the Contractor may impose a contamination Processing fee. Contractor shall notify the City in its quarterly report of Customers for which contamination Processing fees were assessed. Contractor shall leave a contamination Processing fee notice attached to or adhered to the Generators' contaminated Containers; at the Premises' door or gate; or, subject to City's approval, may deliver the notice by mail, e-mail, text message, or other electronic message. The contamination Processing fee notice shall describe the specific material(s) of issue, explain how to correct future set outs, and indicate that the Customer will be charged a contamination Processing fee on its next bill. The format of the contamination Processing fee notice shall be approved by the City Contract Manager.

Contractor shall Collect the contaminated Source Separated Recyclable Materials or SSGCOW and Transport the material to the appropriate Approved/Designated Facility for Processing.

5. **Non-Collection Notices.** Upon identification of Prohibited Container Contaminants in a Container in excess of standards agreed upon by the Parties or Excluded Waste, Contractor shall provide a non-Collection notice to the Generator. The non-Collection notice shall, at a minimum: (i) inform the Customer of the reason(s) for non-Collection; (ii) include the date and time the notice was left or issued; (iii) describe the premium charge to Customer for Contractor to return and Collect the Container after Customer removes the Contamination; and, (iv) provide a warning statement that a contamination Processing fee may be assessed if Prohibited Container Contaminants are observed on more than two (2) consecutive occasions. The non-Collection notice may or shall include photographic evidence of the violation(s).

The Contractor's notice of non-Collection may be left attached to or adhered to the Generator's Container, or at the Premises' door or gate at the time the violation occurs, or subject to City's approval, may be delivered by mail, e-mail, text message, or other electronic message.

Contractor shall submit a sample of its non-Collection notice to the City Contract Manager for approval prior to implementing use of it with Customers.

6. **Communications with Customer.** Whenever a Container at the Premises of a Commercial or a Multi-Family Customer is not Collected, Contractor shall contact the Customer on the scheduled Collection day or within twenty-four (24) hours of the scheduled Collection day by telephone, email, text message, or other verbal or electronic message to explain why the Container was not Collected. Whenever a Container is not Collected because of Prohibited Container Contaminants, a Customer service representative shall contact the Customer to discuss, and encourage the Customer to adopt proper Discarded Materials preparation and separation procedures.
 7. **Contractor Return for Collection.** Upon request from a Customer, Contractor shall Collect Containers that received non-Collection notices within one (1) Working Day of the Customer's request if the request is made at least two (2) Working Days prior to the regularly scheduled Collection Day. Contractor shall bill the Customer for the extra Collection service event ("extra pick-up") at the applicable City-approved Rates only if Contractor notifies Customer of the premium Rate for this service at the time the request is made by Customer.
- D. **Disposal of Contaminated Materials.** If the Contractor observes Prohibited Container Contaminants in a Generator's Container(s), Contractor may Dispose of the Container's contents, provided Contractor complies with the noticing requirements in Section 8.3.1.C.5 above.

8.3.2 Ongoing Contamination Monitoring

- A. **Route Personnel Monitoring.** Contractor shall assist on an ongoing basis in minimizing contamination by helping to educate Customers on acceptable and non-acceptable materials through ongoing education and outreach efforts in Section 8.4 and through on-going monitoring of the contents of Collection Containers. The ongoing Container monitoring shall be performed by Contractor using the method described in Section 8.3.1.B.
- B. **Periodic Sampling and Sorting**

Contractor shall implement a monthly contamination monitoring program of Source Separated Recyclable Materials and SSGCOW that involves Contractor's performance of visual inspections of aggregate Collection vehicle contents from City Hauler Routes to assess the level of Prohibited Container Contaminants. This shall be conducted through a "pad inspection" in which Source Separated Recyclable Materials or SSGCOW from a Collection vehicle are emptied onto a pad at the Approved/Designated Facility and an assessment of the Prohibited

Container Contaminants is made. Up to fifteen (15) visual pad inspections shall be performed by Contractor once a year, targeting different Hauler Routes. Based on pad inspection results, Contractor shall perform targeted outreach to Customers on the City Hauler Routes found to have Prohibited Container Contaminants in excess of the standards agreed upon by the Contractor and City. Outreach shall take the form of Hauler Route-level direct mailings to highlight common Prohibited Container Contaminants and to provide instruction on proper separation of Discarded Materials. Contractor shall maintain records and provide reports monthly regarding contamination inspections.

8.3.3 Contamination Monitoring (Hauler Route Review Option)

Hauler Route Review Contamination Monitoring by Contractor

1. Methodology and Frequency

Commencing on or before January 1, 2022, the Contractor shall, at its sole expense, conduct Hauler Route reviews for Prohibited Container Contaminants in Collection Containers in a manner that is deemed safe by the Contractor; is approved by the City; and, is conducted in a manner that results in all Hauler Routes being reviewed annually or more frequently.

The Contractor shall conduct Hauler Route reviews that include inspection of the contents of Customers' Collection Containers for Prohibited Container Contaminants in a manner such that a minimum of five percent (5%) of Containers on each and every Hauler Route are inspected annually. The Containers shall be randomly selected by (insert method if desired).

Contractor shall develop a Hauler Route review methodology to accomplish the above Container inspection requirements and such methodology shall comply with the requirements of 14 CCR Section 18984.5(b). Contractor shall submit its proposed Hauler Route review methodology for the coming year to the City no later than January 15 of each year describing its proposed methodology for the calendar year and schedule for performance of each Hauler Route's annual review. Contractor's proposed Hauler Route review methodology shall include not only its plan for Container inspections, but may or shall also include its plan for prioritizing the inspection of Customers that are more likely to be out of compliance. City and/or CalRecycle will review and approve the proposed methodology. Contractor may commence with the proposed methodology upon approval.

If the City and/or CalRecycle notifies the Contractor that the methodology is inadequate to meet the requirements of 14 CCR Section 18984.5(b), Contractor shall, at its sole expense, revise the methodology and, after obtaining City or CalRecycle approval, conduct additional Hauler Route reviews, increased Container inspections, or implement other changes using the revised procedure. If the Contractor's proposed methodology meets the requirements of 14 CCR Section 18984.5(b), but has been deemed inadequate by the City, the Contractor shall, at

the expense of the City, revise the methodology and implement the necessary changes using the revised procedure.

The City Contract Manager may request, and Contractor shall accept, modifications to the schedule to permit observation of the Hauler Route reviews by the City. In addition, Contractor shall provide an email notice to the City Contract Manager no less than ten (10) Working Days prior to each scheduled Hauler Route review that includes the specific time(s), which shall be within the City's normal business hours, and location(s).

2. **Noticing of Generators with Contamination, Non-Collection, and Disposal of Materials.**

Upon finding Prohibited Container Contaminants in a Container, Contractor shall follow the contamination noticing procedures and contaminated Container handling protocols set forth in Sections 8.3.1.C.

3. **Monthly Reporting Requirements.**

Contractor shall maintain records and report to the City monthly on contamination monitoring activities and actions taken.

8.4 **Education and Outreach**

Option 1: Education Primarily by City or Third Party

- A. **Program Objectives.** The City shall be responsible for designing, implementing, and conducting a public education and outreach program. The City's public education and outreach strategy shall focus on improving Generator understanding of the benefits of and opportunities for source reduction, Reuse, and Landfill Disposal reduction and supporting compliance with Applicable Laws and regulations, including, but not limited to SB 1383 and SB 1383 regulations. In general, City-provided public education and outreach aims to: (i) inform Generators about the services that are provided under this Agreement with specific focus on describing the methods and benefits of source reduction, Reuse, Recycling, and Composting (if applicable); (ii) instruct Generators on the proper method for placing materials in Containers for Collection and setting Containers out for Collection, with specific focus on minimizing contamination of Source Separated Recyclable Materials and SSGCOW; (iii) clearly define Excluded Waste and educate Generators about the hazards of such materials and their opportunities for proper handling; (iv) discourage Generators from buying products if the product and its packaging are not readily Reusable, Recyclable, or compostable; (v) inform Generators subject to Food Recovery requirements under SB 1383 Regulations of their obligation to recover Edible Food and actions they can take to prevent the creation of Food Waste; (vi) encourage the use of Compost; and, (vii) encourage Generators to purchase products/packaging made with Recycled-content materials. The cumulative intended effect of these efforts is to reduce each Generator's Solid

Waste and, ultimately, Disposal of Solid Waste, and Contractor agrees to support and not undermine or interfere with such efforts.

- B. **Contractor Cooperation and/or Support for City or Third Party Educational Efforts.** Contractor acknowledges that it is part of a multi-party effort to operate and educate the public about the regional integrated waste management system. Contractor shall cooperate and coordinate with the City Contract Manager on public education activities to minimize duplicative, inconsistent, or inappropriately timed education campaigns. The Contractor shall cooperate with and shall not impede, interfere, or attempt to impede or interfere with the implementation, expansion, or operation of public education and outreach programs or campaigns conducted by the City or their designee.

Contractor shall obtain approval from the City Contract Manager on all Contractor-provided public education materials outside of the City's education plan, including, but not limited to: print, radio, television, or internet media before publication, distribution, and/or release. City shall have the right to request that Contractor include City identification and contact information on public education materials and approval of such requests shall not be unreasonably withheld.

- C. **Content and Production Requirements.** The City will be responsible, in its sole discretion and subject to budgetary constraints, to prepare all public education materials, in accordance with the requirements of 14 CCR, Division 7, Chapter 12, Article 4, and may request that they be reviewed by Contractor prior to production. Contractor shall review and comment on the materials within two (2) weeks of request from the City.
- D. **Bill Inserts.** Contractor agrees to insert and distribute brochures, newsletters, or other information developed by the City as inserts in Contractor's Customer invoices at no additional charge to the City. Bill inserts shall be designed and produced by the City with review and comment by Contractor, and final approval by the City. Upon City request, Contractor shall be responsible for printing the bill inserts. For Customers receiving electronic bills, Contractor agrees to distribute brochures, newsletters, or other information developed by the City as attachments to Customer invoices at no additional charge to the City. Contractor shall provide electronic bill inserts (or separate email attachments) to Customers who are billed electronically, and paper bill inserts to Customers who receive paper bills. Electronic bill inserts/attachments must be readily available for the Customer to view upon receipt of the invoice (attachments shall not be provided as links). Upon City's request for such inserts, Contractor shall comply with such request during its

next billing cycle for the targeted Customer group. Contractor shall perform this service with no additional requirement for compensation.

Option 2: Education by Contractor

- A. **General.** In order to promote public education, Contractor shall create all public education materials and conduct education programs and activities described in this Section at its expense.
- B. **Program Objectives.** Contractor's public education and outreach strategy shall focus on improving Generators' understanding of the benefits of and opportunities for source reduction, Reuse, and Landfill Disposal reduction. In general, Contractor-provided public education and outreach, which shall include all content required by this Section 8.4, should: (i) inform Generators about the services that are provided under this Agreement with specific focus on describing the methods and benefits of source reduction, Reuse, and reduction of Solid Waste Disposal; (ii) instruct Generators on the proper method for placing materials in Containers for Collection and setting Containers out for Collection with specific focus on minimizing contamination of Source Separated Recyclable Materials and SSGCOW; (iii) clearly define Excluded Waste and educate Generators about the hazards of such materials and their opportunities for proper handling; (iv) discourage Generators from buying products if the product and its packaging are not readily reusable, recyclable, or compostable; (v) inform Generators subject to Food Recovery requirements under SB 1383 Regulations of their obligation to recover Edible Food and actions they can take to prevent the creation of Food Waste; (vi) encourage the use of Compost; and, (vii) encourage Generators to purchase products/packaging made with Recycled-content materials. The cumulative intended effect of these efforts is to reduce each Generator's reliance on Contractor-provided Gray Container Waste/Mixed Waste service and, ultimately, Disposal, and Contractor agrees to support and not undermine or interfere with such efforts
- C. **Contractor Cooperation and/or Support for City Educational Efforts.** Contractor acknowledges that it is part of a multi-party effort to operate and educate the public about the integrated waste management system. Contractor shall cooperate and coordinate with the City Contract Manager on public education activities to minimize duplicative, inconsistent, or inappropriately timed education campaigns.

Contractor shall obtain approval from the City Contract Manager on all Contractor-provided public education materials including, but not limited to: print, radio, television, or internet media before publication, distribution, and/or release. City shall have the right to request that Contractor include City identification and contact information on public education materials and approval of such requests shall not be unreasonably withheld. The City reserves the right to direct the Contractor to modify the education and outreach program at any time.

D. **Annual Education Plan.** Annually, Contractor shall develop and submit an annual public education plan to promote the programs performed by Contractor under this Agreement. The annual public education plan shall present the education activities for the upcoming calendar year and shall be submitted with the Contractor's annual report. Each public education plan shall specify the target audience for services provided, include upcoming promotions for ongoing and known special events, identify program objectives, individual tasks, public education materials to be developed or updated, opportunities for expanded partnerships, a timeline for implementation, and an itemized description of how Contractor's annual public education budget (described in Section 8.4.E) will be spent. The City Contract Manager shall be permitted to provide input on each annual public education plan, and the plan shall not be finalized or implemented without approval of the City Contract Manager. Each plan's implementation success shall be measured according to the deadlines identified and products developed. Contractor shall meet with the City Contract Manager to present and discuss the plan. City Contract Manager shall be allowed up to thirty (30) days after receipt to review and request modifications. The City Contract Manager may request, and Contractor shall not unreasonably deny, modifications to be completed prior to approving the plan. Contractor shall have up to fifteen (15) Business Days to revise the plan in response to any requested changes by the City Contract Manager.

E. **Education Requirements during Program Implementation/Roll-Out.**

Beginning on the Effective Date of this Agreement and through insert timeframe, Contractor shall conduct an education campaign focused on informing Customers of the Collection program changes that will commence on insert timeframe. At a minimum, Contractor shall perform the activities listed below and shall perform these services in a manner that complies with requirements of this Section 8.4 and 14 CCR, Division 7, Chapter 12, Article 4.

1. Prepare and distribute an initial mailer to all Customers explaining the change from the existing hauler to the new Contractor (if applicable), changes from the existing Collection programs to new programs, Hauler Route changes, dates of program implementation, Recycling and Landfill Disposal reduction programs available, special services available, holiday Collection schedules, proper handling and disposal of Household Hazardous Waste, Contractor's contact information, and any additional education and outreach information specified in 14 CCR, Division 7, Chapter 12, Article 4. The initial mailer shall be printed and mailed or hand delivered to Customers, and shall also be made available in an electronic format through the Contractor's website. Contractor may provide a Customer with an electronic version of the initial mailer, rather than a printed version, if specifically requested by the Customer.
2. Prepare a "how-to" flyer describing how to prepare Source Separated Recyclable Materials, SSGCOW, Gray Container Waste, and Mixed Waste for Collection and describe the acceptable materials that can be included in

the Blue and Green Containers, as well as non-allowable materials. The flyer should emphasize any new types of Source Separated Recyclable Materials to be included in Blue Containers and the new Food Waste Collection program. Prepare separate flyers for Multi-Family and Commercial Customers addressing their unique service conditions. The flyers shall be printed and distributed to each Customer, as well as made available in an electronic format through the Contractor's website. The Contractor shall provide a sufficient number of flyers to each Multi-Family property manager for their distribution to each tenant unit. Contractor may provide a Customer with an electronic version of the flyer rather than a printed version, if specifically requested by the Customer.

3. Prepare printed signage and posters describing Collection programs and distribute to Multi-Family property managers and Commercial Customers for on-site use.
4. Prepare an instructional packet identifying key transition dates and verifying the Customer's specific current Service Level, which shall be printed and distributed to each Customer and made available in an electronic format on the Contractor's website. Contractor may provide an electronic version of the instructional packet rather than a printed version, if requested by the Customer.
5. Prepare and distribute public service announcements (PSA) for local newspapers.
6. Meet with up to four (4) business associations (such as the Chamber of Commerce, Rotary Club, and other similar organizations) in separate venues to: educate Commercial Businesses on the Collection programs, State requirements (including SB 1383 and SB 1383 Regulatory requirements) for the City and Generators; answer questions; and, provide service and Rate information.
7. All education material designed and/or distributed by the Contractor shall be submitted to the City Contract Manager for approval prior to distribution or posting on the Contractor's website.

F. Annual and/or Ongoing Education Requirements.

1. Specific Annual Educational Activities

- a. Annual Notice of Requirements. Not less than once per year during the Term, Contractor shall prepare and distribute to each Generator in the City a mailer that includes information specified in 14 CCR Section 18985.1(a). Such mailer shall be distributed by Contractor to all Residential and Commercial mailing addresses including individual Multi-Family Dwelling Units. Contractor shall also make this notice available in an electronic format through the Contractor's website.

- b. Billing Inserts. Upon City request, Contractor agrees to insert and distribute brochures, newsletters, or other information developed by the City as inserts in Contractor's Customer invoices at no additional charge to the City. Upon City request, Contractor shall be responsible for printing the bill inserts. For Customers receiving electronic bills, Contractor agrees to distribute brochures, newsletters, or other information developed by the City as attachments to Customer invoices at no additional charge to the City. Contractor shall provide electronic bill inserts (or separate email attachments) to Customers who are billed electronically, and paper bill inserts to Customers who receive paper bills. Electronic bill inserts/attachments must be readily available for the Customer to view upon receipt of the invoice (attachments shall not be provided as links). Upon City request for such inserts, Contractor shall comply with such request during its next billing cycle for the targeted Customer group. Contractor shall perform this service with no additional requirement for compensation.
- c. Multi-Family and Commercial Customer Signage. Contractor shall provide all Multi-Family and Commercial Customers with Source Separated Recyclable Materials, SSGCOW, and Gray Container Waste or Mixed Waste program guidelines, including posters to be placed in Collection areas and enclosures and other community areas at each Premises or building where Discarded Materials are stored.
- d. Minimum Website Requirements. Contractor shall develop and maintain a website (with a unique URL specific to the City) that is specifically dedicated to the City to provide Generators with detailed service information. The website or webpage shall be accessible by the public, and shall include all education and outreach materials being provided, without requirement for login. Contractor shall update the website regularly so that information provided is current.
- e. Instructional Service Guide. On or before January 1, 2022, Contractor shall prepare a service guide that describes available services, including how to place Containers for Collection, which materials should be placed in each Container and prohibited materials, and provides Collection holidays and a Customer service phone number. On or before March 1, 2022, the service guide shall be printed and delivered with each set of Containers distributed to a Generator and shall be delivered annually to all Generators. Contractor shall prepare different service guides for Multi-Family, Commercial Generators, and Commercial Edible Food Generators. Contractor shall, at its sole expense, revise, re-print, and redistribute service guides once every two (2) years or at least sixty (60) days prior to a change in the accepted or prohibited materials for any program. Contractor shall make the service guide available in an electronic format through the Contractor's website. Contractor may provide an electronic version of the instructional service guide rather than a printed version, if requested by the Customer.

- f. Annual Multi-Family Dwelling Unit Notices. Prior to the Commencement Date of this Agreement, Contractor shall obtain and track in its Customer information system(s) the number and addresses of dwelling units at each Multi-Family Premises serviced by Contractor. Contractor shall maintain this database by auditing the data at least once every three (3) years. At least annually, commencing no later than June 1, 2022, Contractor shall prepare and distribute notices to each Multi-Family Dwelling Unit at Multi-Family Premises serviced by Contractor. The annual notices shall be a minimum of two (2) pages (which may include the front and back of a single printed sheet), and shall include information on regulations governing Discarded Materials, Hazardous Waste, and toxic waste; City and State requirements to properly separate Discarded Materials (such as requirements of the Municipal Code and of State statutes and corresponding regulations, including, but not limited to, AB 341, AB 1826, and SB 1383); instructions on properly separating materials; waste prevention; services available; and any other information required by the City or by State regulations (including SB 1383 Regulatory requirements for education, pursuant to 14 CCR, Division 7, Chapter 12, Article 4). As an alternative, Contractor may comply with these requirements through preparation and distribution of an annual newsletter distributed to each Multi-Family Dwelling Unit that provides the same information. Contractor shall make notices and newsletters available in an electronic format through the Contractor's website. Contractor may provide an electronic version of the notices rather than a printed version, if requested by the Customer.
- g. Provision of Educational Materials to Non-Compliant Entities. Contractor shall provide educational materials to non-compliant entities under this Agreement, as further described in Section 8.10.
- h. Education Materials for Property and Business Owners and Tenants

Contractor shall annually provide Property Owners and Commercial Business owners with public education materials for their distribution to all employees, contractors, tenants, and Customers of the properties and businesses. The Contractor's public education materials shall include, at a minimum, information about Organic Waste recovery requirements and proper sorting of Discarded Materials, and shall reflect content requirements described in Section 8.4.H below. Contractor shall provide the following materials for this purpose: insert materials (such as, but not limited to, welcome packets, flyers, and signs). A Commercial Business or Multi-Family Property Owner may request these materials more frequently than the standard annual provision if needed to comply with the requirement of 14 CCR Section 18984.10 for Commercial Businesses and Multi-Family Property Owners to provide educational information to new tenants and employees before or within fourteen (14) days of occupation of the Premises. In this case, the Commercial Business or Multi-Family Property Owner may request delivery of materials by contacting the Contractor's

customer service department not later than two (2) weeks in advance of the date that the materials are needed.

i. Education Requirements for Commercial Edible Food Generators

- i. On or before February 1, 2022 or insert earlier date if desired, the Contractor shall develop a list of Food Recovery Organizations and Food Recovery Services operating within the City, maintain the list on the Contractor's City-specific website, share the list with the City if the City wants to post the list on additional City websites, and update the list annually. The list shall include, at a minimum, the following information about each Food Recovery Organization and each Food Recovery Service:
 - Name and physical address;
 - Contact information;
 - Collection service area; and,
 - An indication of types of Edible Food the Food Recovery Service or Food Recovery Organization can accept for Food Recovery.
- ii. At least annually, the Contractor shall provide Commercial Edible Food Generators with the following information:
 - Information about the City's Edible Food Recovery program;
 - Information about the Commercial Edible Food Generator requirements under 14 CCR, Division 7, Chapter 12, Article 10;
 - Information about Food Recovery Organizations and Food Recovery Services operating within the City, and where a list of those Food Recovery Organizations and Food Recovery Services can be found; and,
 - Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.
- iii. The Contractor may provide the information required by subsection ii above by including it with regularly scheduled notices, education materials, billing inserts, or other information disseminated to Commercial Businesses.

G. **Minimum Content Requirements.** Prior to February 1, 2022; or earlier date, if desired, and annually thereafter, the Contractor shall include the following education and outreach content to Customers by incorporation of this content into the public education materials described in Section 8.4.G.

1. Collection system description

- a. Option 1: For a three-, three-plus, or two-Container system: Information on the Generator's requirements to properly separate Source Separated Recyclable Materials, SSGCOW, Mixed Waste, and Gray Container Waste and place such materials in appropriate Containers pursuant to this Agreement, SB 1383 Regulations, and all other Applicable Law.
 - b. Option 2: For a one-Container system: Information indicating that the Organic Waste Collected in the Gray Containers is being Processed and recovered at an Approved/Designated High Diversion Organic Waste Processing Facility.
2. Information on methods for the prevention of Source Separated Recyclable Materials and SSGCOW generation; managing SSGCOW on Generator's Premises through composting or other Landfill Disposal reduction activities allowed under 14 CCR Sections 18983.1 and 18983.2; sending SSGCOW to Community Composting operations; and any other local requirements regarding Discarded Materials
 3. Information regarding the methane reduction benefits of reducing the Disposal of SSGCOW, and the method(s) that the Contractor uses to recover SSGCOW.
 4. Information regarding how to recover Source Separated Recyclable Materials, SSBCOW, and SSGCOW, and a list of haulers approved by the City.
 5. Information related to the public health and safety and environmental impacts associated with the Disposal of SSGCOW and SSBCOW.
 6. Information regarding programs for donation of Edible Food;
 7. For Commercial Customers, information about the City's Edible Food Recovery Collection program; Tier One Commercial Edible Food Generators and Tier Two Edible Food Generators requirements specified in 14 CCR, Division 7, Chapter 12, Article 10; Food Recovery Organizations and Food Recovery Services operating within the City, and where a list of those Food Recovery Organizations and Food Recovery Services can be found; and, information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.
 8. Information regarding Self-Hauling requirements.
 9. Any other federal, State, or local requirements to properly separate Discarded Materials or other necessary actions by Generators, including applicable requirements of the Municipal Code, AB 341, AB 1826, and SB 1383 and corresponding regulations.

H. **Material Distribution Methods**

Contractor shall use the following methods to provide education information to Customers. All materials are to be approved by the City prior to distribution.

1. **Printed materials.** Contractor shall provide printed education materials as described in Sections 8.4.F and 8.4.G. The Contractor shall be responsible for the design, printing, and distribution of these materials. All Contractor-printed public education materials shall, at a minimum, use recycled paper and/or be made of recycled material. The Contractor will use 100% post-consumer paper, and procure printed materials from local businesses.
2. **Electronic materials and website content.** Contractor shall provide electronic and website content for education and outreach materials, which may include, but are not limited to: digital graphics, digital versions of print materials, social media posts, and blog posts. The Contractor shall be responsible for the design, posting, and electronic distribution of these materials.

I. **Non-English Language Requirements**

Option 1:

The Contractor shall make all public education and outreach materials required by this Section available in English and insert language(s).

Option 2:

Upon City request, Contractor shall provide materials in additional languages beyond those specified in this Section in response to shifting demographics within the City; updates to State requirements or Applicable Law; or, any other reason deemed appropriate by the City.

K. **Record Keeping and Reporting Requirements**

Contractor shall comply with the public education and outreach record keeping and reporting requirements set forth herein.

L. **Personnel**

1. **Option 1: Public Education Outreach Coordinators**

The Contractor shall designate one or more staff member(s) to serve as Outreach Coordinators. The duties of the Outreach Coordinator(s) shall be focused on public education, community outreach, Commercial and Multi-Family site visits, and technical assistance. The Outreach Coordinator(s) shall educate Customers and Customers' employees on the importance of

Recycling, Food Recovery, resource recovery, Landfill Disposal reduction, as well as all State, federal, County, local, and City mandates, including SB 1383 and SB 1383 Regulations; and shall work with Customers to implement services, increase participation in Source Separated Recyclable Materials and SSGCOW Collection programs, and reduce contamination. The Outreach Coordinator(s) shall identify potential organizations and partners involved with Food Recovery and resource recovery. The Outreach Coordinator(s) shall be responsible for implementing the education plans and programs specified in this Section.

2. Option 2: Staff Training

Annually, and upon hiring of new staff, Contractor is required to conduct thorough training of all Customer service representatives who may respond to Generator calls regarding Contractor's Collection services and SB 1383 Regulatory requirements. Customer service representatives shall accurately communicate program requirements and the accepted and prohibited materials for each material stream for each Customer type. New Customer service representatives shall not be assigned to the City prior to completing SB 1383 Regulations training. The City reserves the right to require changes to the call routing process and the training and qualifications for Customer service representatives assigned to the City if a pattern of inaccurate information provision is observed.

Annually, and upon hiring of new staff, Contractor shall conduct thorough training of all Hauler Route personnel that come into contact with Generators on the Collection program requirements and the accepted and prohibited materials for each material stream for each Customer type.

3. Option 3: Combination of Education by Contractor and City or Third Party

8.5 Technical Assistance Program

Option 1: Technical Assistance by Contractor

Organizing and Conducting Direct Generator Outreach.

At least ten (10) days prior to the Commencement Date, Contractor will provide an outreach and technical assistance plan to City for approval identifying the site visit schedule for which to send a Contractor representative to visit each Multi-Family and Commercial Generator's Premises for the purpose of assessing how much Source Separated Recyclable Materials and SSGCOW is being Disposed; assessing the Source Separated Recyclable Materials and SSGCOW Collection Service Levels needed to meet the requirements of SB 1383 Regulations; and encouraging all Generators to establish Source Separated Recyclable Materials and SSGCOW Collection service in advance of January 1, 2022 when mandatory service is required. Contractor shall also notify Customers of opportunities to

reduce costs by enrolling in Source Separated Recyclable Materials and SSGCOW Collection service and reducing Gray Container Waste/Mixed Waste Collection service. Contractor shall contact Multi-Family and Commercial Customers and provide site visits according to the City-approved schedule. Contractor will also provide a site visit to any Multi-Family and Commercial Generator that requests a site visit, even if it is ahead of schedule.

Beginning January 1, 2022, and annually thereafter, Contractor representative shall follow up with Multi-Family and Commercial Generators who are required to participate in Source Separated Recyclable Materials and SSGCOW Collection service under Applicable Law, including but not limited to AB 341, AB 1826, and SB 1383 and corresponding regulations. Contractor shall ensure that these Generators are participating in the Source Separated Recyclable Materials and SSGCOW Collection Service. If the Generator is not in compliance or not participating, the Contractor representative shall assist the Customers with selecting appropriate Containers and Container sizing, identify acceptable Discarded Materials Collection services as set forth in the Agreement, and attempt to resolve any logistical barriers to providing Source Separated Recyclable Materials and SSGCOW Collection service. Contractor shall provide ongoing, on-site training for Commercial Generators' staff, including, but not limited to: management, kitchen staff, service employees, and janitorial staff; and Multi-Family Customers' staff, including but not limited to: the Property Manager, janitorial staff, maintenance, and any other on-site staff members or contractors that handle Discarded Materials.

For each on-site waste assessment conducted by Contractor, Contractor shall include documentation of the items listed below. City reserves the right to request Contractor's documentation of additional information, and shall authorize the format for required information.

- a. Pictures of material in all Containers;
- b. Characteristics of the property, business, and Generator type;
- c. Written recommendations for the appropriate Service Level for each material type;
- d. Provision of outreach and education materials appropriate to the Generator type;
- e. Determination of signage placement;
- f. Determination of any on-going training needs;
- g. Determination of any access needs;
- h. Documentation of any special service needs (such as, but not limited to, seasonal Collection service, automated on-call compactor, etc.); and,
- i. Documentation of records of communications with the Generator.

Option 2: Technical Assistance by City or Third Party

- A. **Organizing and Conducting Direct Generator Outreach.** The City and/or its third party designee shall be responsible for designing and conducting a technical

assistance program for Generators, including organizing and conducting workshops; community meetings; site visits; waste assessments; and assessments to measure Generator compliance with State statutes and corresponding regulations, including AB 341, AB 1826, and SB 1383.

- B. Contractor Cooperation and/or Support for Technical Assistance Efforts.** Contractor shall cooperate with and support the technical assistance efforts conducted by the City. Upon request, Contractor shall provide any relevant data or information to the City that is needed for the design, implementation, or on-going performance of the technical assistance program. Contractor shall respond to any request for information from the City in a timely manner, not to exceed fifteen (15) days after receipt of the request.

Based on the results of technical assistance efforts, the City may recommend and request a change in Service Level for certain Customers. Within ten (10) Business Days of Contractor's receipt for a request from Customer for a Service Level change, Contractor shall adjust the Customer's Service Level by providing any Green, Blue, Brown, or Gray Containers needed for the change in Service Level, removing unneeded Containers, and revising the Customer's Service Level in Contractor's billing system to reflect the monthly Rate for the new Service Level. At the time new Containers are delivered or existing Containers are removed, Contractor shall confirm that all Containers are properly labeled and meet the specifications of Section 7.9.7.

- C. Record Keeping and Reporting Requirements.** The City shall be responsible for record keeping and reporting requirements for the technical assistance program. Upon request, the Contractor shall provide any relevant data or information to the City that is needed for the completion of record keeping and/or reporting requirements. Contractor shall respond to any request for information from the City in a timely manner, not to exceed fifteen (15) days after receipt of the request.

Option 3 – Combination of Option 1 and 2

8.6 Food Recovery Program Support

- A. Option 1: Hauler Cooperation and Non-Interference with Food Recovery Efforts by Others**

Contractor shall cooperate with and shall not impede, interfere, or attempt to impede or interfere with the implementation, expansion, or operation of Food Recovery efforts in the City.

B. Option 2: Hauler Involvement in Food Recovery Efforts

1. Option 2a: Hauler Education

Contractor shall create and provide educational outreach material for Tier One and Tier Two Commercial Edible Food Generators in accordance with Section 8.4.G.1.i.

2. Option 2b: Hauler Edible Food Collection Service

Upon request, Contractor shall provide Collection service, or partner with others to provide Collection service, for Edible Food to all Customers that are Tier One Commercial Edible Food Generators, commencing no later than January 1, 2022, and Tier Two Commercial Edible Food Generators, commencing no later than January 1, 2024, in coordination with a City-directed Food Recovery program. Contractor shall partner with appropriate local Food Recovery Organizations and/or Food Recovery Services for the redistribution of Edible Food. Tonnage estimates of Edible Food recovered through these efforts shall be reported in the Contractor's monthly, quarterly, and/or annual reports.

3. Option 2c: Hauler Support with Assessing Capacity Needs

Contractor shall perform quarterly or other frequency examinations of Hauler Routes to identify Commercial Customers that generate Edible Food and estimate the potential quantities of Edible Food that may be recovered and report findings to the City and Food Recovery Organizations and Food Recovery Services insert frequency, such as: monthly, quarterly, annually, etc.

4. Option 2d: Hauler Identification of Tier One and Tier Two Commercial Edible Food Generators

No later than January 1, 2022, Contractor shall identify all Commercial Customers that meet the definition of Tier One and Tier Two Commercial Edible Food Generators and provide a list of such Customers to the City, which shall include: Customer name; service address; contact information; Tier One or Tier Two classification; and, type of business (as it relates to the Tier One and Tier Two Commercial Edible Food Generator definitions). Contractor shall update the list and provide it to the City annually.

8.7 Generator Waiver Program Coordination

A. Types of Generator Waivers

1. General. City may grant waivers described in this Section to Generators

that impact the scope of Contractor's provision of service for those Customers. Waivers issued shall be subject to compliance with SB 1383 Regulatory requirements, pursuant to 14 CCR Section 18984.11, or other requirements specified by the City.

2. **De Minimis Waivers. (Three-, Three-Plus-, and Two-Container Systems Only).** The City may waive a Multi-Family's, Commercial Business', or its Property Owner's obligation to comply with some or all of the Source Separated Recyclable Materials and SSGCOW requirements set forth in this Agreement, SB 1383 Regulations, and Chapter IV of Title 8 of the Municipal Code if the Multi-Family, Commercial Business, or its Property Owner provides documentation or the City has evidence demonstrating one of the following de minimis conditions:
 - a. The Multi-Family's or Commercial Business' total Solid Waste Collection service is two (2) cubic yards or more per week, and SSGCOW or SSBCOW subject to Collection in a Blue Container or Green Container comprises less than twenty (20) gallons per week, per applicable Container, of the Multi-Family's or Commercial Business' total waste; or,
 - b. The Multi-Family's or Commercial Business' total Solid Waste Collection service is less than two (2) cubic yards per week, and SSGCOW or SSBCOW subject to Collection in a Blue Container or Green Container comprises less than ten (10) gallons per week, per applicable Container, of the Multi-Family's or Commercial Business' total waste.
 3. **Physical Space Waivers. (Three-, Three-Plus-, and Two-Container Systems Only)** The City may waive a Multi-Family's, Commercial Business', or its Property Owner's obligation to comply with some or all of the Source Separated Recyclable Materials or SSGCOW Collection service requirements set forth in this Agreement, SB 1383 Regulations, and Chapter IV of Title 8 of the Municipal Code if the Multi-Family, Commercial Business, or its Property Owner provides documentation, or the City has evidence from its staff, Contractor, licensed architect, or licensed engineer demonstrating that the Premises lacks adequate space for Blue Containers and/or Green Containers.
 4. **Collection Frequency Waivers. (Three-, Three-Plus-, and Two-Container Systems Only)** City may allow the Contractor to provide Collection of Blue Containers, Gray Containers, or both once every fourteen (14) days, rather than once per week, for Customers that have been granted a Collection frequency waiver from the City.
- B. **Contractor Waiver Request on Behalf of Generator.** Upon reasonable belief that a Generator may qualify for a de minimis, physical space, or Collection frequency

waiver, Contractor may submit a request to the City to grant a waiver to the Generator, provided that adequate evidence of the de minimis, physical space, or Collection frequency waiver requirements specified in 14 CCR Section 18984.11 is included with the request. City shall review and approve or deny the waiver request. Contractor's request for consideration of a waiver shall include the Generator's name and address, type of Commercial Business or number of Multi-Family units if Customer is a Multi-Family premises, reasons Generator may be eligible for the waiver, and evidence such as, but not limited to: Service Level data, photo documentation, weight records, and technical assistance assessment results.

C. Contractor Review of Generator Waiver Requests.

1. Option 1: Requests Submitted to City with Contractor Review. Generators may submit requests for de minimis waivers, physical space waivers, and Collection frequency waivers to the City. Upon the request of the City, Contractor shall within ten (10) days of receipt of the City's request review the Generator's waiver application and inspect the Generator's Premises to verify the accuracy of the application.
2. Option 2: Requests Submitted to Contractor. Generators may submit requests for de minimis waivers, physical space waivers, and Collection frequency waivers to the Contractor. Contractor shall within ten (10) days review the Generator's waiver application and inspect the Generator's Premises to verify the accuracy of the application. Contractor shall provide documentation of the inspection, including the Contractor's recommendation to approve or deny the waiver request, and send this information to the City within fifteen (15) days of receipt of the Generator's waiver application for the City's review and approval. The City ultimately retains the right to approve or deny any application, regardless of the Contractor's recommendation. Contractor shall report information regarding waivers reviewed on a monthly basis.

- D. Contractor Change in Customers' Service Levels.** When the City grants a waiver to a Generator, the City shall notify the Contractor within five (5) days of the waiver approval with information on the Customer and any changes to the Service Level or Collection service requirements for the Customer. Contractor shall have ten (10) days to modify the Customer's Service Level and billing statement, as needed.

E. Waiver Reverification

It shall be the responsibility of the Contractor to verify that the Generators with de minimis, physical space constraint, or Collection frequency waivers continue to meet the waiver requirements set forth in this Section. Contractor shall conduct such reverifications of waivers through inspection of each Generator's Premises and review of applicable records at least once every five (5) years for de minimis and physical space constraint waivers, and once every two (2) years for Collection frequency waivers. Contractor shall maintain a record of each waiver verification

and provide a monthly report to the City documenting the waiver reverifications performed and recommendations to the City on those waivers that Contractor concludes are no longer warranted. The City shall make a final determination of the waiver eligibility of Generators.

- F. **Contractor Recordkeeping of Generators Granted Waivers.** Upon Contractor request, no more than four (4) times per year, the City shall provide Contractor an updated listing of waivers approved by the City, including the Generators' names, mailing address, service address, and type of waiver. Contractor shall maintain waiver-related records and report on waiver verifications.

8.8 Service Waiver Program Coordination

A. **Processing Facility Temporary Equipment or Operational Failure Waiver**

1. **Notification to the City.** Contractor, or its Subcontractor (such as a Facility operator), shall notify the City of any unforeseen operational restrictions that have been imposed upon an Approved/Designated Facility by a regulatory agency or any unforeseen equipment or operational failure that will temporarily prevent an Approved/Designated Facility from Processing and recovering Source Separated Recyclable Materials, SSGCOW, or Mixed Waste. Contractor or Subcontractor shall notify the City as soon as possible and no later than forty-eight (48) hours/days from the time of the incident. The notification shall include the following: (i) name of Approved/Designated Facility; (ii) the Recycling and Disposal Reporting System Number of the Approved/Designated Facility; (iii) date the Approved/Designated Facility became unable to Process Source Separated Recyclable Materials, SSGCOW, or Mixed Waste; (iv) description of the operational restrictions that have been imposed upon the Approved/Designated Facility by a regulatory agency or unforeseen equipment failure or operational restriction that occurred; (v) the period of time the Contractor anticipates the temporary inability of the Approved/Designated Facility to Process Source Separated Recyclable Materials, SSGCOW, or Mixed Waste; (vi) Contractor's proposed action plan to deliver materials to an alternative facility for Processing or Contractor's request for waiver to deliver Source Separated Recyclable Materials, SSGCOW, or Mixed Waste to the Approved/Designated Disposal Facility.
2. **Use of alternative facility or Waiver for Disposal of Materials.** Upon notification by Contractor or Subcontractor of an Approved/Designated Facility's inability to Process materials, City shall evaluate the notification and determine if City shall require Contractor to use an alternative facility or allow the Contractor to Transport the Source Separated Recyclable Materials, SSGCOW, or Mixed Waste to the Approved/Designated Disposal Facility for Disposal on a temporary basis for a time period

specified by the City. Upon City's decision, the City shall notify the Contractor of its requirement to use an alternative facility for Processing or to use the Approved Disposal Facility for Disposal, and the period of time that the City will allow the Source Separated Recyclable Materials, SSGCOW, or Mixed Waste to be redirected to the alternative facility or Approved/Designated Disposal Facility. Pursuant to 14 CCR Section 18984.13, the approved Disposal period shall not exceed ninety (90) days from the date the Approved/Designated Facility's Processing restriction or failure commenced. In such case, the Contractor must receive written permission from the City Contract Manager prior to depositing any Discarded Material in a Landfill.

3. **Record Keeping and Reporting.** Contractor shall maintain a record of any Approved/Designated Facility incidents and report this information to the City in.
- B. **Disaster Waivers.** In the event of a disaster, the City may grant Contractor a waiver of some or all Discarded Materials Collection requirements under this Agreement and 14 CCR, Division 7, Chapter 12, Article 3 in the disaster-affected areas for the duration of the waiver, provided that such waiver has been approved by CalRecycle. Any resulting changes in Collection requirements shall be addressed as a change in scope.
- C. **Removal of Material from Homeless Encampments and Illegal Disposal Sites.** The Contractor may, but is not required to, separate or recover Organic Waste that Contractor removes from homeless encampments and illegal disposal sites as part of an abatement activity to protect public health and safety. Contractor shall report the amount of Discarded Materials removed for Disposal from homeless encampments and illegal disposal sites.
- D. **Quarantined Waste.** If approved by the City, Contractor may Dispose of specific types of SSGCOW that are subject to quarantine and meet the requirements described in 14 CCR Section 18984.13(d) for a period of time specified by the City or until City provides notice that the quarantine has been removed and directs Contractor to Transport the SSGCOW to the Approved/Designated Facility(ies) for such material.

Contractor shall maintain records and submit reports regarding compliance agreements for quarantined SSGCOW that are Disposed of pursuant to this subsection.

8.9 Inspection and Enforcement

Contractor Performance of Compliance Reviews

A. **Annual Compliance Reviews**

1. **General.** Contractor shall perform compliance reviews described in this Section commencing January 1, 2023, and at least annually thereafter, unless otherwise noted.
2. **Commercial Generator Compliance Reviews**

Option 1: Applicable for Three-, Three-Plus-, or Two-Container Systems

Contractor shall complete a compliance review of all Multi-Family and Commercial Customers that generate two (2) cubic yards or more per week of Solid Waste, including Organic Waste, to determine their compliance with: (i) Generator requirements under the City's Discarded Materials Collection program; and, (ii) if applicable for the Generator, (if Self-Haul is allowed) Self-Hauling requirements pursuant to 14 CCR Section 18988.3 and Chapter IV of Title 8 of the Municipal Code, including whether a Multi-Family or Commercial Business is complying through Back-Hauling SSGCOW and/or Source Separated Recyclable Materials and/or SSBCOW. The compliance review shall mean a "desk" review of records to determine Customers' compliance with the above requirements and does not necessarily require on-site observation of service; however, the City may request that the Contractor perform an on-site observation of service in addition to or in lieu of the desk review if needed to obtain the required information.

Option 2: Applicable for One-Container System

Contractor shall complete a compliance review of all Multi-Family and Commercial Customers that generate two (2) cubic yards or more per week of Solid Waste, including Organic Waste, to determine their compliance with: (i) Generator requirements under the City's Discarded Materials Collection program, including documenting if the Commercial or Multi-Family Customer is Transporting Discarded Materials to an Approved/Designated High Diversion Organic Waste Processing Facility; and, (ii) if applicable for the Generator, (if Self-Haul is allowed) Self-Hauling requirements pursuant to 14 CCR Section 18988.3 and Chapter IV of Title 8 of the Municipal Code, including whether a Multi-Family or Commercial Business is complying through Back-Hauling Organic Waste.

3. **Annual Hauler Route Review.** (Required for Three-, Three-Plus-, or Two-

-Container Systems) Beginning January 1, 2022 and annually thereafter, the Contractor shall conduct annual Hauler Route reviews of Commercial, Multi-Family, and Single-Family Generators for compliance with the City's Discarded Materials Collection program and Container contamination monitoring. These Hauler Route reviews may be performed concurrently with the contamination monitoring Hauler Route reviews, provided that Contractor documents a reasonable sampling of Generators for which compliance with the City's Discarded Materials Collection program during the Hauler Route review was assessed.

- B. **Generator Waiver Inspections.** In accordance with Section 8.8, Contractor shall verify Multi-Family and Commercial Generator de minimis and physical space constraint waivers, if applicable, at least once every five (5) years from the date of issuance of the waiver, and verify Collection frequency waivers at least once every two (2) years from the date of issuance of the waiver.
- C. **Compliance Review Process**
1. **Number of Reviews.** The Contractor shall conduct a sufficient number of compliance reviews, Hauler Route reviews, and inspections of Generators, to adequately determine the Generators' overall compliance with SB 1383 Regulations, AB 1826, AB 341, and Chapter IV of Title 8 of the Municipal Code. City reserves the right to require additional inspections, if the City determines that the amount of inspections conducted by the Contractor is insufficient. City may require the Contractor to prioritize inspections of entities that the City determines are more likely to be out of compliance.
 2. **Non-Compliant Entities.** From January 1, 2022 through December 31, 2023, when compliance reviews are performed by Contractor pursuant to Section 8.9.A, Contractor shall provide educational materials in response to violations. Contractor shall provide these educational materials to the non-compliant Customers and Generators within thirty (30) days of determination of non-compliance or immediately upon determination of non-compliance if such non-compliance is determined during an inspection or Hauler Route review. Contractor shall document the non-compliant Customers and Generators and the date and type of education materials provided, and shall report such information to the City. Beginning January 1, 2024, the Contractor shall, in addition to providing the education materials described in this subsection, document non-compliant Customers and Generators determined through Contractor's compliance reviews pursuant to Section 9.9.A, and shall report all Customers and Generators with violations of SB 1383 Regulations to the City. The City shall be responsible for subsequent enforcement action against the Generators.
 3. **Documentation of Inspection Actions.** The Contractor shall generate a written and/or electronic record and maintain documentation for each inspection, Hauler Route review, and compliance review conducted.

8.10 Service Complaints

A. **Documentation of Complaints.**

1. **General.** The Contractor agrees to maintain a computer database log of all oral and written complaints received by Contractor from Customers or other Persons. Contractor shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all Customer complaints. Contractor agrees to document and maintain for a period of at least thirty-six (36) months on a form or log all Complaints registered by Customers and Persons. Contractor shall record complaints received related to SB 1383 Regulatory non-compliance in its log in a manner further described in subsection A.2 below.

2. **SB 1383 Regulatory Non-Compliance Complaints.**

For complaints received in which the Person alleges that an entity is in violation of SB 1383 Regulations, Contractor shall document: (i) the complaint as received, (ii) the date the Contractor investigated the complaint, (iii) documentation on the findings of the investigation, (iv) any photographic or other evidence collected during the investigation, and (v) Contractor's recommendation to the City on whether the entity investigated is in violation of SB 1383 Regulations based on Contractor's investigation. Contractor shall provide this information in a brief complaint report to the City for each SB 1383 Regulatory non-compliance complaint within fifteen (15) days of receipt of such complaint, and a quarterly summary report of SB 1383 Regulatory non-compliance complaints.

B. **Investigation of SB 1383 Regulatory Non-Compliance Complaints.** Option B.1: Contractor Investigation of SB1383 Non-Compliance Complaints

1. **Investigation.** Contractor shall commence an investigation, within ninety (90) days or insert shorter timeframe if desired of receiving a complaint, in the following circumstances: (i) upon Contractor receipt of a complaint that an entity may not be compliant with SB 1383 Regulations and if City determines that the allegations against the entity, if true, would constitute a violation of SB 1383 Regulations; and, (ii) upon City request to investigate a complaint received by City, in which City determines that the allegations against the entity, if true, would constitute a violation of SB 1383 Regulations. Contractor is required to investigate complaints against Customers and Generators, but not against Food Recovery Organizations, Food Recovery Services, and other entities regulated by SB 1383 Regulations.

Contractor shall investigate the complaint using one or more of the methods:

- a. Reviewing the Service Level of the entity that may not be compliant with

SB 1383 Regulations;

- b. Reviewing the waiver list to determine if the entity has a valid de minimis, physical space constraint, or Collection frequency waiver;
 - c. Reviewing the Self-Haul registration list to determine if the entity has registered and reviewing the entity's reported Self-Haul information;
 - d. Determining if the entity is located in a Low-Population Area and/or High-Elevation Area;
 - e. Inspecting Premises of the entity identified by the complainant, if warranted; and/or
 - f. Contacting the entity to gather more information, if warranted.
2. **Reporting.** Within fifteen (15) days of completing an investigation of an SB 1383 Regulatory non-compliance complaint, Contractor shall submit an investigation complaint report that documents the investigation performed and recommends to City on whether or not the entity investigated is in violation of SB 1383 Regulations based on the Contractor's investigation. The City shall make a final determination of the allegations against the entity.

B. Investigation of SB 1383 Regulatory Non-Compliance Complaints

Option B.2: City or Third Party Investigation of SB 1383 Regulatory Non-Compliance Complaints

City, or its designee, shall be responsible for investigating complaints received by the City that an entity may not be compliant with SB 1383 Regulations. Within five (5) days of the City's or its agent's request, Contractor shall provide City or its agent with the Customer's then-current Service Level information and other documentation that may be useful in the investigation, such as records of the Customer's two most recent change(s) in Service Level and other Customer service records.

Option 3: Combination Options 1 and 2

**SECTION 9.
MINIMUM STANDARDS FOR CONTRACTOR'S SOLID
WASTE HANDLING SERVICE COLLECTION VEHICLES**

9.1 General

Contractor shall provide vehicles for the Collection of Solid Waste ("Collection Vehicles") that are sufficient in number and capacity to efficiently perform the work required by this

Agreement in strict accordance with its terms. Contractor is expressly obligated to provide such Collection Vehicles and routes as are required to meet the service standards set forth herein. Contractor shall have available on Collection days sufficient back-up vehicles for each type of Collection Vehicle used to respond to complaints and emergencies. Upon or prior to the Effective Date of this Agreement and prior to the start of any extension period of this Agreement pursuant to Section 5, Contractor shall provide City with a report containing the information required under South Coast Air Quality Management District's Rule 1193(d)(7). Notwithstanding anything in this Agreement to the contrary, the vehicles Contractor utilizes solely for delivery of Bins and for pick-up of Bulky Items shall not be considered "Collection Vehicles" for purposes of Section 9.3(A), Section 9.3(B), and Section 9.3(C).

9.2 Air Quality/Fuel Requirements

Contractor's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Contractor's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Contractor's Collection Vehicles shall comply with the requirements in the South Coast Air Quality Management District's Rule 1193.

A. **Renewable Natural Gas (RNG) Vehicles**

All Collection vehicles used by Contractor under this Agreement shall be powered by RNG generated by the {insert name of publicly-owned treatment works in-vessel digestion facility} or powered by RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been diverted from a Landfill and Processed at an in-vessel digestion Facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Contractor shall comply with this requirement no later than insert date. Upon City's request, Contractor shall obtain and provide the City with a written certification by an authorized representative of the publicly-owned treatment works or the wheeling agreement service provider certifying that the in-vessel

9.3 Specific Requirements

Each Collection Vehicle utilized by Contractor in the performance of this Agreement shall meet the following minimum standards:

- (A) Each Collection Vehicle must be fueled by Compressed Natural Gas ("CNG").
- (B) Each Collection Vehicle shall be equipped with an on-board methane detection system capable of detecting methane leaks in the cab of the Collection Vehicle.
- (C) Each Collection Vehicle shall be equipped with a tag axle.

(D) Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

(E) Each Collection Vehicle shall be inspected regularly by Contractor to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Contractor shall provide copies of its Biannual Inspection of Terminal ("BIT") inspection reports to City within 30 days of its receipt of such reports and shall make all records related to its vehicles, including Contractor's maintenance records, available to City upon request by the Director.

(F) Each Collection Vehicle shall be equipped with devices capable of covering every open section of the vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the vehicle.

(G) Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof" and, (2) at all times comply with the provisions of all laws and regulations including the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Contractor shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the vehicle.

(H) As frequently as determined necessary by the Director, each Collection Vehicle shall be painted, shall have routine body work performed, and shall be cleaned, so that such vehicles do not become unsightly, as determined by the Director. Each vehicle shall be painted with Contractor's colors and identifying information as required herein.

(I) Contractor's name, local or toll free telephone number, and a vehicle number shall be visibly printed or painted in letters not less than five (5) inches in height so as to be legible on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Contractor's Collection Vehicles, when such Vehicles are providing Collection services within City Limits, shall be subject to approval by City.

(J) Each Collection Vehicle shall be maintained in a clean and sanitary condition both inside and out.

(K) Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Contractor's dispatcher and/or main office.

(L) Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related technologies that become standard in the waste industry, and at a minimum shall have a video monitor based back-up system, or its equivalent. Contractor shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle

maintenance and timely and continuous performance of the services contemplated by this Agreement.

(M) Contractor shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly. Contractor shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Contractor shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition. Contractor shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance have been properly performed, and shall make such records available to City upon request.

(N) No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Contractor shall clean up any leaks or spills from its vehicles per the NPDES permits in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

(O) Upon request, Contractor shall furnish City a written inventory of all equipment, including Collection Vehicles, used in providing service pursuant to this Agreement. This inventory shall list all equipment by manufacturer, ID number, date of acquisition, type and capacity.

(P) Contractor shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the Director.

(Q) Contractor shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local laws or regulations.

(R) Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the vehicle, five (5) feet from the ground; provided, however, in the event there is any conflict with this section and the noises levels permitted under the City's Municipal Code, as such may be amended from time to time, the provisions in the City's Municipal Code shall apply. Contractor shall submit to City, upon City's request, a certificate of Collection Vehicle noise level testing, by an independent testing entity, for any Collection Vehicle. Nothing in this Agreement shall be construed as granting Contractor any rights or waivers to violate any Applicable Laws.

(S) At the start of the Term, all Collection Vehicles shall be less than two (2) years old, unless otherwise approved by the City Contract Manager. It is the intent that the

Collection Vehicles placed into service at the start of the Term shall continue to be used throughout the Term. Contractor may, however, at any time during the Term replace the Collection Vehicles currently in use with newer Collection Vehicles.

(T) All Collection Vehicles used by Contractor to perform Collection services under this Agreement shall be equipped with on-board routing systems capable of tracking vehicle miles traveled (VMT). VMT systems must be capable of generating reports as requested by City. In addition, all Collection Vehicles shall, at a minimum, be equipped with a global positioning system (GPS) and Contractor shall be able to provide evidence of the route location of each Collection Vehicle throughout each service day. City, in its sole discretion, may grant Contractor a waiver of this requirement due to the unavailability of equipment or delays in manufacture; evidence of such unavailability or delay shall be used by City to determine the period for which the waiver shall apply.

(U) All Collection Vehicles used by Contractor to perform Collection services under this Agreement shall be equipped with “right-hand” monitoring/safety equipment to aid drivers in identifying pedestrians and bikers near the collection vehicle.

9.4 Costs of Operation and Damages

Contractor shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Laws, including without limitation any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

9.5 City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any time and in such manner as may be appropriate to determine that the vehicle is being maintained in compliance with the provisions of this Agreement.

9.6 Correction of Defects and Removal of Vehicles from Use within City

Contractor agrees to immediately remove from service, and replace or repair, to the City’s satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe, unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such vehicle shall not be returned to service until the Director gives his written consent for its return.

SECTION 10. CONTRACTOR’S SOLID WASTE HANDLING SERVICE PERSONNEL

10.1 Uniforms

Each of Contractor’s Collection employees shall wear a clean uniform bearing Contractor’s name. Uniforms must be well maintained and in good condition.

10.2 Identification of Employees

Contractor shall provide identification badges, cards or similar devices, for all of its employees, and all authorized subcontractors, who may make personal contact with residents of the City. City may require Contractor to notify Customers yearly, or more frequently if determined necessary by City, of the form of said identification.

10.3 Employee List

Contractor shall provide a list of current employees and authorized subcontractors to City upon request.

10.4 Driver's License

Each employee operating a vehicle as part of his or her duties shall, at all times, carry a valid operator's license for the type of vehicle he or she is operating.

10.5 Screening of Field Employees

Contractor shall make reasonable efforts to determine if its employees working in the field (i.e., drivers of Collection Vehicles, and employees otherwise involved in Collection at Customer Premises) have been convicted of a felony, and shall identify any such employees known to it to City. City shall have the ability to require that any employee so identified by Contractor not work in the field within City.

10.6 [intentionally omitted]

10.7 Training and Legal Compliance

Contractor shall provide operating and safety training that meets minimum Occupational Safety and Health Administration ("OSHA") standards for all personnel, and shall comply with all laws and regulations applicable to its employees and personnel. Contractor shall periodically train employees on all the specific requirements of this Agreement applicable to the employee's effective performance of his or her duties. Not less than once per calendar year, Contractor shall be required to submit to City a copy of the training material and record documentation demonstrating the "Agreement-specific" training has occurred. In addition, Contractor shall require that all new employees with duties related to this Agreement receive the above "Agreement-specific" training as part of the orientation process, and Contractor shall provide documentation to City demonstrating said training has occurred.

10.8 Customer Service

10.8.1 Office Hours

Contractor shall maintain a local office, within the City, for communication with the public that at a minimum will be open from 8:00 a.m. to 5:00 p.m. Monday through Friday, holidays excepted. At least one responsible and qualified representative of Contractor, capable of communicating in English and Spanish, shall be present and available during all times that an

office is required to be open as noted above ("Office Hours"), for personal communication with the public regarding Billings (including the acceptance of in person Bill payments), complaints, customer service inquiries, etc. and a similarly qualified person shall be available for communication with the public by phone during any times other than Office Hours when Collection is occurring.

10.8.2 Telephone Customer Service Requirements

10.8.2.1 Toll Free Number

Contractor shall maintain a toll free telephone number that rings at an office at all times during Office Hours. Both English and Spanish speaking personnel will be available during Office Hours to assist Customers with telephonic inquiries. Contractor shall have the ability (through the use of outside resources or otherwise) to communicate with Customers who only speak Spanish, Korean, Mandarin Chinese, or Tagalog to ensure their inquiries, questions, complaints and other matters are dealt with in a reasonably timely fashion. All such personnel shall be polite and responsive, and shall be sufficiently knowledgeable, and have the authority to respond and/or advise Customers seeking assistance. Contractor's telephone system shall be adequate to handle the volume of calls typically experienced on the busiest days. Contractor shall provide City with a 24-hour emergency telephone number to a live person, not voice-mail.

10.8.2.2 Call Responsiveness

Contractor shall make reasonable attempts to answer all phone calls within five (5) rings. If a call has been placed on hold for three (3) minutes, the caller will either be switched to a message center which shall be responsible to obtain the caller's address and phone number, or a Customer service representative will obtain the Customer's address and a number at which the call can be returned. Contractor shall make at least three (3) attempts within the next twenty-four (24) hour period to return the call, with the first such attempt not more than one (1) hour after the caller leaves the message. If Contractor is unsuccessful in contacting the Customer after following this procedure, it shall send a letter to the caller indicating its efforts.

10.8.3 Complaint Documentation

All service complaints shall be directed to Contractor. Contractor shall log all complaints received and said log shall include the date and time the complaint was received, the name, address and telephone number of the complaining party, a description of the complaint, the name of the employee recording the complaint and the action taken by Contractor to respond to and remedy the complaint. All written Customer complaints and inquiries shall be date-stamped when received. All complaints shall be initially responded to within one (1) business day (Monday through Friday) of receipt. Contractor shall log action taken to respond to and remedy the complaint. Daily logs of complaints shall be retained for a minimum of twenty-four (24) months. All Customer service records and logs kept by Contractor shall be available to City upon request. City shall, at any time during regular Office Hours, have access to Contractor's Customer service department for purposes that may include monitoring the quality of Customer service or researching Customer complaints. Contractor shall provide to City on a monthly, quarterly, and

annual basis, a complaint log, in a form satisfactory to the City, that includes all of the complaints logged pursuant to this Section, the complainant and the resolution.

10.8.4 Resolution of Customer Complaints

Disputes between Contractor and its Customers regarding the services provided in accordance with this Agreement may be resolved by the City. The City's decision shall be final and binding. Intervention by the City is not a condition precedent to any rights or remedies third parties might otherwise have in any dispute with Contractor. Nothing in this Section is intended to affect the remedies of third parties against Contractor.

10.8.5 Government Liaison

Contractor shall designate in writing a "Government Liaison" who shall be responsible for working with City and/or City's designated representative(s) to resolve Customer complaints. City shall have the right to approve Contractor's choice for a liaison. It is anticipated that the Government Liaison will regularly attend City meetings related to Contractor's performance of the Agreement and City events involving community outreach programs.

SECTION 11. CONTRACTOR'S CONSIDERATION

In addition to any other consideration set forth herein, as part of its consideration for entering this Agreement, and for the non-exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein Contractor shall provide the following:

11.1 Annual Compliance Monitoring & Franchise Support Fee

Concurrently with the execution of this Agreement, and annually thereafter on or before June 1st, Contractor shall pay to City a proportionate share of the total One Hundred and Twenty Thousand Dollars (\$120,000.00) herein established to reimburse the City for its SB 1383 compliance costs, AB 939 compliance costs, and the costs for activities related to oversight and enforcement of all Agreement terms. The Contractor's proportionate share will be calculated on its relative gross receipts from franchise service during the previous fiscal year. The Contractor will report its gross receipts to the City via quarterly franchise fee statements and provide access to their accounting records to the City for verification purposes.

This \$120,000 annual Compliance Monitoring & Franchise Support Fee will be adjusted annually based upon the change in the Consumer Price Index (CPI) as measured by the Anaheim-Long Beach-Los Angeles data series for All Consumers. On or before May 1st of each year, the City will provide each Contractor with the amount of the adjusted Compliance Monitoring & Franchise Support Fee for its proportionate share responsibility.

11.2 Franchise Fee

Contractor shall pay to City, a Franchise Fee equal to sixteen percent (16%) of Contractor's annual Gross Receipts each year, or portion thereof, throughout the Term of this Agreement. Said Franchise Fee shall be paid to City on a calendar quarterly basis no later than thirty (30) days after

the end of each calendar quarter. The amount of each payment shall be equal to sixteen percent (16%) of Contractor's Gross Receipts in the calendar quarter preceding the date payment was due. The Franchise Fee due hereunder shall apply to Gross Receipts of Contractor collected after the expiration of the Term hereof relating to Contractor's performance during the Term hereof. Franchise Fees shall be accompanied by a statement certified by an officer of Contractor attesting to the accuracy of the amounts paid, and setting forth the basis for their calculation in a manner acceptable to City.

SECTION 12. CHARGE FOR LATE PAYMENTS

In the event Contractor fails to timely make any of the payments provided for in this Agreement, including, but not limited to, reimbursements, Franchise Fees, payments of funds collected in connection with billing services, Contractor shall pay to City, as additional consideration, a sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services and projects necessitated by the delay in receiving the revenue. In addition, any amounts not paid to City by Contractor within thirty (30) days of the due date shall be subject to interest in the amount of one and one-half percent (1.5%) per month, or any portion thereof, that the amount due remains past due.

SECTION 13. CONTRACTOR'S COMPENSATION, BILLING SERVICES AND SYSTEMS

13.1 Compensation; Billing

Contractor shall provide services pursuant to this Agreement at rates it sets, charges to, and collects from Customers and Responsible Customers. Contractor shall provide all Customers, or Responsible Customers, where applicable, with itemized Bills, detailing charges for all services, including charges for late payments, as well as the period of service to which the Bill applies. Contractor acknowledges that it, and not Customers nor Responsible Customers, is to pay a Franchise Fee and the other fees noted herein to City as consideration for this Agreement. Accordingly, Contractor's Bills shall not include separate itemization of a "Franchise Fee" or other similar designation relating to fees which Contractor is required to pay to City.

Billings may be made on a monthly basis for all Customers and Responsible Customers. Premises ordering service after the first of the month or canceling service prior to the end of the month shall be charged on a prorated per-pickup basis.

A. General Billing Requirements.

1. **Contractor Responsible.** Contractor shall bill all Customers and be solely responsible for collecting payment from Customers. Billing shall be performed on the basis of services rendered and this Agreement shall create no obligation on the part of any Person on the sole basis of the Ownership

of property. Contractor shall be responsible for collecting bad debt.

2. **Bill Inserts.** Contractor shall include bill inserts in accordance with Section 8.4.
 3. **Records.** Contractor shall maintain copies of all billings and receipts, each in chronological order, for the Term of this Agreement, for inspection and verification by the City Contract Manager at any reasonable time but in no case more than seven (7) calendar days after receiving a request to do so.
- B. **Rates for Waivers.** Contractor shall establish Rates for any Customers that have been granted de minimis, physical space constraint, Collection frequency, low population, elevation, disaster, and/or emergency waivers pursuant to Sections 8.7 and 8.8. Contractor shall ensure that accurate records are maintained for such waivers and Customers are billed properly.
- C. **Application of Contamination Surcharges.** In accordance with Section 8.3.1.C.4, the Contractor is required to assess contamination Processing fees on Customers with repeated occurrences of excess contamination. Any contamination Processing fees to be assessed for a Customer shall be included and itemized on the Customer's invoice for the billing period in which the Contractor notified the Customer of the assessment of the contamination Processing fee.
- D. **Universal Enrollment Process.** City requires that Generators are enrolled in Collection services pursuant to Chapter IV of Title 8 of the Municipal Code. Contractor shall assist the City in ensuring that the enrollment of Generators occurs in a timely and efficient manner. City and Contractor shall cooperatively develop and agree to a process no later than insert date.

Contractor shall maintain records and provide reports necessary for the City to verify the City-wide enrollment of Generators.

13.1.1 Suspension of Service Due to Non-Payment

Contractor may discontinue service to any Customer, or Responsible Customer, where applicable, as set forth in this Section. Customers or Responsible Customers who have not remitted required payments within sixty (60) days after the date of Billing shall be notified on forms approved by the Director. Said forms shall contain a statement that services may be discontinued fifteen (15) days from the date of the notice if payment is not made before that time. If payment is not made by the expiration of said fifteen (15) day period, Contractor must contact City and advise of the delinquency and may discontinue service to that Customer or Responsible Customer, forty-eight (48) hours thereafter with City's prior written consent. Contractor shall resume Solid Waste Collection on the next regularly scheduled Collection day for any Customer or Responsible Customer whose service is discontinued upon receipt of payment of delinquent fees and any related service restart charges, or at such sooner time as directed to do so by City. Contractor may not charge for service during any period in which service was suspended. Any delinquent fees or service charges to be imposed in connection with delinquent accounts shall be set by Contractor

and be subject to Director approval. A deposit may be required of accounts which have been discontinued for non-payment prior to re-instituting service at such accounts. Notwithstanding the above, in the event of a Billing dispute and/or to avoid negatively impacting public health or safety, Contractor shall not suspend service to any Customer or Responsible Customer without the City's prior written consent, and shall continue to provide service to any Customer or Responsible Customer if directed to do so by City without regard to the status of said Customer's or Responsible Customer's account.

13.2 Minimum Requirements for Billing Statements

Bills shall be prepared and provided in a manner that adequately presents the services rendered in an easy to understand and verifiable format. The format of Contractor's Bills must be approved by City prior to the commencement of Solid Waste Collection services under this Agreement. City reserves the right to require changes to the Bill format during the Term of this Agreement. In addition to any other pertinent data, Billing statements mailed by Contractor shall be printed to contain the following information, and the language contemplated for compliance with this requirement shall be subject to the Director's approval:

(A) A "statement date" indicating the date the Bill is generated and mailed.

(B) A notice to Customers or Responsible Customers that payments are due within thirty (30) days of the statement date, an advisement that the Customer's or Responsible Customer's account will become delinquent if payment is not received by the 60th day following the statement date, an advisement of the date and time by which payments must be received in order to avoid delinquent fees (i.e., 4:00 p.m. on the 75th day following the statement date), and a notification of the amount of fees that will be imposed and the potential for service interruptions if payments are not received by the specified date and time.

(C) An advisement to Customers and Responsible Customers that payment can be made in the following manner:

(1) by mailing payment to Contractor at such address as Contractor may designate;

(2) by automatic withdrawal from a checking account;

(3) by major credit card on-line (i.e., via the Internet); or

(4) in person at Contractor's local office pursuant to Section 10.8.1 by cash, check, credit card or other acceptable forms of payment.

(D) An advisement that inquiries relating to Solid Waste Collection should be directed to Contractor, including an address, phone number and internet site, for such inquiries.

13.3 Billing System

13.3.1 Computerization of Account Information

Contractor shall provide and maintain, at its expense, computer equipment sufficient to operate pertinent computer programs and otherwise provide the services required by this Section. Contractor shall create, at its own expense, computer programs sufficient to operate a computerized billing system, permanently maintain all account records and otherwise meet the requirements of this Section.

13.3.2 Minimum Computer Programming Requirements

In addition to any other requirements set forth herein, the programs created by Contractor to operate and maintain the billing system shall at a minimum be able to perform the following functions:

- (A) create a permanent record of any adjustment to a Customer's or Responsible Customer's account;
- (B) work in connection with a backup system such that all Customer and Responsible Customer account data and records are protected from a computer failure and permanently preserved on not less than a daily basis; and
- (C) allow Customers or Responsible Customers to make payments on-line (i.e., via the Internet) by a major credit card, automatic withdrawal from a checking account, mail, cash or other acceptable forms of payment.

13.3.3 Billing Inquiries

All Billing inquiries shall be entered into the computerized billing system. Contractor's computer programs shall keep a permanent record of all Billing inquiries and all adjustments to Customer's or Responsible Customer's Bills resulting therefrom.

13.4 Payment, Accounting Systems

13.4.1 Collection and Processing of Payments

13.4.1.1 Accounting and Deposit of Funds

All payments received by Contractor shall be appropriately credited to Customer and Responsible Customer accounts, deposited in a bank account and accounted for in a businesslike manner utilizing generally accepted accounting principles. To facilitate audits and record keeping Contractor shall make all withdrawals from its bank accounts by check, ACH debit/credit or wire, regardless of whether the withdrawal is to provide funds to City, Contractor, or any permissible subcontractor of Contractor.

13.4.1.2 Allocation of Funds

With respect to payments received from each Customer or Responsible Customer, unless a Customer or Responsible Customer specifically directs a different allocation, funds shall be allocated first to outstanding charges for Solid Waste Collection, from oldest to most recent charges, then to any related delinquency fees or service charges, and lastly to other administrative charges, up to the amount of any outstanding balance. Any overpayment shall be credited to future Bills in the same sequence, or returned to Customers or Responsible Customers as appropriate.

SECTION 14. FAITHFUL PERFORMANCE

14.1 Surety

Contemporaneously with execution of this Agreement, as security for Contractor's faithful performance of all obligations of this Agreement, Contractor shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Sixty-Thousand Dollars (\$60,000.00). The Surety may be comprised of either a performance bond, cash bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirement, it shall be drawn upon a financial institution with an office within one hundred (100) miles of City, and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney. If a cash bond is utilized, it shall conform to the requirements of Section 14.2, below. The cost of the Surety shall be the sole responsibility of Contractor. The Surety shall be released within thirty (30) days after both (i) the expiration of the Term of this Agreement; and (ii) Contractor's satisfactory performance of all obligations hereunder.

14.1.1 Forfeiture of Surety

In the event Contractor shall for any reason become unable to, or fail in any way to, perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Contractor shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

14.1.2 Use of Surety by City

Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Contractor with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) Payment of sums due under the terms of this Agreement which Contractor has failed to timely pay to City; and (2) Reimbursement of costs borne by City to correct violations of this Agreement not corrected by Contractor.

14.2 Requirements for Cash Bond

A Cash Bond in the amount of Sixty-Thousand Dollars (\$60,000.00) may be comprised of either a cash deposit or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Cash Bond requirement, it shall be drawn upon a financial institution with an office within one hundred (100) miles of City, and otherwise in a form acceptable to the City Attorney. The cash deposit, if any, shall be deposited in an interest-bearing account at a financial institution with an office within one hundred (100) miles of City that is acceptable to the City Attorney. All interest on a cash deposit, if any, shall accrue to Contractor. Any costs associated with the Cash Bond shall be the sole responsibility of Contractor. The Cash Bond shall be released within thirty (30) days after both (i) the expiration of the Term of this Agreement; and (ii) Contractor's satisfactory performance of all obligations hereunder.

14.2.1 Forfeiture of Cash Bond

In the event Contractor shall for any reason become unable to, or fail in any way to, perform as required by this Agreement, City may declare a portion or all of the Cash Bond, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Cash Bond, Contractor shall restore the Cash Bond to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Cash Bond to its full amount within thirty (30) days shall be a material breach of this Agreement.

14.2.2 Use of Cash Bond by City

Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Contractor with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or cash deposit comprising the Cash Bond may be utilized by City for purposes including, but not limited to: (1) Payment of sums due under the terms of this Agreement which Contractor has failed to timely pay to City; and (2) Reimbursement of costs borne by City to correct violations of this Agreement not corrected by Contractor.

14.3 Replacement Letter of Credit

City may draw upon the entire letter of credit (if any) utilized to meet Contractor's obligations pertaining to the Surety and Cash Bond, and convert it to a cash deposit, if Contractor fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 15. INSURANCE COVERAGE

Contractor shall procure and maintain during the entire Term of this Agreement the following types of insurance, and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Contractor's performance hereunder or the actions or inactions of any of Contractor's officers, agents, representatives, employees, or subcontractors in connection with Contractor's performance. The insurance requirements hereunder in no way limit Contractor's various defense and indemnification obligations, or any other obligations as set forth herein.

15.1 Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The most recent editions of Insurance Services Office Commercial General Liability coverage (“occurrence” form CG 00 01).
2. The most recent editions of Insurance Services Office form number CA 00 01 1013 or CA 00 20 1013 covering Automobile Liability, code 1 “any auto”.
3. Workers’ Compensation insurance as required by the Labor Code of the State of California and Employers’ Liability insurance.

15.2 Minimum Limits of Insurance

Contractor shall maintain in force for the Term of this Agreement limits no less than:

15.2.1 Commercial General Liability

Ten Million Dollars (\$10,000,000.00) limit aggregate and Five Million Dollars (\$5,000,000.00) limit per occurrence for bodily injury, personal injury and property damage. Such limits can be achieved through a combination of primary and excess liability policies.

15.2.2 Automobile Liability

Ten Million Dollars (\$10,000,000.00) combined limit per accident for bodily injury and property damage. Such limits can be achieved through a combination of primary and excess liability policies.

15.2.3 Workers’ Compensation and Employers Liability

Workers’ compensation statutory limits as required by the Labor Code of the State of California and Employers Liability limits of One Million Dollars (\$1,000,000.00) per accident.

15.3 Deductibles and Self-Insured Retentions

All deductibles or self-insured retentions (i) shall be for the account of Contractor and paid entirely by Contractor without contribution from City.

15.4 Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

15.4.1 General Liability

City and its elected and appointed officials, officers, employees, agents and volunteers shall be named as additional insureds via blanket-form endorsements in connection with liability arising out of activities performed by or on behalf of Contractor; Premises owned, leased or used by Contractor. The coverage shall contain no special limitations on the scope of protection afforded

to City or its elected and appointed officials, officers, employees, agents and volunteers. As respects the liabilities assumed by Contractor under this Agreement, Contractor's insurance coverage shall be the primary insurance for the City and its elected and appointed officials, officers, employees, agents and volunteers in connection with the above enumerated categories. Any insurance or self-insurance maintained by City or its elected and appointed officials, officers, employees, agents and volunteers shall be in excess of Contractor's insurance and shall not contribute with it. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to City or its elected and appointed officials, officers, employees, agents and volunteers. Coverage shall state that Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

15.4.2 Workers' Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against City and its elected and appointed officials, officers, employees, agents and volunteers for losses arising from work performed by Contractor for City. A blanket-form Waiver of Subrogation Endorsement must be issued to City by the insurer.

15.4.3 Environmental Pollution Control Insurance

Contractor shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City as an additional insured via blanket-form endorsement. Said coverage shall be in the amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, and One Million Dollars (\$1,000,000.00) in the aggregate, and shall substantially comply with all other provisions set forth in Section 15.4.1.

15.4.4 All Coverages

Except for Worker's Compensation, each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, except after thirty (30) days' prior written notice has been given to City. Additionally, Contractor agrees that it will not suspend, void or reduce in coverage or limits each insurance policy required by this clause without notice to the City.

15.5 Acceptability of Insurers

The insurance policies required by this Section shall be issued by an insurance company or companies authorized to do business in the State of California and with a rating in the most recent edition of Best's Insurance Reports of size category VII or larger and a rating classification of A or better, unless otherwise approved by the Director.

15.6 Verification of Coverage

Contractor shall furnish City with certificates of insurance and with original blanket-form endorsements affecting coverage required by this Section. The endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The

certificate shall be signed by a person authorized to evidence coverage on behalf of the insurer. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences.

15.7 Loss or Reduction in Insurance

In the event that Contractor fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Contractor and utilize funds from the Initial Surety and/or Agreement Surety defined in Section 14 to pay the cost of providing such coverage.

SECTION 16. ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

16.1 General

Contractor shall not assign any portion of or all of its rights, nor delegate, subcontract or otherwise transfer any portion of or all of its obligations under this Agreement (collectively referred to as an "Assignment") to any other Person without the prior approval by the City Council. The City Council has unfettered discretion to approve or deny such an Assignment. The City Council's exercise of its absolute and sole discretion may include City Council review and approval of any Assignment terms, including, but not limited to, insurance obligations, indemnification language, bonding requirements, and any and all other terms the City Council may in its unfettered discretion require. Any such Assignment made without the approval by the City Council shall be void and the attempted Assignment shall constitute a material breach of this Agreement.

16.2 Assignment to be Broadly Interpreted

For purposes of this Section, the term "Assignment" shall be given the broadest possible interpretation, and shall include, but not be limited to: (i) a sale, exchange or other transfer of substantially all of Contractor's assets dedicated to service under this Agreement to a third party; (ii) a sale, exchange or other transfer of any membership interest of Contractor to a third party; (iii) any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction which results in a change of ownership or control of Contractor; (iv) any assignment by operation of law, including those resulting from mergers or acquisitions by or of Contractor or any of its Affiliates, insolvency or bankruptcy, making assignment for the benefit of creditors, writ of attachment for an execution being levied against this Agreement, appointment of a receiver taking possession of Contractor's property, or transfer occurring in the event of a probate proceeding; (v) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any such transfer or change of ownership, or change of control of Contractor; and (vi) Contractor's subcontracting of only a portion of its rights and obligations under this Agreement (e.g., the In-Home Bulky Item Collection service).

16.3 Nature of Agreement – Personal to Contractor

Contractor acknowledges that this Agreement involves rendering a vital service to City's residents and businesses, and that City has selected Contractor to perform the services specified herein based on (1) Contractor's experience, skill and reputation for conducting its Solid Waste Handling Services in a safe, effective and responsible fashion, at all times in keeping with applicable Environmental Laws, regulations and best Solid Waste management practices, and (2) Contractor's financial resources to maintain the required equipment and to support its indemnity obligations to City under this Agreement. City has relied on each of these factors, among others, in choosing Contractor to perform the services to be rendered by Contractor under this Agreement.

16.4 Procedure for Consideration of Assignment

If Contractor requests City's consideration of and consent to an Assignment, the City Council may deny, approve or conditionally approve such request in its sole and absolute discretion. Under no circumstances shall City be obliged to consider any proposed Assignment if Contractor is in default at any time during the period of consideration. Should the City consent to any Assignment request, such Assignment shall not take effect until all conditions relating to the City's approval have been met. Any request for an Assignment shall be made in a manner to be prescribed by the Director, and no request by Contractor for consent to an Assignment need be considered by City unless and until Contractor has met (or with respect to matters that would only occur upon completion of the Assignment if approved, made reasonable assurances that it will meet) the following requirements:

(A) Contractor shall undertake to pay City its reasonable direct and indirect expenses, including administrative, investigative, consulting, and attorneys' fees and costs necessary to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any such Assignment (collectively the "Administrative Assignment Fee"). An advance non-refundable payment in an amount to be determined by the Director towards the Administrative Assignment Fee shall be paid to the City prior to City's consideration of any Assignment request, although Contractor shall be responsible to pay all costs incurred by City in considering a request for Assignment, including those in excess of the aforesaid deposit amount, regardless of whether City consents to the Assignment.

(B) If requested to do so, Contractor shall furnish City with audited financial statements of the proposed assignee's operations for the immediately preceding three (3) operating years.

(C) Contractor shall furnish City with satisfactory proof: (i) that the proposed assignee has at least ten (10) years of Solid Waste management experience on a scale equal to or exceeding the scale of operations conducted by Contractor under this Agreement; (ii) that in the last five (5) years, the proposed assignee has not suffered any significant citations or other censure from any federal, state or local agency having jurisdiction over its Solid Waste management operations due to any significant failure to comply with state, federal or local laws, including the Environmental Laws and that the assignee has provided City

with a complete list of such citations and censures; (iii) that the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion; (iv) that the proposed assignee conducts its Solid Waste management practices in accordance with sound Solid Waste management practices in full compliance with all federal, state and local laws regulating the Collection and disposal of Solid Waste including Hazardous Substances; and, (v) of any other information required by City to ensure the proposed assignee can fulfill the terms of this Agreement in a timely, safe and effective manner.

(D) The proposed assignee shall execute an agreement assuming all of Contractor's rights and liabilities under this Agreement.

SECTION 17. REVIEW OF SERVICES AND PERFORMANCE

17.1 Performance Hearing

(A) Commencing in or about January 2023, and on a biennial basis thereafter, City may hold a hearing to review Contractor's Solid Waste Collection efforts, source reduction, processing and other diversion services and overall performance under this Agreement (the "Solid Waste Services and Performance Review Hearing"). The purpose of the Solid Waste Services and Performance Review Hearing is to measure Contractor's compliance with Agreement terms and relevant Municipal Code sections governing the provision of franchised service.

(B) In addition to the Solid Waste Services and Performance Review Hearings City may hold in accordance with the immediately preceding paragraph, if the number of Customer complaints regarding Contractor's Solid Waste Collection are deemed by City to be excessive or the nature of to be significant, City may, at any time (subject to the paragraph immediately below), hold a Solid Waste Services and Performance Review Hearing.

(C) City shall notify Contractor of its intent to hold a Solid Waste Services and Performance Review Hearing at least ninety (90) days in advance thereof. The notice will indicate whether the hearing will occur before City staff, the City Council, or such other body as the City may designate in the notice. Forty-five (45) days after receiving notice from City of a Solid Waste Services and Performance Review Hearing, Contractor shall submit a report to City which contains City-requested information and such information as the Contractor wishes to have considered.

(D) The reports required by this Agreement regarding Customer complaints shall be used as one basis for review of Contractor's performance, and Contractor may submit other relevant performance information and reports for consideration at the Solid Waste Services and Performance Review Hearing. In addition to the above, City may request Contractor to submit any other specific information relating to its performance for consideration at the Solid Waste Services and Performance Review Hearing, and any Customer may submit comments or complaints during or before the Hearing, either orally

or in writing. Contractor shall be present at and participate in the Solid Waste Services and Performance Review Hearing.

SECTION 18. CITY'S REMEDIES; DEFAULT AND TERMINATION

18.1 Notice of Default

If the Director determines that Contractor has defaulted in the performance of any obligation hereunder, or that Contractor's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of special wastes, or hazardous wastes, the Director may provide written notice to Contractor of such default. The Director may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the Director, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

18.2 Failure to Cure

If Contractor fails to correct, to the satisfaction of the Director, all deficiencies contained in the written notice thereof within the specified time, or if it is not reasonably possible to correct such deficiencies within the specified time, and Contractor fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter, then the Director may refer the matter to the City Council for review, or review the matter himself/herself.

18.3 Review by Director

If the Director reviews the matter and determines that Contractor has failed to properly or adequately cure any default set forth above, the Director, in the exercise of his/her discretion, may terminate this Agreement, or take such other action as he/she deems appropriate to pursue any remedy available to City. A decision or order of the Director shall be final and binding on Contractor unless Contractor files a "Notice of Appeal" with the City Clerk within five (5) business days of the date the notice of the Director's decision is given. The Director shall schedule any appeal for consideration by the City Council at the next feasible regular City Council Meeting following the date a Notice of Appeal is given to City.

18.4 City Council Review

In the event an appeal of a decision of the Director is filed, or if the Director refers the matter to the City Council without rendering a decision, the City Council shall set the matter for consideration before the City Council as an agenda item at either a regular, adjourned regular, or special meeting. In reviewing the matter, the City Council may consider any information reported by the Director regarding the deficiencies, and shall give Contractor, or its representatives and any other interested person, a reasonable opportunity to be heard. The City Council shall determine

whether Contractor has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or to pursue any other remedy available to City.

18.5 Performance During Reviews

Contractor's performance under this Agreement is not excused during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

18.6 Termination without Right to Cure

The above right of termination as a result of Contractor's failure to timely cure any deficiency is in addition to City's right to terminate this Agreement without affording Contractor an opportunity to cure in circumstances where Contractor is determined by City to have materially breached this Agreement. City shall thus be afforded the right to terminate this Agreement in the event of any material breach hereof by Contractor without affording Contractor the right to cure as a result of any action, inaction or circumstance which is a legally defined material breach, or is defined herein as a material breach, and/or under any of the following circumstances which are hereby specifically defined as material breaches:

- (A) If Contractor practices, or attempts to practice, any fraud upon City.
- (B) If Contractor becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Contractor in a bankruptcy proceeding.
- (C) If Contractor willfully violates any orders or rulings of any regulatory body having jurisdiction over Contractor relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Contractor, Contractor may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.
- (D) If Contractor ceases to provide Solid Waste Handling Services, including Collection of Solid Waste and/or Recyclable Material, as required under this Agreement over all or any portion of the Franchise Area for a period of seven (7) days or more, for any reason not specified as a force majeure event hereunder.
- (E) If Contractor fails to materially comply with any insurance or indemnification requirement set forth in this Agreement.
- (F) If City is required to pay any fine or penalty, which is not paid on its behalf by Contractor or which Contractor fails, refuses, neglects or is unable to pay or indemnify City against, relating to any diversion or other requirement of AB 939 and/or SB 1383.
- (G) If Contractor, Contractor's shareholders, Contractor's directors, or any senior management level employee of Contractor (defined for purposes of this provision as any representative of Contractor who regularly is in communication with or regularly has contact with any member of the City Council or Director, or any of Contractor's

employees who communicate with any City Department Head or City employee with decision making authority on matters related to the performance of the Agreement) is convicted of a Criminal Matter (as defined herein). For purposes of this Section the term Criminal Matter refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

SECTION 19. CONTRACTOR'S REMEDIES; ADMINISTRATIVE HEARING

19.1 Administrative Hearing

Should Contractor contend that City is in breach of any aspect of this Agreement, it shall give notice to the Director requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the Parties, and shall be held before an impartial hearing officer to be determined by the Director. The hearing officer shall make an advisory ruling on Contractor's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the parties so agree in writing within thirty (30) days of the date notice of the decision is given to both parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

19.2 Other Remedies; Claims

Contractor shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Contractor shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Contractor has given timely written notice to the other that it will not accept the hearing officer's decision.

19.3 Actions for Damages

As a prerequisite to the filing and maintenance of any action for damages by Contractor against City arising out of this Agreement, Contractor shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

SECTION 20. RIGHTS OF CITY TO PERFORM DURING EMERGENCY

20.1 Provision of Service

Should Contractor, for any reason whatsoever, refuse or be unable to provide Solid Waste Handling Services for a period of more than forty-eight (48) hours, and if as a result thereof, Solid Waste should accumulate in City to such an extent or in such a manner that the Director finds that such accumulation endangers or menaces the public health, safety, or welfare, City shall have the right, upon twelve (12) hours prior written notice to Contractor, during the period of such

emergency, to temporarily take possession of any or all equipment and facilities of Contractor previously used in providing Collection, transportation, and disposal of Solid Waste and provide, through its own forces or otherwise, Solid Waste Handling Services which Contractor otherwise would be obligated to provide pursuant to this Agreement. Contractor agrees that in such event it shall fully cooperate with City to affect such a transfer of possession for City's use.

20.2 Possession of Equipment

Contractor agrees, that in the event of circumstances described in Section 20.1 above, City may take temporary possession of and use all of said equipment and facilities without paying Contractor any rental or other charge. Upon Contractor giving City notice that it is able to resume its normal responsibilities under this Agreement City shall relinquish possession of all of the above mentioned property to Contractor.

20.3 Exclusions from Right to Possession of Equipment without Compensation

Specifically excluded from the circumstances in which City may possess and utilize Contractor's equipment without compensation are circumstances in which Contractor fails or refuses to provide Solid Waste Handling Services hereunder for any reason which is not a force majeure event as defined herein.

SECTION 21. PRIVACY

Contractor shall strictly observe and protect the privacy rights of Customers. Information identifying individual Customers or the composition or contents of a Customer's Solid Waste stream, or any of the billing information pertaining to any Customers, shall not be revealed to any person, governmental unit, private agency, or company, unless upon the authority of a court of law, by statute, ordinance, or regulation of a governmental agency having jurisdiction, or upon valid authorization of the Customer. This provision shall not be construed to preclude Contractor from preparing, participating in, or assisting in the preparation of waste characterization studies or waste audits which may be required by AB 939 or this Agreement. Contractor shall not market or distribute, outside the normal course of its business, mailing lists with the names and addresses of Customers. The rights afforded Customers pursuant to this Section shall be in addition to any other privacy right afforded Customers pursuant to federal or state law.

SECTION 22. REPORTS AND ADVERSE INFORMATION

The Parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term, the Parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Contractor. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports set forth below may be changed by agreement of the Parties; provided any such change is approved by the Director in writing. Quarterly reports shall be submitted within twenty (20) calendar days after the end of the calendar quarter.

22.1 Quarterly Reports

At a minimum, Contractor shall report the following to City on a quarterly basis:

AB 939 and SB 1383 compliance activities and various data for City-compliance measurement, monitoring, enforcement, and State reporting in the form and format established by the City; and

Reports on Gross Receipts and Franchise Fees due and payable to the City, in the form and format established by the City.

22.2 Format of Reports

Each quarterly report shall be submitted to City, addressed to the Director or his or her designee. Records related to performance of this Agreement shall be maintained by Contractor in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Contractor agrees to submit all reports to e-mail addresses designated by City in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

22.3 Adverse Information

(A) Contractor shall provide City two (2) copies of all reports and other material adversely affecting this Agreement submitted by Contractor to the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Contractor's filing of such matters with said agencies. Contractor's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

(B) Contractor shall submit to City copies of all pleadings, applications, notifications, communications, and documents of any kind submitted by Contractor to, as well as copies of all decisions, correspondence, and actions by, any federal, state, and local courts, regulatory agencies, and other government bodies relating in any manner to Contractor's performance of services pursuant to this Agreement. To the degree authorized by law, any confidential data exempt from public disclosure shall be retained in confidence by City and its authorized agents and shall not be made available for public inspection.

(C) Contractor shall submit to City such other information or reports in such forms and at such times as City may reasonably request or require.

(D) All reports and records required under this or any other Section hereof shall be furnished at the sole expense of Contractor.

22.4 Disaster Plan

Within ninety (90) days of the Effective Date, Contractor shall prepare a draft disaster debris cleanup implementation plan that sets forth procedures for collection of debris following a

major disaster such as an earthquake, mudslide, storm, flood, fire, terrorist attack, riot, civil disturbance or other similar event. The disaster plan shall address priorities for cleanup at critical facilities, procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Contractor shall coordinate the plan with City's emergency service teams and private parties, as necessary. The draft plan shall be presented to the Director for consideration and approval. The final plan shall be distributed to those employees of Contractor and City and private parties who would have a role in implementing such plan in the event of a disaster.

In addition to the disaster debris cleanup implementation plan, Contractor shall: (1) assist City in the event of a major disaster by providing Collection Vehicles and drivers normally assigned to City at rates consistent with those charged to Contractor's customers; and (2) upon request and at no additional charge, provide to City at City Hall or other locations designated by the Director, up to ten (10) Bins and/or Rolloff Boxes, with the quantity and size to be designated by City, for use as emergency containers to store emergency materials and supplies.

22.5 Failure to Report

The refusal of Contractor to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Contractor in such report shall be deemed a material breach of the Agreement, and shall subject Contractor to all remedies, legal or equitable, which are available to City under this Agreement or otherwise.

SECTION 23. IDENTIFICATION OF CONTRACTOR

Contractor has agreed to provide the City Contract Manager with the name the Contractor wishes to identify itself to the public as the specific organization that shall provide all services under this Agreement. Unless otherwise approved in writing by City, this name shall be used for all correspondence, Billing statements, directory listings, references, signs, and vehicle and Container identification.

SECTION 24. CITY'S FLOW CONTROL OPTION/COUNTY AGREEMENT

24.1 Flow Control Option

City shall have the absolute ability to choose the location for the delivery and/or disposal of all Solid Waste (including Recyclable Material, Organic Waste, Green Waste, and construction and demolition waste) Collected pursuant to this Agreement (hereinafter City's "Flow Control Option"). Contractor expressly consents to City's ability to direct the location for disposal of Solid Waste hereunder, and waives any and all rights to challenge City's ability to do so, including without limitation any rights under the Commerce Clause of the United States Constitution. As of the Effective Date, City shall be deemed to have exercised its Flow Control Option so as to require delivery of all Solid Waste Collected hereunder to the Orange County landfill system in a manner consistent with its obligations under the County Agreement (including, without limitation, its obligations related to Solid Waste that is delivered to a processing/transfer facility prior to being

delivered to a landfill for disposal), and Contractor has agreed to handle all Solid Waste Collected hereunder in a manner consistent with City's exercise of its Flow Control Option as noted above. City shall be deemed to have further exercised its Flow Control Option so as to require processing of all source-separated Organic Waste at a properly permitted facility located in Orange County. At any time during the Term of this Agreement the Director may notify Contractor in writing that City no longer desires to exercise its Flow Control Option. In the event City so notifies Contractor of its desire to cease exercising its Flow Control Option, Contractor shall have the absolute discretion to utilize any disposal facility, transfer station, recycling facility, material recovery facility, landfill, or other facility of its choosing to retain, recycle, process, and dispose of Solid Waste generated within the City, provided the use of such facility by Contractor enables it to meet all other requirements of this Agreement.

24.2 County Agreement

Contractor expressly acknowledges its awareness of the County Agreement which has been adopted and entered into by City. Moreover, Contractor acknowledges that it has had an opportunity to review the County Agreement, and is aware of the provisions thereof that require all Solid Waste collected in the City Limits to be disposed of in the Orange County landfill system. Contractor further acknowledges that the County of Orange is an intended third party beneficiary of Contractor's obligations relating in any way to the disposal of Solid Waste pursuant to this Agreement and the County Agreement. Contractor hereby adopts as its obligations hereunder such provisions of the County Agreement that require action or inaction by it as City's Solid Waste franchisee. Contractor represents and warrants that it can and will perform its duties in connection with this Agreement in such a manner as to ensure that City does not breach the terms of the County Agreement as a result of Contractor's actions or inaction. In the event City advises Contractor in writing that the County Agreement has been terminated, or that it no longer wishes to exercise its Flow Control Option in a manner consistent with the County Agreement, then Contractor's obligations pursuant to this paragraph shall be terminated.

SECTION 25. INDEMNIFICATION

25.1 General

(A) Contractor hereby agrees to and shall defend, with counsel of City's choosing, indemnify and hold harmless City, its elected and appointed officials, officers, employees, agents, and volunteers (collectively the "Indemnities"), at Contractor's sole expense, from and against any and all loss, liability, penalty, forfeiture, claim, demand, action, proceeding or suit in law or equity of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including, but not limited to: (1) the negligence or willful misconduct of Contractor, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Contractor, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement, all Applicable Laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of

Contractor, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing defense, indemnity and hold harmless provisions shall apply regardless of whether such loss, liability, penalty, forfeiture, claim, demand, action, proceeding, suit, injury, death or damage is also caused in part by any of Indemnities' negligence, but shall not extend to matters resulting from Indemnities' sole negligence or willful misconduct.

(B) Contractor, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend City and its elected officials, officers, employees and agents, in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of "Solid Waste" or "Recyclable Material," the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other Persons, or the limits of City's authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

(C) The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

25.2 Hazardous Substances Indemnification

(A) Without regard to any insurance coverage or requirements, and without limiting the above general indemnification obligation in any way, Contractor specifically agrees to and shall, to the maximum extent permitted by law, defend, with counsel of City's choosing, reimburse, indemnify, and hold City and its past and present officers, elected and appointed officials, employees, consultants and agents (hereinafter "Indemnified Parties") harmless from and against any and all claims, actions, liabilities, damages, demands, judgments, losses, costs, liens, expenses, suits, actions, attorneys' fees, consultant fees, penalties and any and all other losses, damages, fees and expenses of whatever kind or nature ("Claims") (including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Contractor that:

(1) results in any demand, claim, notice, order, or lawsuit, asserting that any Indemnified Party is liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

(2) relates to material Collected, Transported, Recycled, Processed, treated or disposed of by Contractor.

(B) Contractor's obligations pursuant to this Section shall apply, without limitation, to:

(1) any Claims brought pursuant to or based on the provisions of the Environmental Laws, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq., the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 et seq., the Carpenter-Presley-Tanner Hazardous Substances Account Act (California Health & Safety Code Sections 25300 et seq.), the California Hazardous Waste Control Laws (California Health and Safety Code Sections 25100 et seq.), the California Porter-Cologne Act (California Water Code Section 13000 et seq.), and any and all amendments and regulations thereto, and any other federal, state, regional or local environmental statutory or regulatory provision;

(2) any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Contractor of any facility;

(3) any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Contractor; and

(4) any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

(C) The foregoing indemnity and defense obligations shall apply irrespective of the negligence or willful misconduct of Contractor or any Affiliate of Contractor.

(D) For purposes of this Agreement, the term "Hazardous Contaminant" shall mean any "hazardous material," as that term is defined under California Health & Safety Code Section 25501(n); any "hazardous substance," as that term is defined herein or under California Health & Safety Code Sections 25281(h), 25501(n), 25501.1 and under Title 42, Section 9601(14) of the United States Code; any "hazardous waste," as that term is defined herein and under Title 42, Section 6903(5) of the United States Code and under California Health & Safety Code Section 25501(n); any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term "Hazardous Contaminant" shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

(E) The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

(F) With regard to any claim covered by this provision arising from the delivery of Solid Waste to the Orange County landfill system pursuant to the terms of the County Agreement, the indemnity provisions hereof are intended to be supplemental to any indemnification obligations owed to the City by the County of Orange pursuant to the County Agreement.

SECTION 26.

CONTRACTOR'S BOOKS AND RECORDS; AUDITS

26.1 Maintenance and Inspection of Records

Contractor shall maintain all records relating to the services provided hereunder, including but not limited to Customer lists, billing records, accounts payable records, maps, AB 939 and/or SB 1383 compliance records, records reflecting the number of refuse, recycling and organics routes and route hours by service category (such as multi-family, commercial, roll-off, and special services), records demonstrating facilities, equipment and personnel used to perform services, records reflecting the number of refuse, recycling and organics Containers in service by frequency of Collection for each customer group (such as multi-family, commercial, roll-off); records reflecting the number of roll-off box pulls, and such other documents and materials which reasonably relate to Contractor's compliance with the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Contractor's regular place of business, but in no event outside the County of Orange. Prior to destruction of records relating to the services provided pursuant to this Agreement, Contractor shall provide copies or originals of such records to City.

26.2 CERCLA Defense Records

City views the ability to defend against the Comprehensive Environmental Response, Compensation and Liability Act and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for Disposal, as well as where it was not taken, to be matters of concern. Contractor shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify City's Director, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Contractor shall provide copies of such records to City upon request. The requirements of this Section shall survive the expiration or early termination of this Agreement.

26.3 Ongoing Compliance Review

City intends review Contractor's performance on an ongoing basis to ensure compliance with the terms and provisions of this Agreement. At a minimum, City intends to have internal staff or outside consultants review Contractor's performance to ensure ongoing compliance with the terms hereof, including, but not limited to, the payment of required fees, performance of the

services stated herein, implementation of programs required under the Agreement, Contractor's maintenance and upkeep of records, and compliance with all Applicable Laws. Contractor shall provide any and all information reasonably requested by City in connection with its efforts to ensure compliance with the terms hereof, regardless of whether such information is specifically otherwise called out herein as an item that Contractor is required to maintain and provide to City.

26.4 Audits

26.4.1 Examination of Services

From time to time, anticipated to occur as a result of reports and other submittals required by this Agreement, City may request Contractor to make available any or all of its records related to performance hereunder available to an independent auditor or examiner, to be selected by the City, for auditing and examination purposes (a "Discretionary Audit"). The first Discretionary Audit shall be performed in 2023 and shall be based on Contractor's reports and records through the first quarter of 2023. The scope of the Discretionary Audit and auditor or examiner will be determined by City and the scope may include, but is not limited to, compliance with terms of this Agreement, Customer service levels and Billing, fee payments, Gross Receipts, tonnage, and verification of diversion rates. Except as otherwise provided herein, City shall bear the cost of any Discretionary Audit. Should any Discretionary Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Contractor by City, complete with any additional late charges as set forth herein. If a Discretionary Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Contractor's operations or billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Contractor shall bear the entire cost of such Discretionary Audit.

26.4.2 Route Audit

Contractor shall complete an audit at its expense of its Collection routes for all Customers at Residential and Commercial Premises at such times as may be requested by City; provided, however, that while City may request that such an audit occur at any time, it may not request such audits at Contractor's expense more than once every five (5) years during the Term. The timing of such audits is at the City's discretion and may be required to be timed with the issuance of a request for proposals for a new agreement. The route audit, at minimum, shall consist of an independent physical observation by Person(s) other than the route driver or route supervisor of each Customer in the City. The route audit shall include, as a minimum, the following information for each account:

- Route Number;
- Truck Number;
- Account Name;
- Account Number;

- Account service address;
- Service Level per Billing System (quantity, size, frequency);
- Service Level per Routing System;
- Observed Containers (quantity, type and size);
- Serial number (or other coding if acceptable to the Director) identifying each Cart and its associated service address;
- Bin condition;
- Proper signage; and
- Graffiti.

Within thirty (30) days after the completion of the route audit, Contractor shall submit to City a report summarizing the results thereof which shall include:

- Identification of the routes;
- Truck numbers;
- Number of accounts, by route and in total;
- Number of Containers (broken down by type) per service address, per route and total number of Containers;
- Types of exceptions observed;
- Number of exceptions by type;
- Total monthly Billing, pre-audit;
- Total monthly Billing, post-audit (subsequent to corrections of identified exceptions);
- Percentage of the number of accounts with errors to the total number of accounts served; and
- Percentage of the “net” change in monthly Billing as a result of the audit to the total pre-audit monthly Billing.

The report shall include a description of the procedures followed to complete the audit, and shall include the names and titles of those supervising the route audits and the name and titles of those performing the observations. Additionally, the report shall include a description of the pre-audit training of the route auditors, particularly if temporary personnel are used. The report shall also

include a description of the changes and Contractor's plans to resolve any exceptions. The route audit data and results of the audit shall be available for review by the City or its representative.

SECTION 27. TRANSITION OBLIGATIONS

At the end of the Term, or in the event this Agreement is terminated for cause prior to the end of the Term, Contractor shall cooperate fully with City and any subsequent solid waste enterprise it designates to assure a smooth transition of services. Contractor's cooperation shall include, but not be limited to, providing route lists, billing information and other operating records needed to service all premises covered by this Agreement. The failure to cooperate with City following termination shall be conclusively presumed to be grounds for specific performance of this covenant and/or other equitable relief necessary to enforce this covenant.

Contractor shall provide any new solid waste enterprise with all keys, security codes and remote controls used to access garages, gates and bin enclosures. Contractor shall be responsible for coordinating transfer immediately after its final collection activities, so as to not disrupt services, including coordinating with the new solid waste enterprise on the removal of Contractor's Containers and the delivery of the new solid waste enterprise's Containers. Contractor shall provide City with detailed route sheets containing service names and addresses, billing names and addresses, monthly rate and service levels (number and size of Containers and pickup days) at least 90 days prior to the transition date, provide an updated list two weeks before the transition, and a final updated list with any changes the day before the transition. Contractor shall provide means of access to the new solid waste enterprise at least one (1) full business day prior to its first day of collection, and within sufficient time so as to not impede in any way the new solid waste enterprise from easily servicing all Containers.

SECTION 28. GENERAL PROVISIONS

28.1 Force Majeure

Contractor shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services or Temporary Services, in compliance with its obligation to do so hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, strikes or other labor disturbances lasting five (5) days or less, explosion, natural disasters such as floods, earthquakes, landslides, fires, pandemics, epidemics, and the threat thereof or "other catastrophic events" which are beyond the reasonable control of Contractor. The term "other catastrophic events" does not include: (i) the financial inability of Contractor to perform; (ii) failure of Contractor to obtain any necessary permits or licenses from other governmental agencies; (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Contractor; or (iv) strikes or other labor disturbances lasting longer than five (5) days.

28.2 Independent Contractor

Contractor is and shall be acting at all times as an independent contractor and not as an employee of City. Contractor shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Contractor or any of Contractor's employees, except as set forth in this Agreement. Contractor 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. Contractor shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Contractor and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Contractor shall 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. Contractor further agrees to indemnify and hold City harmless from any failure of Contractor to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

28.3 Pavement Damage

Contractor shall be responsible for the cost of repair of any extraordinary damage to the public streets and streets, whether or not paved, located within the City resulting from Contractor's providing the services required hereunder.

28.4 Property Damage

Any physical damage caused by the acts or omissions of employees, agents, or subcontractors of Contractor to private or public property shall be promptly repaired or replaced at Contractor's expense.

28.5 Right of Entry

Contractor shall not have the right, until Contractor receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Temporary Services and/or Solid Waste Handling Services pursuant to this Agreement.

28.6 Law to Govern; Venue

The laws of the State of California shall govern this Agreement. In the event of litigation between the Parties, venue in state trial courts shall lie exclusively in the County of Orange and venue in federal trial courts shall lie exclusively in the Central District of California.

28.7 Amendment

This Agreement is intended to carry out City's obligations to comply with the provisions of AB 939 and SB 1383, as implemented by regulations of CalRecycle, as they from time to time may be amended. In the event that, after the Effective Date of this Agreement, AB 939 and/or SB 1383 is amended, or other state or federal laws or regulations are enacted and prevent or preclude compliance with one or more provisions of this Agreement, such provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. Except as otherwise expressly stated herein, no other amendment of this Agreement shall be valid unless it is in writing and duly executed by the parties.

28.8 Notices

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered or sent by United States certified mail, postage prepaid, return receipt requested, and addressed as follows:

To City: City of Costa Mesa
 Attn: Public Services Director
 77 Fair Drive
 Costa Mesa, CA 92626

To Contractor: CR&R Incorporated
 Attn: Julie Barreda
 11292 Western Ave.
 Stanton, CA 90680

or to such other address as either party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner prescribed above.

28.9 Savings Clause

If any non-material provision of this Agreement is for any reason held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the validity and enforceability of any of the remaining provisions of this Agreement.

28.10 Joint Drafting

The Parties have participated jointly in the negotiation and drafting of this Agreement and have had an adequate opportunity to review each and every provision of the Agreement and submit the same to counsel or other consultants for review and comment. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the Parties and in accordance with its fair meaning. There shall

be no presumption or burden of proof favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

28.11 Attorneys' Fees and Litigation Costs

In the event either Party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation expert witness fees, consultant fees and costs. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

28.12 City's Authorized Agent

Notwithstanding anything contained herein to the contrary, and excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the Director is designated as the City's authorized agent to take any action with regard to any matter, or enforce any right, set forth herein requiring action by the City.

28.13 Integrated Agreement

This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

28.14 Section Headings

The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

28.15 Compliance with Law

In providing the services required under this Agreement, Contractor shall at all times, at its sole cost, comply with all Applicable Laws, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

28.16 No Third Party Beneficiaries

Except as otherwise provided for in this Agreement, nothing in this Agreement, whether expressed or implied, is intended to confer any rights on any persons other than the parties to the Agreement and their representatives, successors, and permitted assigns.

28.17 Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

28.18 Corporate Authority

The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

“Contractor”

CR&R INCORPORATED

Dated: _____

By: 
David Ronnenberg, President

“City”

CITY OF COSTA MESA

Dated: 1/19/22

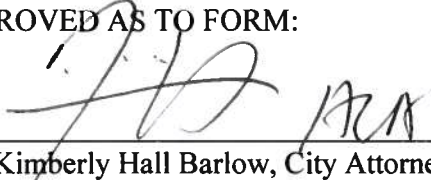
By: 
Lori Ann Farrell Harrison, City Manager

ATTEST:

By: 
Brenda Green, City Clerk



APPROVED AS TO FORM:

By: 
Kimberly Hall Barlow, City Attorney

28.17 Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

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The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

“Contractor”

HAUL-AWAY RUBBISH SERVICE CO.

Dated: 12-9-2021

By: M. M. Beliakoff
Morris M. Beliakoff, President

“City”

CITY OF COSTA MESA

Dated: 1/14/22

By: Lori Ann Farrell Harrison
Lori Ann Farrell Harrison, City Manager

ATTEST:

By: Brenda Green
Brenda Green, City Clerk



APPROVED AS TO FORM:

By: Kimberly Hall Barlow
Kimberly Hall Barlow, City Attorney

28.17 Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

28.18 Corporate Authority

The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

"Contractor"

RAINBOW DISPOSAL CO., INC.

Dated: 12/5/21

By: 
Chris Kentopp, General Manager

"City"

CITY OF COSTA MESA

Dated: 1/14/22

By: 
Lori Ann Farrell Harrison, City Manager

ATTEST:

By: 
Brenda Green, City Clerk



APPROVED AS TO FORM:

By: 
Kimberly Hall Barlow, City Attorney

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“Contractor”

ROBERT’S WASTE & RECYCLING

Dated: 12/7/2021

By: D. Valdez
Dan Valdez, Office Manager

“City”

CITY OF COSTA MESA

Dated: 1/14/22

By: L. Ann Farrell Harrison
Lori Ann Farrell Harrison, City Manager

ATTEST:

By: Brenda Green
Brenda Green, City Clerk



APPROVED AS TO FORM:

By: Kimberly Hall Barlow
Kimberly Hall Barlow, City Attorney

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“Contractor”

UNIVERSAL WASTE SYSTEMS, INC.

Dated: _____

By: 
Matt Blackburn, Chief Executive Officer

“City”

CITY OF COSTA MESA

Dated: 1/14/22

By: 
Lori Ann Farrell Harrison, City Manager

ATTEST:

By: Brenda Green
Brenda Green, City Clerk



APPROVED AS TO FORM:

By: 
Kimberly Hall Barlow, City Attorney

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"Contractor"

WARE DISPOSAL, INC.

Dated: 11/29/2021

By: 
Jay Ware, General Manager

"City"

CITY OF COSTA MESA

Dated: 1/14/22

By: 
Lori Ann Farrell Harrison, City Manager

ATTEST:

By: Brenda Green
Brenda Green, City Clerk



APPROVED AS TO FORM:

By:  ACA
Kimberly Hall Barlow, City Attorney

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“Contractor”

WASTE MANAGEMENT COLLECTION
AND RECYCLING, INC. DBA WASTE
MANAGEMENT OF ORANGE COUNTY

Dated: _____

By: 
Doug Corcoran, Vice President


“City”

CITY OF COSTA MESA

Dated: 1/14/22

By: 
For Lori Ann Farrell Harrison, City Manager

ATTEST:

By: 
Brenda Green, City Clerk



APPROVED AS TO FORM:

By:  
Kimberly Hall Barlow, City Attorney

**FIRST AMENDMENT TO NON-EXCLUSIVE FRANCHISE AGREEMENT
FOR
DISCARDED MATERIALS MANAGEMENT
FOR MULTI-FAMILY AND COMMERCIAL GENERATORS
AND FOR PROVIDING
TEMPORARY SOLID WASTE HANDLING SERVICES**

**BETWEEN
CITY OF COSTA MESA
AND
[Contractor Name]
2024**

This First Amendment to Non-Exclusive Franchise Agreement for Discarded Materials Management for Commercial Generators and for Providing Temporary Solid Waste Services (“First Amendment”) is made and entered into this ____th day of _____, 2024 by and between the City of Costa Mesa (“City”) and [Contractor Name] (“Contractor”) (collectively, the “Parties”).

RECITALS

WHEREAS, on or about _____, 20__, the City and the Contractor entered into that certain Non-Exclusive Franchise Agreement for Discarded Materials Management for Commercial Generators and for Providing Temporary Solid Waste Services (“Agreement”), compliance with the operative requirements was to commence January 1, 2022;

WHEREAS, the Parties wish amend the compensation and billing provisions of the Agreement pursuant to the provisions of this First Amendment, which amended compensation provisions shall become effective on _____, 2024.

NOW, THEREFORE, the Parties hereto agree as follows:

1. Section 13.1 of the Agreement entitled “Compensation; Billing” shall be amended to add sub-section 13.1.2, Charges and Penalties Related to Contracts with Customers, to read as follows in ***bold italicized text***:

13.1 Compensation; Billing

Contractor shall provide services pursuant to this Agreement at rates it sets, charges to, and collects from Customers and Responsible Customers. Contractor shall provide all Customers, or Responsible Customers, where applicable, with itemized Bills, detailing charges for all services, including charges for late payments, as well as the period of service to which the Bill applies. Contractor acknowledges that it, and not Customers nor Responsible Customers, is to pay a Franchise Fee and the other fees noted herein to City as consideration for this Agreement.

Accordingly, Contractor's Bills shall not include separate itemization of a "Franchise Fee" or other similar designation relating to fees which Contractor is required to pay to City.

Billings may be made on a monthly basis for all Customers and Responsible Customers. Premises ordering service after the first of the month or canceling service prior to the end of the month shall be charged on a prorated per-pickup basis.

A. **General Billing Requirements.**

1. **Contractor Responsible.** Contractor shall bill all Customers and be solely responsible for collecting payment from Customers. Billing shall be performed on the basis of services rendered and this Agreement shall create no obligation on the part of any Person on the sole basis of the Ownership of property. Contractor shall be responsible for collecting bad debt.
2. **Bill Inserts.** Contractor shall include bill inserts in accordance with Section 8.4.
3. **Records.** Contractor shall maintain copies of all billings and receipts, each in chronological order, for the Term of this Agreement, for inspection and verification by the City Contract Manager at any reasonable time but in no case more than ten (10) calendar days after receiving a request to do so.

B. **Rates for Waivers.** Contractor shall establish Rates for any Customers that have been granted de minimis, physical space constraint, Collection frequency, low population, elevation, disaster, and/or emergency waivers pursuant to Sections 8.7 and 8.8. Contractor shall ensure that accurate records are maintained for such waivers and Customers are billed properly.

C. **Application of Contamination Surcharges.** In accordance with Section 8.3.1.C.4, the Contractor is required to assess contamination Processing fees on Customers with repeated occurrences of excess contamination. Any contamination Processing fees to be assessed for a Customer shall be included and itemized on the Customer's invoice for the billing period in which the Contractor notified the Customer of the assessment of the contamination Processing fee.

D. **Universal Enrollment Process.** City requires that Generators are enrolled in Collection services pursuant to Chapter IV of Title 8 of the Municipal Code. Contractor shall assist the City in ensuring that the enrollment of Generators occurs in a timely and efficient manner. City and Contractor shall cooperatively develop and agree to a process no later than insert date.

Contractor shall maintain records and provide reports necessary for the City to verify the City-wide enrollment of Generators.

13.1.1 Suspension of Service Due to Non-Payment.

Contractor may discontinue service to any Customer, or Responsible Customer, where applicable, as set forth in this Section. Customers or Responsible Customers who have not remitted required payments within sixty (60) days after the date of Billing shall be notified on forms approved by the Director. Said forms shall contain a statement that services may be discontinued fifteen (15) days from the date of the notice if payment is not made before that time. If payment is not made by the expiration of said fifteen (15) day period, Contractor must contact City and advise of the delinquency and may discontinue service to that Customer or Responsible Customer, forty-eight (48) hours thereafter with City's prior written consent. Contractor shall resume Solid Waste Collection on the next regularly scheduled Collection day for any Customer or Responsible Customer whose service is discontinued upon receipt of payment of delinquent fees and any related service restart charges, or at such sooner time as directed to do so by City. Contractor may not charge for service during any period in which service was suspended. Any delinquent fees or service charges to be imposed in connection with delinquent accounts shall be set by Contractor and be subject to Director approval. A deposit may be required of accounts which have been discontinued for non-payment prior to re-instituting service at such accounts. Notwithstanding the above, in the event of a Billing dispute and/or to avoid negatively impacting public health or safety, Contractor shall not suspend service to any Customer or Responsible Customer without the City's prior written consent, and shall continue to provide service to any Customer or Responsible Customer if directed to do so by City without regard to the status of said Customer's or Responsible Customer's account.

13.1.2 Charges and Penalties Related to Contracts with Customers

Contractor may negotiate service contracts with Customers provided such contract terms are consistent with this Agreement. Existing Customer contracts shall remain effective and without change through October 1, 2024. After that date, all Contractor Customers are free to cancel service for any reason and retain another franchised Contractor by providing six (6) months' notice; provided, however, that any Customer who has contracted with the Contractor for twenty-four (24) months or longer may cancel any service contract with three (3) months' notice. Any contract issued after October 1, 2024 must allow a Customer to cancel with no more than six (6) months' notice, and without limitation or penalty, regardless of the remaining agreement term. The Contractor is required to coordinate bin removals to reasonably coincide with service end dates and is not allowed to charge any bin removal fees in instances where a cancellation notice has been duly provided by the Customer. The only permissible charge would be for any months remaining, within that six (6) month or three (3) month notice period, as the case may be, should a Customer wish to replace the Contractor prior to the required six (6) month or three (3) month notice period.

IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to be executed as of the day and year first set forth above.

[SIGNATURES ON FOLLOWING PAGE]

“City”

CITY OF COSTA MESA

Dated: _____

By: _____
Lori Ann Farrell Harrison, City Manager

ATTEST:

By: _____
Brenda Green, City Clerk

APPROVED AS TO FORM:

By: _____
Kimberly Hall Barlow, City Attorney

“Contractor”

[COMPANY NAME]

Dated: _____

By: _____
[Name, Title]

Dated: _____

By: _____
[Name, Title]



CITY OF COSTA MESA

77 Fair Drive
Costa Mesa, CA 92626

Agenda Report

File #: 24-320

Meeting Date: 9/3/2024

TITLE:

**RESPONSES TO ORANGE COUNTY GRAND JURY REPORT - TALKING TRASH:
RECYCLABLES AND ORGANIC WASTE**

DEPARTMENT: PUBLIC WORKS DEPARTMENT/GENERAL SERVICES
DIVISION

PRESENTED BY: RAJA SETHURAMAN, PUBLIC WORKS DIRECTOR

CONTACT INFORMATION: PATRICK BAUER, DEPUTY PUBLIC WORKS DIRECTOR, (714)
754-5029

RECOMMENDATION:

Staff recommends the City Council approve the draft responses to Findings 1-9 and Recommendations 1-7 in the Orange County (OC) Grand Jury Report titled "Talking Trash: Recyclables and Organic Waste."

BACKGROUND:

On June 5, 2024, the City received a copy of the 2023-2024 OC Grand Jury Report titled "Talking Trash: Recyclables and Organic Waste" (Attachment 1). The report outlines the status and obstacles for implementing various deliverables required by Senate Bill 1383 (SB 1383). These deliverables include education and outreach, procurement of organic material, contamination monitoring, funding, and enforcement. The Grand Jury report was released to the public on June 11, 2024.

Senate Bill 1383 Lara, Chapter 395, Statutes of 2016 is a state-wide effort to reduce emissions of short-lived climate pollutants (SLCP). SB 1383 directed local governments to incorporate its significant regulations and requirements into their code of ordinances prior to January 2022. Among these adopted regulations is the City's requirement to enforce mandatory recycling and organic waste recycling programs for all generators, and to enforce mandatory programs through penalties for non-compliance entities. Failure to enforce SB 1383 in this manner opens the City to State enforcement action and penalties of up to \$10,000 per day. By 2025, CalRecycle aims to reduce 75% of organic material that enters landfills in an effort to combat greenhouse gas emissions.

In accordance with California Penal Code Sections 933 and 933.05 (Attachment 2), the 2023-2024 OC Grand Jury requires responses to the nine (9) Findings and seven (7) Recommendations outlined in the report by September 10, 2024.

ANALYSIS:

The City oversees the solid waste program services for commercial accounts and multi-family dwellings of five (5) units or more under the City's Non-Exclusive Franchise Hauler system. The Costa Mesa Sanitary District (CMSD) provides solid waste services for residential accounts and multi-family dwellings of four (4) units or less. Staff has prepared draft responses based on the current status and experiences gained during SB 1383 implementation. The draft letter to the Grand Jury with the City's responses to the Findings and Recommendations is provided as Attachment 3.

The City coordinated with CMSD staff while preparing the following responses to the Grand Jury Findings and Recommendations:

Findings

F1. The majority of Orange County jurisdictions have not yet required their haulers to distribute residential containers that meet the CalRecycle standardized colors, leaving legacy and often incorrect or illegible labeling and embossing in place.

The City of Costa Mesa does not oversee residential waste services.

Residential waste service is provided by Costa Mesa Sanitary District (CMSD). CMSD is in the process of transitioning from a two-container system to a three-container system. Beginning October 7, 2024, through - December 2024, CMSD will be delivering blue recycling containers to all CMSD customers. The new, blue recycling container meets CalRecycle's color and labeling requirements (blue lid and sticker label on the lid that explains which materials are allowed and prohibited). When the District implemented their Organics Recycling Program in 2015, customers received organics carts with green lids. The franchise hauler currently distributes organics carts that meet CalRecycle's color and labeling requirements (green lid and sticker label on the lid that explains which materials are allowed and prohibited). During the three-cart rollout, existing mixed-waste containers will be relabeled as landfill carts. Existing mixed-waste carts that do not meet CalRecycle's color requirements will be replaced with black-lid landfill carts when container replacements are requested by residents (and all prior to 2036).

F2. While a jurisdiction may not delegate its overall responsibility for compliance with State requirements to a hauler, some jurisdictions have designated the task of imposing and collecting fines from residents to the hauler in accordance with State law. However, not all jurisdictions are clear on who ultimately receives and retains the collected fines.

Commercial generators may be fined for non-compliance. However, franchised haulers may level contamination fees after two instances of non-compliance are noted. Therefore, it is unlikely non-compliance would continue to the point where the City would have to step in. The City prioritizes educating all constituents on proper waste disposal and recycling habits rather than issuing fines.

CMSD has yet to determine if the District will issue fines for residential non-compliance. If the CMSD Board of Directors elects to move forward with a fee/fine structure, the franchise waste hauler may issue contamination fees and the District may issue administrative fines. The District would retain administrative fine revenue and 80% of contamination fee revenue, to be placed in the District's Solid Waste Fund. The franchise waste hauler would retain 20% of contamination fee revenue.

F3. All jurisdictions will eventually start collecting fines from residents for noncompliance, but some have not yet determined whether the revenues will go into a waste and recycling enterprise fund or into the jurisdiction's general fund.

Any waste related fine revenue received by Costa Mesa will go into the general fund as does all other franchise waste hauler revenue currently received by the City. The City prioritizes educating all constituents on proper waste disposal and recycling habits rather than issuing fines.

If CMSD opts to assess fees/fines for residential customers, fee/fine revenue will be placed into CMSD's Solid Waste Fund, as they are not a City per se and do not have a "General Fund."

F4. In most jurisdictions, education and outreach is a joint effort between jurisdiction, hauler, and sometimes consultants, with the jurisdiction reviewing the materials before publication. The methods of dissemination vary by jurisdiction and hauler but frequently rely on a resident actively seeking the information, which requires the resident to have some awareness of the new mandates in the first place. Most efforts primarily revolve around intermittent hard-copy paper mailings.

Education material is provided by haulers and the City in numerous ways to multi-family and commercial customers via direct mailers, recycling related web pages, bill inserts, social media, and public outreach events. The City holds sustainability efforts in high regard and hosts an annual Earth Day event. This event includes education on proper waste disposal and recycling practices.

CMSD residential customers receive outreach via the District's webpage, flyers, postcards and letter mailings, Mesa Water District bill inserts, social media, emails to subscribers, press releases, newsletters, CMSD's annual Compost Giveaway & Shredding Event and Eco Expo, booths at community events, and town hall meetings. CMSD continues to find mailings effective for residents, since a 2023 Community Survey conducted by CMSD found that 62% of CMSD customers prefer to receive information from CMSD in the mail.

F5. Most jurisdictions currently have no way to accurately determine the effectiveness of their respective education and outreach efforts other than the eventual inspections or audits that will take place.

The City of Costa Mesa agrees with the finding. As organics recycling becomes the norm for jurisdictions throughout Orange County, disposal and diversion reports will determine how effective outreach efforts are. Moreover, in the City for the commercial and multi-family accounts of 5 units

and above, the Community Relations Manager, Constituent Services Team, Public Information Officer and other key personnel will be working to enhance outreach efforts as necessary to help ensure proper outreach.

F6. There is some concern that there are not enough composting facilities in Orange County to process all organic waste, forcing some jurisdictions/haulers to transport it long distances for processing.

The City of Costa Mesa agrees with the finding and will work with the County of Orange, CMSD and other regional entities to help identify alternative sites, if available.

F7. There is currently no infrastructure in the county that is a State-approved source of Renewable Natural Gas (RNG) and energy from organic waste. Jurisdictions that use vehicles running on RNG procured from non-approved sources cannot count that RNG towards fulfillment of their procurement requirement.

The City of Costa Mesa agrees with the finding.

F8. The formula used by the State to calculate a jurisdiction's procurement target does not account for a jurisdiction's population density or geographic size (square miles). As such, meeting the annual procurement target presents a significant challenge for most jurisdictions.

The City of Costa Mesa agrees with the finding.

F9. Many Orange County jurisdictions were unable to meet the requirement in SB 1383 to reduce organic waste sent to landfills by the 2020 deadline. It is unlikely the required seventy-five percent reduction will be achieved by the 2025 deadline.

The City of Costa Mesa disagrees partially with the finding. Although State models have shown an increase in organics diversion in recent years, forecasting 2025 diversion rates is difficult. Outreach and contamination monitoring will play a role in meeting the 75% percent reduction goal.

F10. The current procurement requirements mandated by SB 1383 are unrealistic and likely unachievable by most jurisdictions.

The City of Costa Mesa agrees with the finding. The demographics of Costa Mesa pose a challenge to the City meeting its procurement target due to the high number of multifamily properties and limited space; however, every attempt will be made to do so.

Below is the City of Costa Mesa status on recommendations made within the Talking Trash: Recyclables and Organic Waste, dated June 11, 2024.

RECOMMENDATIONS

R1. All jurisdictions should expedite the acquisition and distribution of residential containers that meet the CalRecycle standardized colors. Additionally, until the compliant containers can be distributed, all jurisdictions should ensure the distribution of labeling for non-compliant containers that explain the current SB 1383 requirements applicable to their jurisdiction by June 30, 2025.

The recommendation will be implemented as CMSD has started the roll-out of its three-container system by asking residents to submit preferred cart sizes. By the end of 2024, residents will have SB-1383 compliant recycling (blue lid) containers and organics (green lid) containers. Mixed-waste containers will be relabeled as landfill containers during the three-cart rollout (October - December 2024). Non-functional legacy landfill (mixed-waste) containers will be replaced with SB-1383 compliant (black lid) containers as residents request replacements. The District has not yet determined a deadline to replace any remaining legacy containers (non-compliant color) still in circulation.

R2. By December 31, 2024, all jurisdictions should ensure their waste hauling agreements are in compliance with State statute so that haulers may be designated to perform certain required tasks but are not improperly delegated overall responsibility for compliance. Additionally, all jurisdictions should ensure that any fines collected by a hauler are forwarded to the jurisdiction.

The recommendation has been implemented. The City of Costa Mesa updated its franchise waste haul agreements to align with State mandates. These updated agreements went into effect January 2022.

Costa Mesa Sanitary District updated its franchise waste hauler agreement, effective January 2023, to align with State mandates. If CMSD elects the franchise waste hauler to collect contamination fees, 80% of the revenue will be forwarded to CMSD. Any administrative fines would be issued by and retained by CMSD.

R3. The OCGJ recommends that all jurisdictions utilize a dedicated waste and recycling enterprise fund for collection of fines for non-compliance with SB 1383 by December 31, 2024.

The recommendation will not be implemented because it is not warranted. In the event fines are assessed, Costa Mesa will not have a specific fund dedicated to the collection of fines for non-compliance, but will track and monitor revenue generated by fines.

If CMSD opts to assess fines for residential customers, fine revenue will be placed into CMSD's Solid Waste Fund, which is considered an enterprise fund.

R4. By December 31, 2024, all jurisdictions should diversify the methods and media used for education and outreach to include, among others, various social media platforms, emails to residents, newspaper, television, flyer mailings, community events, and appearances at other public gatherings.

The recommendation has been implemented. The City of Costa Mesa provides print and electronic education materials via hauler contracts, public website, social media, and outreach events, such as its annual Earth Day event.

CMSD residential customers receive outreach via the District's webpage, flyers, postcards and letter mailings, Mesa Water District bill inserts, social media, emails to subscribers, press releases, newsletters, CMSD's annual Compost Giveaway & Shredding Event and Eco Expo, booths at community events, and town hall meetings.

R5. By December 31, 2024, and in order to gauge the effectiveness of their education and outreach efforts, all jurisdictions should develop new methods to engage residents directly to help determine their awareness of the requirements associated with SB 1383, such as surveys, online quizzes, and door-to-door polling.

The City implemented education and outreach programming utilizing diverse methods. We believe further actions, such as contamination notices and related outreach material, will prove effective in raising awareness.

CMSD conducts a biennial Community Survey. The most recent survey conducted in 2023 assessed residents' awareness of SB 1383, how often residents put food waste into their organics cart, if they think separating organic waste to reduce greenhouse gas emissions is important, and if they support the implementation of the Three-Cart Collection System. The District plans to continue assessing these topics in the 2025 survey. CMSD plans to continue exploring new methods of outreach and education. The 2023 survey results, along with past survey results, are available for public viewing on CMSD's website at:

https://www.cmsdca.gov/news_publications/customer_survey.php.

R6. By June 30, 2025, the OCGJ recommends that all jurisdictions participate in the OCW&R-led efforts to develop a coordinated county-wide approach to the organics recycling infrastructure and programs as well as procurement requirements associated with SB 1383, working towards creating circular economy as a long-term goal.

The recommendation has been implemented. A Costa Mesa City representative attends all meetings and discussions hosted by OC Waste & Recycling. In addition, a CMSD representative attends all meetings and discussions hosted by OCW&R.

R7. By December 31, 2024, the Orange County Board of Supervisors and all Orange County cities should lobby appropriate members of the State Legislature and/or CalRecycle to revise the organic waste diversion targets to better reflect Orange County's waste amounts, revise the jurisdictions' procurement requirements to better represent the limited options currently available for procurement, the jurisdictions' varying populations, population densities, and geographic size, and to delay associated enforcement actions by the State.

The recommendation has not yet been implemented but will be considered as City staff develops its legislative priorities for 2025.

ALTERNATIVES:

The City Council may decline to approve the proposed responses. However, failure to provide responses by the September 10, 2024 deadline will result in violation of California Penal Code Sections 933 and 933.05. Staff does not recommend this option. The City Council could propose modifications to the responses. Staff will incorporate City Council recommendations in the City's response to the OC Grand Jury Report.

FISCAL REVIEW:

There is no fiscal impact to the City for the approval of the recommended action.

LEGAL REVIEW:

The City Attorney's Office has reviewed the draft responses and approves them as to form.

CITY COUNCIL GOALS AND PRIORITIES:

This item supports the following City Council Goal:

- Maintain and Enhance the City's Infrastructure, Facilities, Equipment, and Technology
- Advance Environmental Sustainability and Climate Resiliency

CONCLUSION:

Staff recommends the City Council:

Approve the draft responses to Findings 1-9 and Recommendations 1-7 in the OC Grand Jury Report titled "Talking Trash: Recyclables and Organic Waste."



ORANGE COUNTY GRAND JURY

700 CIVIC CENTER DRIVE WEST • SANTA ANA, CALIFORNIA 92701 • 714/834-3320
www.ocgrandjury.org • FAX 714/834-5555

June 5, 2024

CONFIDENTIAL

The Honorable John Stephens
 City of Costa Mesa
 77 Fair Drive
 Costa Mesa, CA 92626

Dear Mayor Stephens:

Enclosed is a copy of the 2023-2024 Orange County Grand Jury report Talking Trash: Recyclables and Organic Waste. Pursuant to *Penal Code* 933.05(f), a copy of the report is being provided to you at least two working days prior to its public release. Please note that under that subsection, "No officer, agency, department, or governing body of a public agency shall disclose any contents of the report *prior to the public release of the final report.*" (Emphasis added.) It is **required** that you provide a response to each of the findings and recommendations of this report directed to your office in compliance with *Penal Code* 933.05(a) and (b), a copy is enclosed.

Please distribute this report to your governing body.

For each Grand Jury recommendation accepted and not implemented, provide a schedule for future implementation. In addition, by the end of March of each subsequent year, please report on the progress being made on each recommendation accepted but not completed. These annual reports should continue until all recommendations are implemented.

Please mail the response to the recommendations to Maria Hernandez, Presiding Judge of the Superior Court, 700 Civic Center Drive West, Santa Ana, CA 92701, with a separate copy mailed to the Orange County Grand Jury, 700 Civic Center Drive West, Santa Ana, CA 92701, no later than **90** days after the public release date, **June 11, 2024**, in compliance with *Penal Code* 933, copy enclosed. The due date then is **September 10, 2024**.

Should additional time for responding to this report be necessary for further analysis, *Penal Code* 933.05(b)(3) permits an extension of time up to six months from the public release date. Such extensions should be advised in writing, with the information required in *Penal Code* 933.05(b)(3), to the Presiding Judge of the Superior Court, with a separate copy of the request to the Grand Jury.

We tentatively plan to issue the public release on **June 11, 2024**. Upon public release, the report will be available on the Grand Jury website at www.ocgrandjury.org.

Very truly yours,

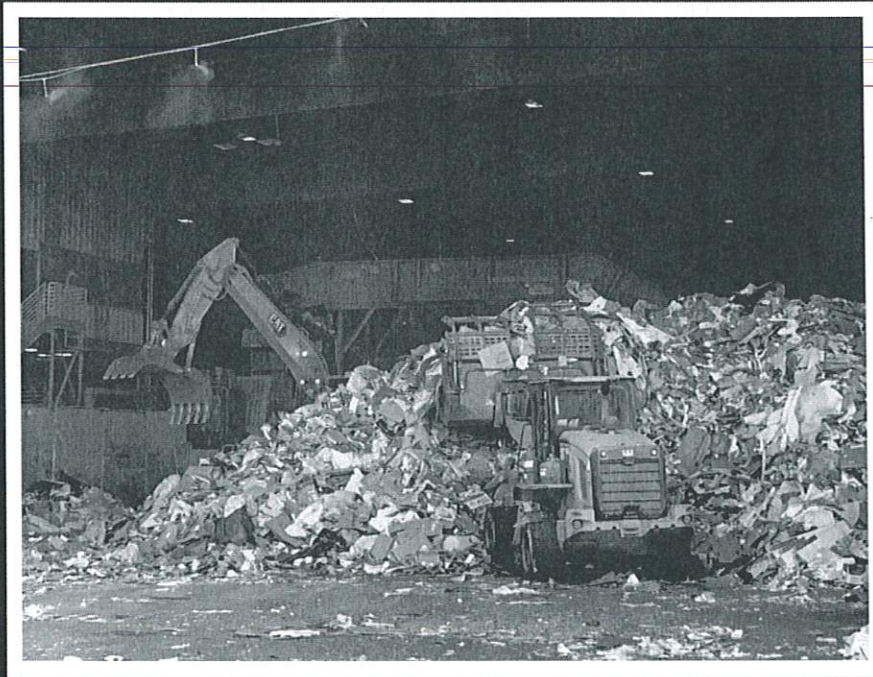
A handwritten signature in blue ink that reads "Margaret Riley" followed by a stylized flourish.

Michael J. Verrengia, Foreperson
 2023-2024 ORANGE COUNTY GRAND JURY

MJV:jm

Enclosures: Grand Jury Report
 Penal Code 933, 933.05

Cc: Lori Ann Farrell Harrison, City Manager



Talking Trash: Recyclables and Organic Waste



GRAND JURY 2023-2024

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SUMMARY

In 2016, the State of California enacted Senate Bill (SB) 1383, requiring counties, cities, and other organizations responsible for waste collection to coordinate with their residents to divert organic waste, including food scraps, from the landfill waste disposal stream. Another provision makes jurisdictions responsible for procuring a quantity of the recovered organic waste products resulting from the diversion. The 2023-2024 Orange County Grand Jury (OCGJ) investigated how Orange County jurisdictions are complying with the requirements and goals of SB 1383 that impact single-family residential units.

The investigation revealed that the approaches to meeting SB 1383's requirements vary greatly from jurisdiction to jurisdiction. The majority of Orange County jurisdictions have not yet distributed residential waste containers that meet the SB 1383 standardization requirements, leaving outdated labeling/embossing in place. Education and outreach have not yet taken place at all in some jurisdictions. Even when information has been disseminated in other jurisdictions, the methods disproportionately favor intermittent paper mailings. Also, the State's unrealistic targets for the procurement of recycled organic waste products do not account for a jurisdiction's population density or geographic size, which frequently makes them extremely difficult to meet.

The local enforcement stage of SB 1383 started on January 1, 2024. However, the majority of Orange County jurisdictions are unlikely to meet the SB 1383 targeted seventy-five percent reduction in the amount of organic waste sent to landfills by January 2025.

The OCGJ concludes there is a clear need to improve education and outreach efforts, develop enforcement mechanisms and processes, and to coordinate and collaborate among all jurisdictions to collectively address the challenges and to achieve the goals and targets of SB 1383.

BACKGROUND

Organic waste comprises more than a third of the waste stream in California and includes green waste, wood, food waste, and fibers such as paper and cardboard. When left to decompose in landfills, organic waste releases large amounts of methane gas which is harmful to the environment (CalRecycle, 2024). In September 2016, SB 1383 set reduction targets in a statewide effort to reduce emissions of Short-Lived Climate Pollutants (SLCP) including methane. Simply put, this required all statewide jurisdictions to implement mandatory organic waste collection and recycling to divert organic waste from landfills. Another key benefit of the diversion of organic and other recyclable material from landfills is the preservation of overall landfill capacity.

In 2014, the State conducted random sampling of twenty-six landfills, Material Recovery Facilities (MRF), and Transfer Stations located in twenty-one of California's fifty-eight counties (none in Orange County). The results were used to establish the baseline for

the required reduction in organic waste destined for landfills. SB 1383 then set goals to reduce organic waste sent to landfills below the 2014 baseline by fifty percent no later than January 1, 2020, and seventy-five percent by January 1, 2025. However, despite the law's requirements, the amount of organic waste sent to landfills statewide actually increased by twenty-three percent above the 2014 baseline (Little Hoover Commission, 2023).

SB 1383 requires all jurisdictions to memorialize the bill's requirements in their municipal codes and ordinances no later than January 1, 2022. One of the results of these changes is that each jurisdiction had to amend or renegotiate their waste haulers' franchise agreements to incorporate the new requirements.

In accordance with SB 1383, as of January 1, 2024, all jurisdictions (and therefore all waste producers) will be subject to enforcement, including monetary fines. While SB 1383 has a myriad of requirements for commercial as well as residential waste producers, the OCGJ narrowed its investigation to the impacts associated with local jurisdiction compliance with SB 1383 on Orange County residents. This report focuses on the specific requirements associated with SB 1383, the local actions taken so far to meet those requirements, the success of those actions and how they are measured, local agency outreach and education efforts, and the challenges that remain for the County of Orange and the county's thirty-four cities.

REASON FOR THE STUDY

The organics diversion mandate under SB 1383 began to take effect in California on January 1, 2022. This means that jurisdictions in California were required to implement programs for the separation and diversion of organic waste, including food scraps, from landfill disposal. The actual enforcement of this requirement started on January 1, 2024. The OCGJ's intent was to take a closer look at how Orange County jurisdictions are responding to this mandate, their successes and challenges, and the impact of this new requirement on the Orange County residents.

The OCGJ initially focused on two questions:

- What actions have Orange County jurisdictions taken to implement organics collection for their residential customers, and how do they measure the success of these actions?
- Given that one key to the success of SB 1383 is public participation, have local jurisdictions conducted sufficient outreach and education?

While investigating the answers to these questions, the OCGJ discovered additional information about Orange County recycling and waste management that is notably relevant to this topic and is included in this report.

METHOD OF STUDY

The OCGJ toured several local waste facilities, including:

- The Frank R. Bowerman landfill in Irvine, owned by the County of Orange and managed and operated by OC Waste & Recycling (OCW&R). This enabled the OCGJ to gain a better understanding of the refuse collection and disposal process.
- The MRF operated by Rainbow Environmental Services, located at 17121 Nichols Lane in the city of Huntington Beach. This facility was previously decommissioned then reopened on short notice when the newer Anaheim MRF was destroyed by fire in February 2022.
- The MRF operated by Waste Management, located at 2050 North Glassell Street in the city of Orange. This tour allowed the OCGJ to gain information on the operation of a newer, larger MRF.

The OCGJ reviewed SB 1383 and related documents, training videos, public meeting recordings, and presentations available on the CalRecycle website.

The OCGJ reviewed online publications from various organizational and media sources related to trash hauling and general operations of the waste and recycling industry and conducted fourteen interviews with representatives from the waste industry, local jurisdictions, and the State's enforcement agency.

The OCGJ also disseminated a nine-question survey to each of the thirty-four Orange County cities and the County to obtain their perspectives on local implementation of SB 1383. Follow-up interviews were conducted with representatives of the same ten cities included in the 2019-2020 OCGJ report "OC Recycling: Doing it the Right Way" and the County for additional insight into each jurisdiction's implementation of, and compliance with, SB 1383's requirements.

The OCGJ utilized the same sampling of ten cities as well as the County of Orange (for its unincorporated areas) because they represent different geographical areas of the county (from Brea in the north to Dana Point in the south) and reflect a variety of larger cities by population and/or land area (e.g., Santa Ana, Irvine) and some that are smaller (e.g., Buena Park, Mission Viejo).

Individual members of the OCGJ also observed the types and colors of carts, their labeling, and their contents at various locations throughout the county. These observations were documented via photographs to illustrate dissimilar details and nuances among jurisdictions and haulers.

INVESTIGATION AND ANALYSIS

Overview of SB 1383

SB 1383 set ambitious targets for reducing organic waste disposal in landfills from the 2014 baseline: fifty percent by January 2020 (which was not met), and seventy-five percent by January 2025. Organic waste comprises more than half the waste stream in California and includes green waste, wood, food waste, and fibers such as paper and cardboard. When left to decompose in landfills, organic waste releases large amounts of methane gas. The overall goal of the bill is to reduce greenhouse gas emissions by at least four million metric tons per year by 2030 by requiring that “organics” going to the landfill be reduced to 5.7 million metric tons by 2025.

This groundbreaking legislation is a statewide effort to reduce Short-Lived Climate Pollutants (SLCPs). SLCPs such as methane, black carbon, tropospheric (ground level) ozone, and hydrofluorocarbons remain in the atmosphere for a shorter time than carbon dioxide but have a much stronger warming effect. Therefore, reducing SLCPs has the potential to significantly slow global climate change in the near term (California Air Resources Board, 2024). The State’s efforts and policies are intended to substantially increase the rate of organic material diversion away from landfills. This diversion goal is meant to move the State towards the desired “circular economy” where organic waste is collected, converted into new materials or products, and reused for other purposes.

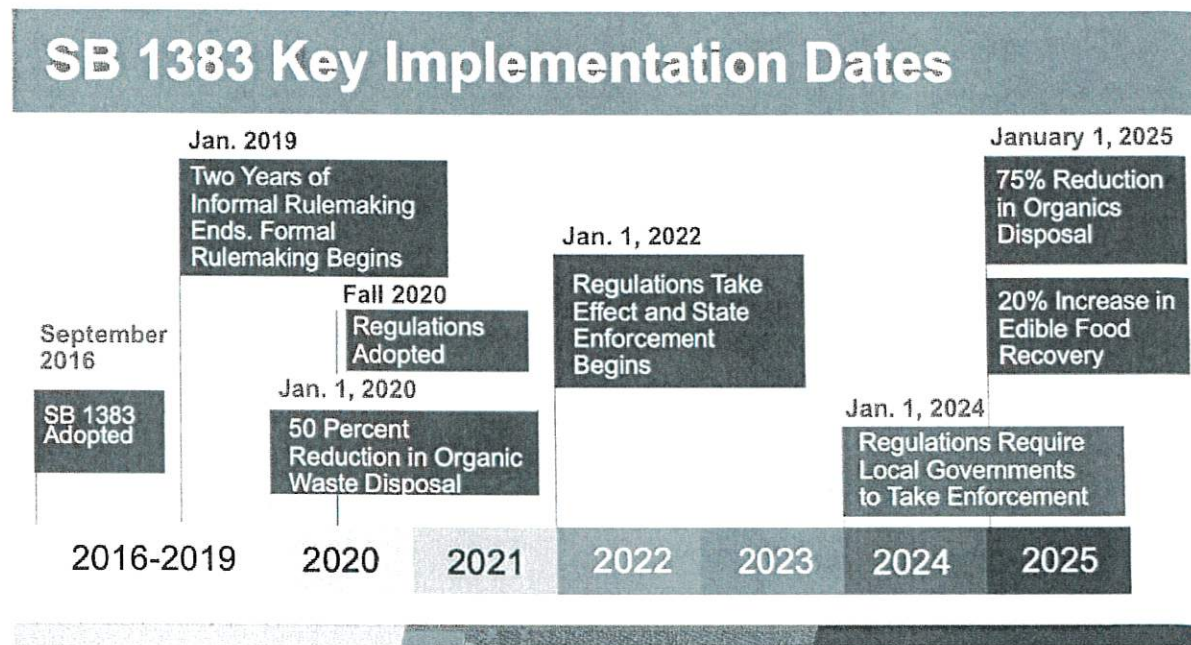


Figure 1

Source: CalRecycle

How Are Jurisdictions Impacted by SB 1383?

In this context, a jurisdiction may be a city, county, city and county, or special district that collects solid waste.

The jurisdictions' responsibilities specified by SB 1383 relating to residential units include (CalRecycle, 2024):

- Providing organics collection services to all residents
- Conducting education and outreach to community
- Procuring recyclable and recovered organic products
- Securing access to recycling capacity
- Monitoring compliance and conducting enforcement

SB 1383 contains a significant amount of detail regarding the types of allowable collection programs. Critical requirements are listed below:

- Each resident must subscribe to an organic waste collection service that either “source-separates” the waste by using separate bins or transports all unsegregated waste to a facility that recovers seventy-five percent of the organic content collected.
- SB 1383 requires one of the following collection options:
 - A one-can system – all contents are transported to a facility that recovers seventy-five percent of the organic content.
 - A two-can system – at least one of the containers (whichever includes organic waste and garbage) must be transported to a facility that recovers seventy-five percent of the organic content.
 - A three-can system – organic waste is required to be source separated (recyclables in blue, food and yard waste in green).

Jurisdictions must also conduct education and outreach to all residents regarding collection service requirements, contamination standards, self-haul requirements, and overall compliance with SB 1383. Educational material must be linguistically accessible to non-English speaking residents.

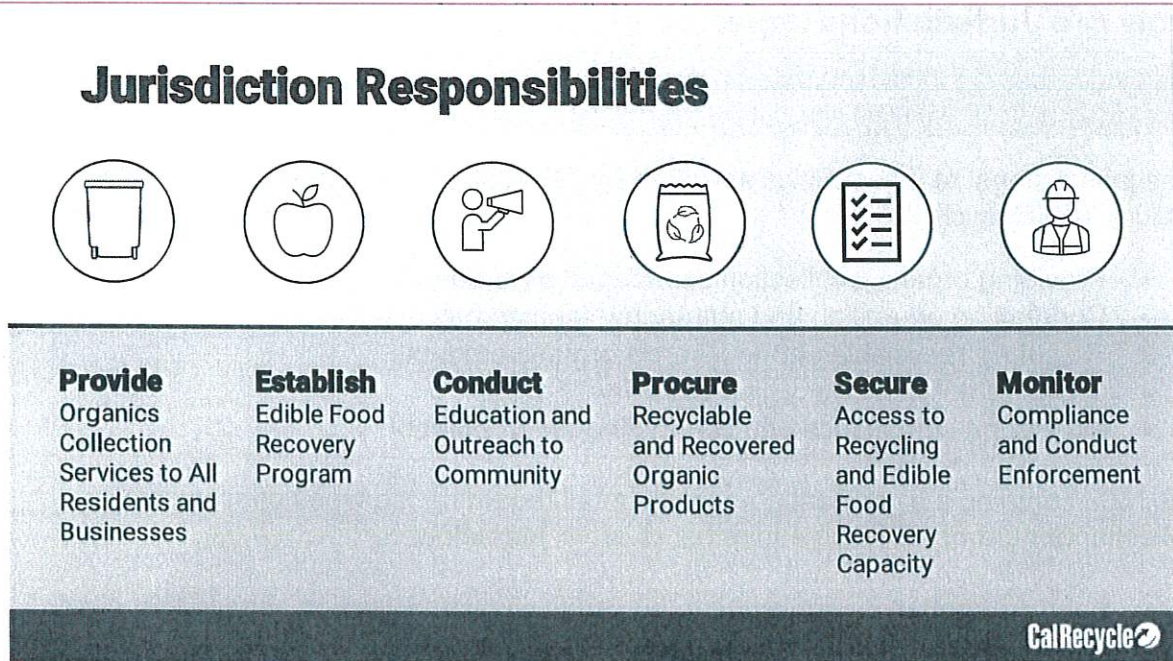


Figure 2

Source: CalRecycle

Orange County Jurisdictions' SB 1383 Implementation Status

How do jurisdictions assess their own progress?

The OCGJ sent a ten-question survey to thirty-four cities and OC Waste & Recycling (OCW&R) and received thirty-one responses. The purpose of the survey was to verify how these agencies measure their progress on the implementation of various aspects of SB 1383. Survey participants were asked to mark their progress on the scale from 1 (significant challenges) to 5 (excellent) for each of the questions. The survey questions as well as more detailed information on responses and follow-up comments and explanations is included in Appendix A.

Main Implementation Issues

To follow-up on the survey, the OCGJ conducted a series of interviews with jurisdictions to learn more about their specific challenges in implementing SB 1383, successes, concerns, and solutions to common issues. The eleven jurisdictions interviewed were the same included in the 2019-2020 OCGJ report "OC Recycling: Doing it the Right Way" representing different geographical areas of the county and a variety of populations and/or land areas. Several themes emerged from the interviews:

- **Container Standardization**

SB 1383 requires standardized colors for residential and business curbside containers (green for organics, blue for recyclables, and grey for trash). It also requires container

Talking Trash: Recyclables and Organic Waste

labels on new containers. The color scheme for collection containers must meet either of these requirements:

- The lid of the container is the correct designated color
- The body of the container is the correct designated color, and the lid is also the same specified color or may be gray or black

Out of the eleven jurisdictions interviewed, only two have distributed containers that meet the State requirements. However, jurisdictions are not required to replace containers prior to January 1, 2036. Most are replacing their containers gradually over time. The variety of colors used by various jurisdictions contributes to the confusion and potentially increases contamination rates. In many cases, existing containers include embossed information that is no longer accurate or labels with outdated information (see examples below).

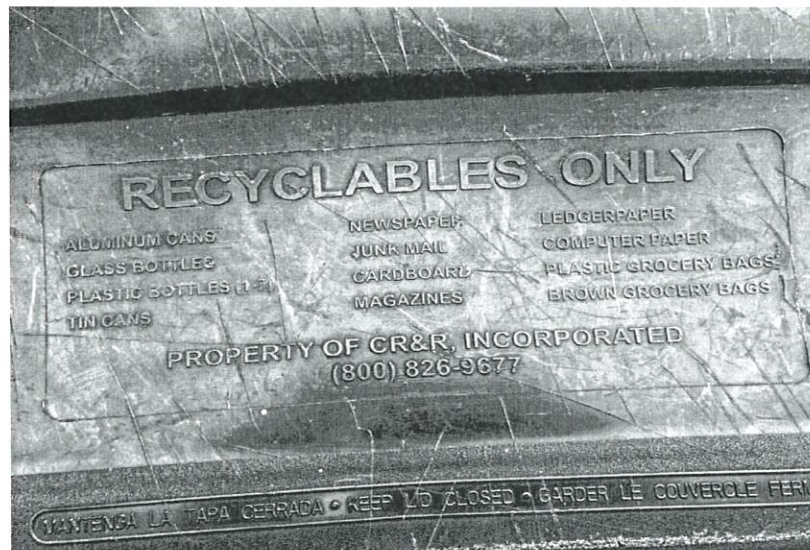


Figure 3. The embossed information wrongly directs residents to put plastic grocery bags in the recycling container. Photo: OCGJ

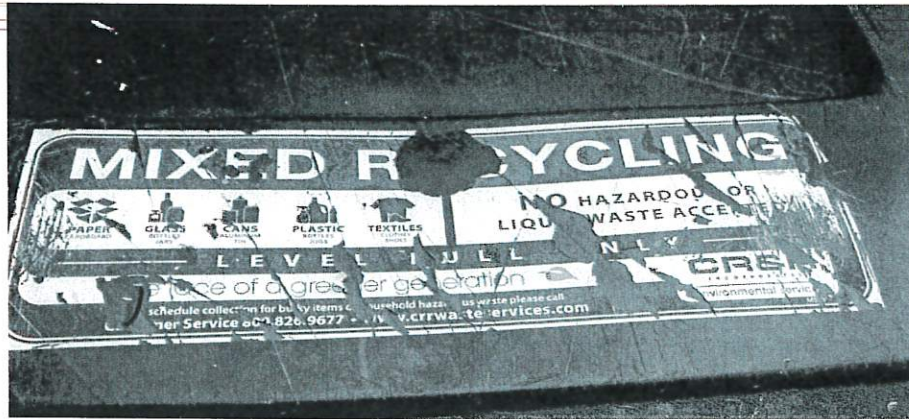


Figure 4. The old sticker incorrectly directs residents to put shoes, clothes, and other textiles in the recycling container. Photo: OCGJ



Figure 5. Outside label on the 'green waste' container contains no information regarding food scraps. Photo: OCGJ

The following two images of the "Food Scrap" container (outside and inside) were taken by an OCGJ member in a public park. The contents of the container, which contains unallowable items, such as plastic packaging, further underscores the need for clear signage and more public education.



Figure 6. Lid of the “Food Scraps” container in a public park from November 2023 showing correct information. Photo: OCGJ



Figure 7. Contents of the same “Food Scraps” container in the public park from November 2023. Photo: OCGJ

Another standardization issue is that what is accepted for recycling varies among the jurisdictions and haulers.

For example, some allow palm fronds into organics bins while others do not, and some allow food scraps to be deposited in compostable bags while others do not, further adding to the confusion.

- **Funding and Enforcement**

While conducting interviews with the Orange County jurisdictions, the OCGJ learned that there are two approaches to funding their solid waste management programs (including SB 1383 implementation activities): (1) using an enterprise fund; and (2) using the general fund. Using an enterprise fund ensures that all revenues generated by the solid waste management program are reinvested in that program rather than being diverted into other needs of the jurisdiction.

Even though enforcement activities were effective starting January 1, 2024, jurisdictions only conduct inspections and spot-checks of residential customers' organic and trash containers using either "lid flipping" or smart trucks that record the contents of the containers as they are being emptied. Haulers (via contracts) have been designated to perform these functions. If residents are found to be in violation, the first step is to provide them with additional educational materials and information. If the violation persists, warning notices are issued. The final step is issuing fines. *The penalties imposed by a jurisdiction are based on Government Code Sections 53069.4, 25132, and 36900, and are as follows:*

- *First violation: \$50-\$100 per violation;*
- *Second violation: \$100-\$200 per violation;*
- *Third or subsequent violation: \$250-\$500 per violation*

Penalties increase when an entity violates the same requirement within a one-year period (CalRecycle, 2024).

While jurisdictions have yet to collect fines, some have not even established the collection protocol or the account where collected fines will be deposited.

- **Education and Outreach**

Clearly, there is a need for more education and outreach. The success of SB 1383 implementation and the ability to reach the CalRecycle goal of a seventy-five percent diversion rate depend largely on residents' compliance and behavior change. Education and outreach is the first and most critical component of that change.

"The accuracy of consumer disposal decisions directly influences the performance of the recycling system." (Christian Blanco C. S., 2023)

Most interviewed jurisdictions collaborate with haulers to create and distribute educational materials. Others also use consulting services for that purpose. Outreach strategies, the number of outreach events and communications, as well as participation rates vary greatly from jurisdiction to jurisdiction, but most rely heavily on paper mailings, which may not be the most effective way of reaching the public. If combined with junk mail, the educational material may go unread into a recycling bin, if not the trash. Frequently, the information flyers are mailed together with hard-copy utility bills, which may overlook those who subscribe to electronic billing.

As part of their outreach/education campaigns, some of the interviewed jurisdictions purchased kitchen pails for recycling food scraps to distribute to some or all households. These purchases were funded through SB 1383 assistance grants from CalRecycle, which most of the Orange County jurisdictions applied for and received.

The OCGJ reviewed a sampling of educational materials being distributed by several cities and concluded that the quality of these materials can range from highly informative publications with accessible and attractive designs to flimsy “newsletters” issued by haulers for their respective jurisdictions with graphics and instructions that are barely legible.

Paper mailings have their role but represent only one of many possible outreach methods. The recycling industry itself is embracing technological advancements, including the use of Artificial Intelligence (AI), in waste sorting, predicting trends, the use of smart hauler trucks and smart bins, as well as in outreach and education (Recycling Inside, 2023).

According to Recycling Inside, “AI can play a pivotal role in educating the public about recycling practices. Chatbots and virtual assistants powered by AI can provide real-time guidance on waste disposal, recycling guidelines, and collection schedules. By engaging with individuals through personalized interactions, AI-driven platforms can raise awareness, promote recycling behavior, and facilitate proper waste management at the consumer level.”

According to research by the Recycling Partnership, “People have a misconception that what is recyclable doesn’t change. They are recycling incorrectly in some cases because they are basing decisions on past guidelines and recycling knowledge such as believing milk cartons are wax coated and should not be recycled, or envelopes with windows should not be recycled. They think they know what they need to know about recycling because that’s what they’ve always known.” (Center for Sustainable Behavior & Impact, 2022)

More than seventy percent of people surveyed wish there was an easier way to get information on what can and can’t be recycled in their community. (Center for Sustainable Behavior & Impact, 2022)

Determining the success of their outreach efforts is another challenge that Orange County jurisdictions are facing in the near future. Most jurisdictions need to determine how to measure outreach efforts, as the enforcement started January 1, 2024. Having common standards and methods to measure the success of public education and compliance, and regularly posting this information on the jurisdiction's website related to SB 1383 goals, will give the public an incentive to comply with SB 1383. However, in the interim, there is a significant amount of visual evidence regarding the level of residents' confusion as evidenced by the photo below. The photo is the amount of waste in the first five hours of a workday that was improperly included in residential recyclable containers and delivered to a MRF, where it had to be hand sorted out.



Figure 8: Waste improperly included in recyclable containers Photo: OCGJ

• Procurement of Recovered Organic Waste Products

Representatives from most of the jurisdictions the OCGJ interviewed indicated that meeting the procurement requirements of SB 1383 is challenging. This is due to their jurisdictions' State-calculated procurement targets far exceeding the quantity of recovered organic waste products that they can utilize.

To comply with SB 1383, jurisdictions must procure recovered organic waste products to meet an annual procurement target. Recovered organic waste products include:

- Compost
- Mulch

- *Renewable energy (transportation fuel, electricity, and gas for heating) from anaerobic digestion*
- *Electricity from biomass conversion*

Each jurisdiction's procurement target is calculated by multiplying its population, as reported by the California Department of Finance, by the per capita procurement target (0.08 tons of organic waste per California resident per year). The resulting procurement target can then be multiplied by product conversion factors (as established by the regulations) to determine the annual procurement requirements for recovered organic waste products.

Source: CalRecycle

As one of the survey respondents stated:

"Meeting the annual procurement target presents a significant challenge. In addition, the formula used to calculate a jurisdiction's procurement target does not account for density or square miles. Denser areas equal less space to distribute mulch or compost. More people equals higher procurement target."

As a result, a number of jurisdictions with high procurement targets had to use grant funding to purchase the required amounts of compost/mulch. Because the required target procurement amounts exceeded what they can utilize in their communities, they had to distribute the compost/mulch (via hauler) to agricultural communities outside Orange County. They also admitted that without grant funding, meeting the targets will be even more difficult and will require diverting resources from their own communities or raising rates.

The regulations limit procurement to "use or giveaway, and do not include the sale of products [14CCR Section 18993.1(e)(1)] so jurisdictions cannot sell the procured recovered organic waste products, such as compost, via a third party." (CalRecycle, 2022)

Renewable Natural Gas (RNG) is one of the products that can be counted towards meeting a jurisdiction's procurement goal. Haulers operating in Orange County, including Republic, CR&R, and Waste Management, utilize trucks powered by RNG. However, in most cases the RNG they use is not purchased from an approved facility so it cannot be counted towards the required procurement goal. CalRecycle maintains a [list of anaerobic digestion facilities in California](#) to help jurisdictions find renewable gas that may be eligible towards their SB 1383 procurement obligations.

Currently, this list contains only six facilities that produce Compressed Natural Gas (CNG), which in this case is presumably compressed RNG. None of these facilities is located in Orange County. The closest are located in Riverside County (Perris), San Bernardino County (Victorville and Rialto), and San Diego County (Escondido).

The issue of RNG is further complicated by the fact that some sewage treatment plants also produce RNG, which (according to CalRecycle) is mostly ineligible. Below is the

information included in “Frequently Asked Questions” on RNG on the CalRecycle website (CalRecycle, 2022):

Renewable gas derived solely from sewage is ineligible for meeting the procurement target because a Publicly Owned Treatment Work (POTW) is not a solid waste facility and therefore not in the scope of the legislative intent of SB 1383. Sewage is also not typically destined for a landfill, so its use does not help achieve the landfill diversion goals.

However, Title 14 explicitly authorizes POTWs to accept food waste without a solid waste facility permit, making it functionally similar to incentivizing biomethane from a solid waste facility. Therefore, it is justifiable to allow the portion of renewable gas resulting from the digestion of food waste at POTWs to count toward the procurement targets, provided the POTW accepts food waste from specified facilities or operations [see 14 CCR Section 18993.1(h)(1)] and meets all other applicable regulatory requirements. For more information, please see the Final Statement of Purpose and Necessity (pages 178-180).

The issue of procurement difficulties encountered by California jurisdictions is mentioned in the Little Hoover Commission 2023 report on the implementation of SB 1383. The Commission recommended that “the state should expand the list of compliance pathways and products eligible to count toward a jurisdiction’s procurement requirements.” (Little Hoover Commission, 2023)

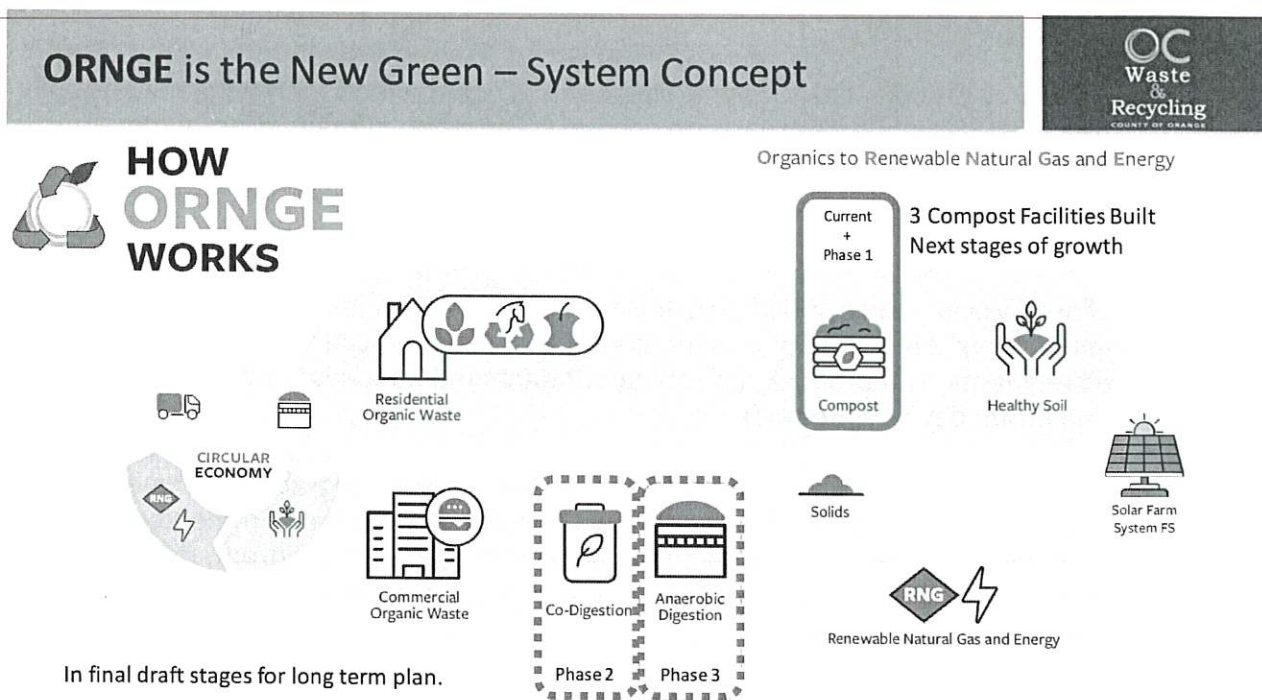
- **Coordination and Vision for the Future**

In a county with thirty-four cities and several other jurisdictions, coordination, collaboration, and sharing resources and best practices can be a challenge. The OCGJ learned that county-wide groups meet on a regular basis, including a waste management coordinators’ group, a haulers’ group, and a market development group. Additionally, the OCGJ learned that OCW&R has assumed a leadership role in positioning Orange County for a greener, more sustainable future.

OCW&R has a clear vision for a regional, county-wide approach to the implementation of SB 1383, which includes not only organics and edible food strategies, but also market creation and development, procurement and compliance, and regional standardization and collaboration.

The details of their vision are outlined in the 2024 presentation to the legislative group, which is available on the OCW&R website (OC Waste & Recycling, 2024).

The following slide has been taken from this presentation.



10

Figure 9. Circular economy concept for Orange County

Source: OCW&R

• Other Issues

Multi-family housing units: While not within the scope of this report, it should be noted that services to multi-family units still pose a significant challenge. Jurisdictions are required to provide organic waste collection to multi-family units. Many find it difficult to provide a three-bin source-separated service to these units due to limited space. Creative solutions, such as providing smaller organics containers or containers that are placed in a common area to serve multiple units, have been utilized by Orange County cities, but full compliance is difficult to achieve.

The cost of SB 1383 implementation: The Little Hoover Commission Report states that the gross cost of implementation was determined to be \$40 billion between 2019 and 2030. (CalRecycle, 2019) "About 5 percent of this figure represents soft costs (i.e. the work local jurisdictions must do to create organic waste programs, educate the public, and ensure health, safety, and quality control measures are met). The other 95 percent represents the cost of disposing of organic waste, including constructing infrastructure" (Little Hoover Commission, 2023). Most Orange County jurisdictions interviewed by the OCGJ indicated that they had to increase their residential and/or business waste collection rates to cover the cost of expanded services mandated by SB 1383.

COMMENDATIONS

- County of Orange, OC Waste & Recycling is commended for having successfully met SB 1383 mandates, developing new composting infrastructure, a model education and outreach program, moving towards robust and repurposing recycling programs, and developing gas-to-energy facilities to produce renewable energy.
- City of Mission Viejo, Solid Waste Program is commended for their proactive implementation of SB 1383 mandates, distributing compliant waste containers to all residents, and producing a robust outreach and education program using numerous delivery methods.
- City of Santa Ana Public Works, Trash and Recycling Program is commended for proactively revising their hauler contract to meet SB 1383 requirements, producing a notable and ongoing outreach and education program, distributing compliant waste containers to all residents, and fostering a highly collaborative relationship with their hauler.

FINDINGS

In accordance with California Penal Code Sections 933 and 933.05, the 2023-2024 Grand Jury requires responses from each agency affected by the findings presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation titled “Talking Trash: Recyclables and Organic Waste,” the 2023-2024 Orange County Grand Jury has arrived at the following principal findings:

Container Standardization

- F1. The majority of Orange County jurisdictions have not yet required their haulers to distribute residential containers that meet the CalRecycle standardized colors, leaving legacy and often incorrect or illegible labeling and embossing in place.

Funding and Enforcement

- F2. While a jurisdiction may not delegate its overall responsibility for compliance with State requirements to a hauler, some jurisdictions have designated the task of imposing and collecting fines from residents to the hauler in accordance with State law. However, not all jurisdictions are clear on who ultimately receives and retains the collected fines.
- F3. All jurisdictions will eventually start collecting fines from residents for non-compliance, but some have not yet determined whether the revenues will go into a waste and recycling enterprise fund or into the jurisdiction’s general fund.

Based on its investigation titled “Talking Trash: Recyclables and Organic Waste,” the 2023-2024 Orange County Grand Jury makes the following recommendations:

Container Standardization

- R1. All jurisdictions should expedite the acquisition and distribution of residential containers that meet the CalRecycle standardized colors. Additionally, until the compliant containers can be distributed, all jurisdictions should ensure the distribution of labeling for non-compliant containers that explain the current SB 1383 requirements applicable to their jurisdiction by June 30, 2025.

Funding and Enforcement

- R2. By December 31, 2024, all jurisdictions should ensure their waste hauling agreements are in compliance with State statute so that haulers may be designated to perform certain required tasks but are not improperly delegated overall responsibility for compliance. Additionally, all jurisdictions should ensure that any fines collected by a hauler are forwarded to the jurisdiction.
- R3. The OCGJ recommends that all jurisdictions utilize a dedicated waste and recycling enterprise fund for collection of fines for non-compliance with SB 1383 by December 31, 2024.

Education and Outreach

- R4. By December 31, 2024, all jurisdictions should diversify the methods and media used for education and outreach to include, among others, various social media platforms, emails to residents, newspaper, television, flyer mailings, community events, and appearances at other public gatherings.
- R5. By December 31, 2024, and in order to gauge the effectiveness of their education and outreach efforts, all jurisdictions should develop new methods to engage residents directly to help determine their awareness of the requirements associated with SB 1383, such as surveys, online quizzes, and door-to-door polling.

Procurement of Recovered Organic Waste Products

- R6. By June 30, 2025, the OCGJ recommends that all jurisdictions participate in the OCW&R-led efforts to develop a coordinated county-wide approach to the organics recycling infrastructure and programs as well as procurement requirements associated with SB 1383, working towards creating circular economy as a long-term goal.

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(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation, thereof.

Responses Required

Comments to the Presiding Judge of the Superior Court in compliance with Penal Code Section 933.05 are required from:

Findings – 90 Day Response Required

OC Board of Supervisors:	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
City Councils of:	
Aliso Viejo	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Anaheim	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Brea	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Buena Park	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Costa Mesa	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Cypress	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Dana Point	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Fountain Valley	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Fullerton	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10

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City Councils of:	
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Anaheim	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Brea	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Buena Park	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Costa Mesa	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Cypress	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Dana Point	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Fountain Valley	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Fullerton	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10

Talking Trash: Recyclables and Organic Waste

Garden Grove	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Huntington Beach	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Irvine	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
La Habra	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
La Palma	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Laguna Beach	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Laguna Hills	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Laguna Niguel	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Laguna Woods	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Lake Forest	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Los Alamitos	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Mission Viejo	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Newport Beach	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Orange	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Placentia	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Rancho Santa Margarita	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
San Clemente	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
San Juan Capistrano	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Seal Beach	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Stanton	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Tustin	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Villa Park	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
Westminster	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10

Talking Trash: Recyclables and Organic Waste

Yorba Linda	F1, F2, F3, F4, F5, F6, F7, F8, F9, F10
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Recommendations – 90 Day Response Required

OC Board of Supervisors:	R1, R2, R3, R4, R5, R6, R7
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City Councils of:

Aliso Viejo	R1, R2, R3, R4, R5, R6, R7
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Anaheim	R1, R2, R3, R4, R5, R6, R7
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Brea	R1, R2, R3, R4, R5, R6, R7
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Buena Park	R1, R2, R3, R4, R5, R6, R7
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Costa Mesa	R1, R2, R3, R4, R5, R6, R7
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Cypress	R1, R2, R3, R4, R5, R6, R7
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Dana Point	R1, R2, R3, R4, R5, R6, R7
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Fountain Valley	R1, R2, R3, R4, R5, R6, R7
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Fullerton	R1, R2, R3, R4, R5, R6, R7
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Garden Grove	R1, R2, R3, R4, R5, R6, R7
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Huntington Beach	R1, R2, R3, R4, R5, R6, R7
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Irvine	R1, R2, R3, R4, R5, R6, R7
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La Habra	R1, R2, R3, R4, R5, R6, R7
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La Palma	R1, R2, R3, R4, R5, R6, R7
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Laguna Beach	R1, R2, R3, R4, R5, R6, R7
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Laguna Hills	R1, R2, R3, R4, R5, R6, R7
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Laguna Niguel	R1, R2, R3, R4, R5, R6, R7
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Laguna Woods	R1, R2, R3, R4, R5, R6, R7
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Lake Forest	R1, R2, R3, R4, R5, R6, R7
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Los Alamitos	R1, R2, R3, R4, R5, R6, R7
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Mission Viejo	R1, R2, R3, R4, R5, R6, R7
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Newport Beach	R1, R2, R3, R4, R5, R6, R7
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Orange	R1, R2, R3, R4, R5, R6, R7
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Placentia	R1, R2, R3, R4, R5, R6, R7
Rancho Santa Margarita	R1, R2, R3, R4, R5, R6, R7
San Clemente	R1, R2, R3, R4, R5, R6, R7
San Juan Capistrano	R1, R2, R3, R4, R5, R6, R7
Seal Beach	R1, R2, R3, R4, R5, R6, R7
Stanton	R1, R2, R3, R4, R5, R6, R7
Tustin	R1, R2, R3, R4, R5, R6, R7
Villa Park	R1, R2, R3, R4, R5, R6, R7
Westminster	R1, R2, R3, R4, R5, R6, R7
Yorba Linda	R1, R2, R3, R4, R5, R6, R7

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GLOSSARY

AB	Assembly Bill
CalRecycle	California Department of Resources Recycling and Recovery

Talking Trash: Recyclables and Organic Waste

Circular Economy	Current economic models consist of acquiring materials, making them into products, and then those products become waste. A circular economy reduces material use, redesigns materials and products to be less resource intensive, and recaptures “waste” as a resource to manufacture new materials and products.
Compost	Compost is made from a variety of organic materials and is used to add nutrients and improve soil structure by mixing it into the soil.
Mulch	Mulch is typically made from a single material like straw, grass clippings, or wood chips and is spread on top of the soil to suppress weeds, retain moisture, regulate soil temperature, and protect plant roots.
MRF	Material Recovery Facility
OCGJ	Orange County Grand Jury
OCW&R	OC Waste & Recycling, a department of the County of Orange
Organic Waste	Solid wastes originated from living organisms and their metabolic waste products, and from petroleum, which contain naturally produced organic compounds, and which are biologically decomposable by microbial and fungal action into the constituent compounds of water, carbon dioxide, and other simpler organic compounds. Sometimes called biodegradable waste.
ORNGE	Organics to Natural Gas and Energy
POTW	Publicly Owned Treatment Work
Recycling	Using waste as material to manufacture a new product. Recycling involves altering the physical form of an object or material and making a new object from the altered material.
RNG	Renewable Natural Gas
SB	Senate Bill
SLCP	Short-Lived Climate Pollutants
Solid Waste	Discarded or abandoned materials. Solid wastes can be solid, liquid, semi-solid or containerized gaseous material.
Waste	Objects or materials for which no use or reuse is intended.

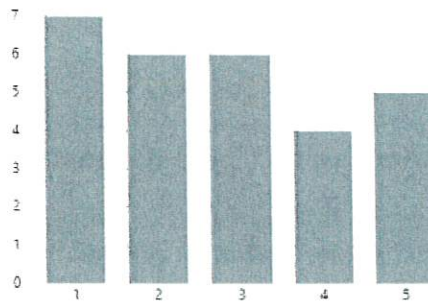
APPENDICES

APPENDIX A – SURVEY RESULTS

Survey participants were asked to mark their progress on a scale from 1 (significant challenges) to 5 (excellent progress) for each of the nine questions. On the following bar graphs, the 'x' axis (horizontal) depicts the rating scale from 1 to 5. The 'y' axis (vertical) represents the number of respondents that gave themselves a particular rating.

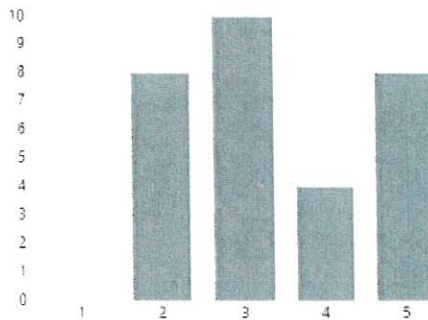
Was your city successful in meeting the goal of reducing organic waste disposal 50% by 2020?

2.79
Average Rating



Are you confident that your city will meet the goal of reducing organic waste 75% by 2025?

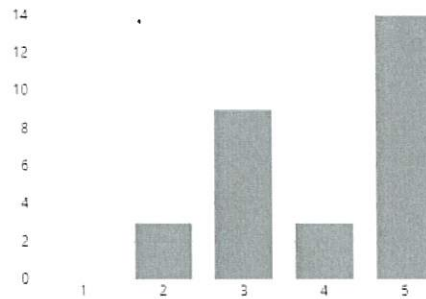
3.40
Average Rating



Talking Trash: Recyclables and Organic Waste

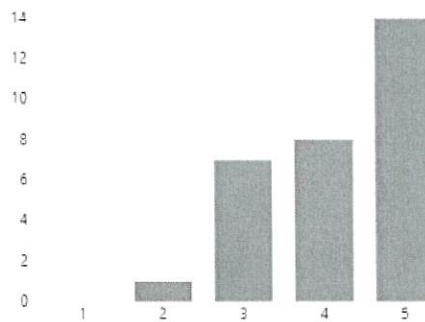
How would you rate your city's success in providing organic waste collection services to all residents?

3.97
Average Rating



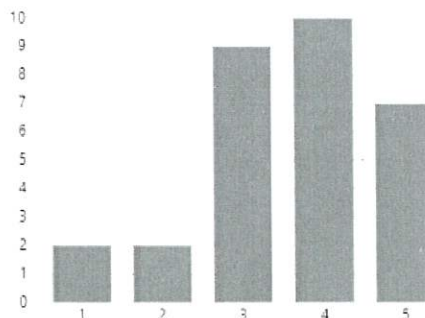
How successful is your city in recycling these organic materials?

4.17
Average Rating



How would you rate your confidence that city residents have been educated to have sufficient knowledge of the composting requirements (and associated restrictions) with the proper disposal of yard trimmings and food scraps?

3.60
Average Rating

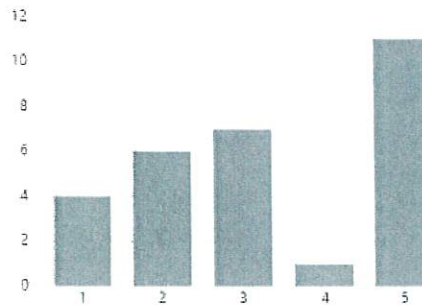


CONFIDENTIAL

Talking Trash: Recyclables and Organic Waste

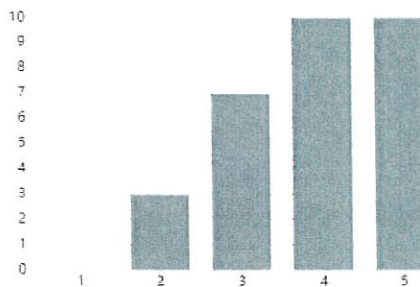
How successful was your city in procuring a quantity of recovered organic waste products annually?

3.31
Average Rating



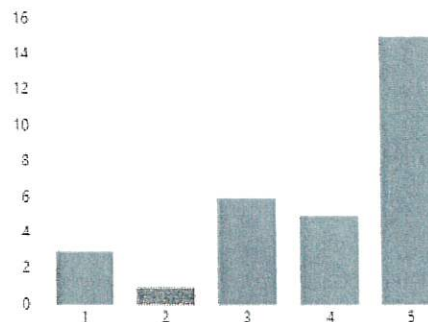
How would you rate your city's success in meeting the record-keeping requirements associated with SB1383, including but not limited to, inspection and enforcement, compliance reviews, investigation of complaints, and alleged violations?

3.90
Average Rating



How satisfied are you that your current agreements(s) with the hauler(s) that service your city are adequate to comply with all provisions of residential services required by SB1383?

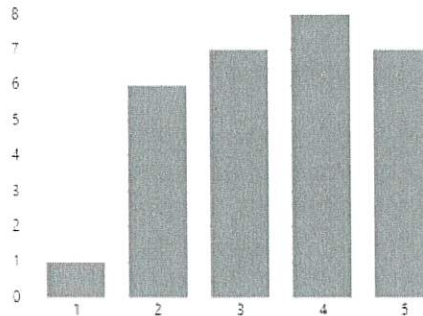
3.93
Average Rating



Talking Trash: Recyclables and Organic Waste

Are your city's current staffing levels that are, or will become, responsible for all aspects of full SB1383 compliance adequate to meet the tasks at hand?

3.48
Average Rating



The following examples of additional comments or explanations for their answers to the questions above were provided by survey respondents:

"Comprehensive implementation and effective management of SB 1383 would require additional resources and financial support. Despite our [jurisdiction's] proactive approach, including securing a new hauler/franchise agreement . . . that aligns with SB 1383's requirements and achieving near-complete adoption of these guidelines, there remains a widespread reluctance towards organic recycling. Ongoing educational efforts are in place and will continue; however, achieving significant behavioral change and compliance will require additional resources."

"[Our jurisdiction has] been working on compliance regarding SB 1383 with new franchise agreements, building out local infrastructure, meeting the SB 619 procurement targets, providing education and outreach, programs are being implemented to incrementally improve participation and increase diversion. We are increasing staffing levels to help with continued support for compliance as it requires increased effort for more inspections, waste characterizations, more education and outreach, further program development, market creation and development for compost and mulch, inspections, education, and enforcement support. Although meeting the 75% goal requires more heavy lifting, I anticipate we will see incremental improvements from our efforts."

"SB 1383 has proven to challenge the recycling habits of many throughout the [jurisdiction]. Through updated franchise agreements . . . and CalRecycle grant funding, we have been able to educate and encourage change in disposal habits as required via SB 1383. Additional outreach outlining the requirements and benefits of recycling organic material will be key in successfully transitioning residents and business owners to recycle organic material."

"[We] started a new franchise agreement after an RFP process . . . This allowed us to incorporate all hauler-related SB 1383 compliance activities and select an innovative

organic waste collection program. We are facing procurement challenges as energy related products are not readily available (particularly) RNG for collection vehicles. Staffing may prove to be a challenge, depending upon the amount of complaints, inspections, and enforcement actions we are required to address."

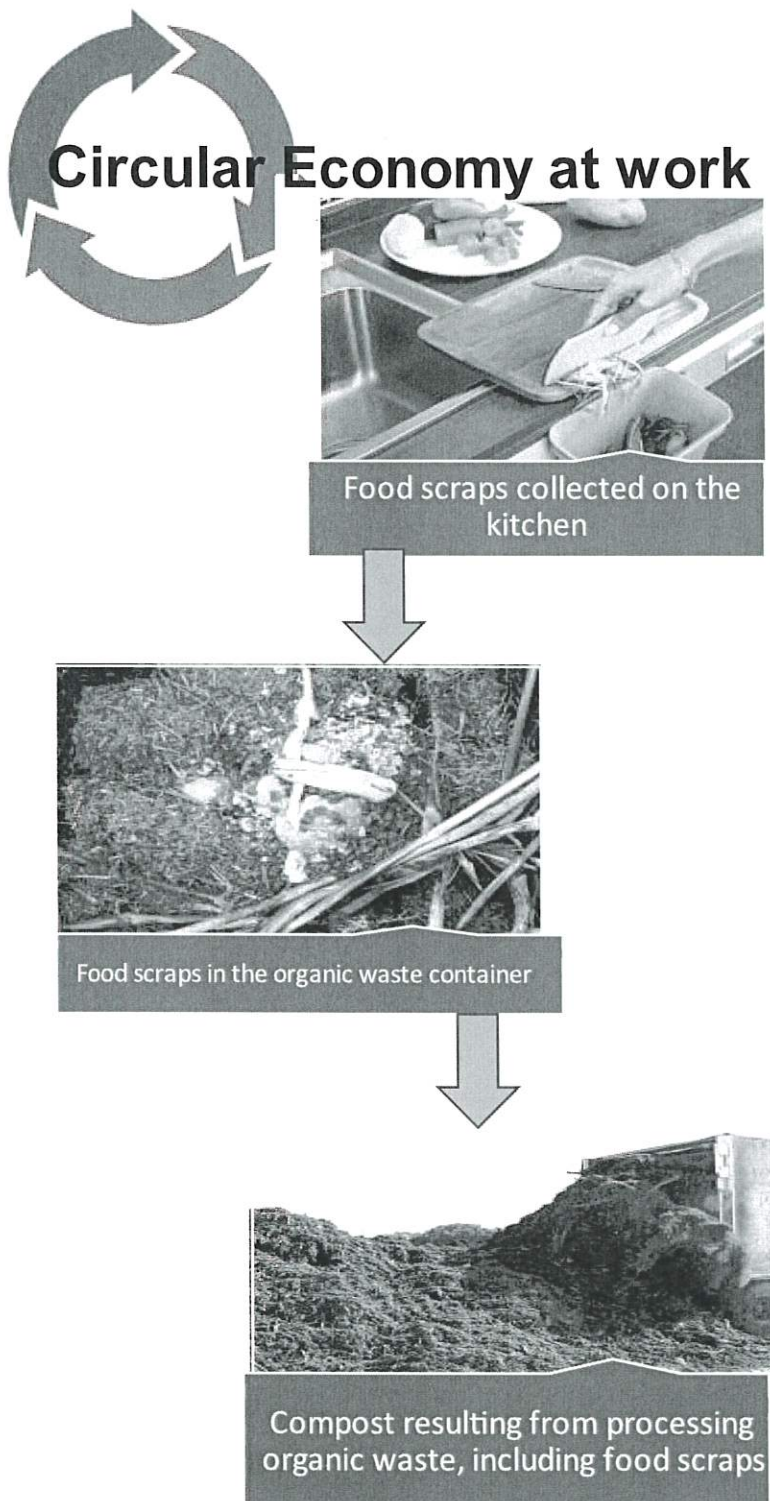
"Procurement [is our] biggest challenge."

"Our agreement with [the hauler] required that they implement 1383 compliant programming immediately for residential. It also includes education/outreach, contamination monitoring, purchase or compost/mulch on our behalf. Residential 3-cart was implemented on day one of the agreement. However, even with education, residents are hesitant to participate with food in the organics container due to not being allowed to use compostable bags and therefore attracting bugs and vermin."

"Meeting the annual procurement target presents a significant challenge. [The hauler's] collection trucks are fueled with RNG. The RNG purchased is California produced, though not SB 1383 qualified. In addition, the formula used to calculate a jurisdiction's procurement target does not count for density or square miles. Denser areas equal less space to distribute mulch or compost. More people equals higher procurement target."

"As with any new program where you need to change habits and behavior, it is going to a long-term project to get adults in the habit of separating their food scraps. State of CA should implement a statewide outreach campaign, and not just rely on local jurisdictions to provide all the outreach."

APPENDIX B – CIRCULAR ECONOMY STARTS IN YOUR KITCHEN



California Penal Code Sections §933 and §933.05

(Note: To reduce grand jury requests for additional response information, the grand Jury has bolded those words in §933.05 which should be appropriately included in a response.)

933. (a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.
- (b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.
- (c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.
- (d) As used in this section "agency" includes a department.

- 933.05. (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:
- (1) The respondent **agrees** with the finding.
 - (2) The respondent **disagrees wholly or partially** with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
- (1) The recommendation **has been implemented**, with a summary regarding the implemented action.
 - (2) The recommendation **has not yet been implemented, but will be implemented** in the future, with a **timeframe** for implementation.
 - (3) The recommendation **requires further analysis**, with an explanation and the scope and parameters of an analysis or study, and a **timeframe** for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation **will not be implemented** because it is not warranted or is not reasonable, with an explanation therefor.
- (c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.
- (d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.
- (e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.
- (f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

California Penal Code Sections §933 and §933.05

933.

(a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

933.05.

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release

and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.



CITY OF COSTA MESA

CALIFORNIA 92628-1200

P.O. Box 1200

FROM THE OFFICE OF THE PUBLIC WORKS DIRECTOR

September XX, 2024

To: The Honorable Judge Maria Hernandez
Presiding Judge of the Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

From: Mayor John Stephens
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

Dear Honorable Judge Hernandez,

Below is the City of Costa Mesa response to findings within the Grand Jury Report, Talking Trash: Recyclables and Organic Waste, dated June 11, 2024.

FINDINGS

F1. The majority of Orange County jurisdictions have not yet required their haulers to distribute residential containers that meet the CalRecycle standardized colors, leaving legacy and often incorrect or illegible labeling and embossing in place.

The City of Costa Mesa does not oversee residential waste services.

Residential waste service is provided by Costa Mesa Sanitary District (CMSD). CMSD is in the process of transitioning from a two-container system to a three-container system. Beginning October 7, 2024, through – December 2024, CMSD will be delivering blue recycling containers to all CSMD customers. The new, blue recycling container meets CalRecycle's color and labeling requirements (blue lid and sticker label on the lid that explains which materials are allowed and prohibited). When the District implemented their Organics Recycling Program in 2015, customers received organics carts with green lids. The franchise hauler currently distributes organics carts that meet CalRecycle's color and labeling requirements (green lid and sticker label on the lid that explains which materials are allowed and prohibited). During the three-cart rollout, existing mixed-waste containers will be relabeled as landfill carts. Existing mixed-waste carts that do not meet CalRecycle's color requirements will be replaced with black-lid landfill carts when container replacements are requested by residents (and all prior to 2036).

F2. While a jurisdiction may not delegate its overall responsibility for compliance with State requirements to a hauler, some jurisdictions have designated the task of imposing and

collecting fines from residents to the hauler in accordance with State law. However, not all jurisdictions are clear on who ultimately receives and retains the collected fines.

Commercial generators may be fined for non-compliance. However, franchised haulers may level contamination fees after two instances of non-compliance are noted. Therefore, it is unlikely non-compliance would continue to the point where the City would have to step in. The City prioritizes educating all constituents on proper waste disposal and recycling habits rather than issuing fines.

CMUSD has yet to determine if the District will issue fines for residential non-compliance. If CMUSD Board of Directors elects to move forward with a fee/fine structure, the franchise waste hauler may issue contamination fees and the District may issue administrative fines. The District would retain administrative fine revenue and 80% of contamination fee revenue, to be placed in the District's Solid Waste Fund. The franchise waste hauler would retain 20% of contamination fee revenue.

F3. All jurisdictions will eventually start collecting fines from residents for noncompliance, but some have not yet determined whether the revenues will go into a waste and recycling enterprise fund or into the jurisdiction's general fund.

Any waste related fine revenue received by Costa Mesa will go into the general fund. The City prioritizes educating all constituents on proper waste disposal and recycling habits rather than issuing fines.

If CMUSD opts to assess fees/fines for residential customers, fee/fine revenue will be placed into CMUSD's Solid Waste Fund.

F4. In most jurisdictions, education and outreach is a joint effort between jurisdiction, hauler, and sometimes consultants, with the jurisdiction reviewing the materials before publication. The methods of dissemination vary by jurisdiction and hauler but frequently rely on a resident actively seeking the information, which requires the resident to have some awareness of the new mandates in the first place. Most efforts primarily revolve around intermittent hard-copy paper mailings.

Education material is provided by haulers and the City in numerous ways to multi-family and commercial customers via direct mailers, recycling related web pages, bill inserts, social media, and public outreach events. The City holds sustainability efforts in high regard and hosts an annual Earth Day event. This event includes education on proper waste disposal and recycling practices.

CMUSD residential customers receive outreach via the District's webpage, flyers, postcards and letter mailings, Mesa Water District bill inserts, social media, emails to subscribers, press releases, newsletters, CMUSD's annual Compost Giveaway & Shredding Event and Eco Expo, booths at community events, and town hall meetings. CMUSD continues to find mailings effective for residents, since a 2023 Community Survey conducted by CMUSD found that 62% of CMUSD customers prefer to receive information from CMUSD in the mail.

F5. Most jurisdictions currently have no way to accurately determine the effectiveness of their respective education and outreach efforts other than the eventual inspections or audits that will take place.

The City of Costa Mesa agrees with the finding. As organics recycling becomes the norm for jurisdictions throughout Orange County, disposal and diversion reports will determine how effective outreach efforts are.

F6. There is some concern that there are not enough composting facilities in Orange County to process all organic waste, forcing some jurisdictions/haulers to transport it long distances for processing.

The City of Costa Mesa agrees with the finding.

F7. There is currently no infrastructure in the county that is a State-approved source of Renewable Natural Gas (RNG) and energy from organic waste. Jurisdictions that use vehicles running on RNG procured from non-approved sources cannot count that RNG towards fulfillment of their procurement requirement.

The City of Costa Mesa agrees with the finding.

F8. The formula used by the State to calculate a jurisdiction's procurement target does not account for a jurisdiction's population density or geographic size (square miles). As such, meeting the annual procurement target presents a significant challenge for most jurisdictions.

The City of Costa Mesa agrees with the finding.

F9. Many Orange County jurisdictions were unable to meet the requirement in SB 1383 to reduce organic waste sent to landfills by the 2020 deadline. It is unlikely the required seventy-five percent reduction will be achieved by the 2025 deadline.

The City of Costa Mesa disagrees partially with the finding. Although State models have shown an increase in organics diversion in recent years, forecasting 2025 diversion rates is difficult. Outreach and contamination monitoring will play a role in meeting the 75% percent reduction goal.

F10. The current procurement requirements mandated by SB 1383 are unrealistic and likely unachievable by most jurisdictions.

The City of Costa Mesa agrees with the finding. The demographics of Costa Mesa pose a challenge to the City meeting its procurement target due to the high number of multifamily properties and limited space.

Below is the City of Costa Mesa status on recommendations made within the Talking Trash: Recyclables and Organic Waste, dated June 11, 2024.

RECOMMENDATIONS

R1. All jurisdictions should expedite the acquisition and distribution of residential containers that meet the CalRecycle standardized colors. Additionally, until the compliant containers can be distributed, all jurisdictions should ensure the distribution of labeling for non-compliant containers that explain the current SB 1383 requirements applicable to their jurisdiction by June 30, 2025.

The recommendation will be implemented as CMSD has started the roll-out of its three-container system by asking residents to submit preferred cart sizes. By the end of 2024, residents will have SB-1383 compliant recycling (blue lid) containers and organics (green lid) containers. Mixed-waste containers will be relabeled as landfill containers during the three-cart rollout (October – December 2024). Non-functional legacy landfill (mixed-waste) containers will be replaced with SB-1383 compliant (black lid) containers as residents request replacements. The District has not yet determined a deadline to replace any remaining legacy containers (non-compliant color) still in circulation.

R2. By December 31, 2024, all jurisdictions should ensure their waste hauling agreements are in compliance with State statute so that haulers may be designated to perform certain required tasks but are not improperly delegated overall responsibility for compliance. Additionally, all jurisdictions should ensure that any fines collected by a hauler are forwarded to the jurisdiction.

The recommendation has been implemented. The City of Costa Mesa updated its franchise waste haul agreements to align with State mandates. These updated agreements went into effect January 2022.

Costa Mesa Sanitary District updated its franchise waste hauler agreement, effective January 2023, to align with State mandates. If CMSD elects the franchise waste hauler to collect contamination fees, 80% of the revenue will be forwarded to CMSD. Any administrative fines would be issued by and retained by CMSD.

R3. The OCGJ recommends that all jurisdictions utilize a dedicated waste and recycling enterprise fund for collection of fines for non-compliance with SB 1383 by December 31, 2024.

The recommendation will not be implemented because it is not warranted. In the event fines are assessed, Costa Mesa will not have a specific fund dedicated to the collection of fines for non-compliance, but will track and monitor revenue generated by fines.

If CMSD opts to assess fines for residential customers, fine revenue will be placed into CMSD's Solid Waste Fund, which is considered an enterprise fund.

R4. By December 31, 2024, all jurisdictions should diversify the methods and media used for education and outreach to include, among others, various social media platforms, emails to residents, newspaper, television, flyer mailings, community events, and appearances at other public gatherings.

The recommendation has been implemented. The City of Costa Mesa provides print and electronic education materials via hauler contracts, public website, social media, and outreach events, such as its annual Earth Day event.

CMUSD residential customers receive outreach via the District's webpage, flyers, postcards and letter mailings, Mesa Water District bill inserts, social media, emails to subscribers, press releases, newsletters, CMUSD's annual Compost Giveaway & Shredding Event and Eco Expo, booths at community events, and town hall meetings.

R5. By December 31, 2024, and in order to gauge the effectiveness of their education and outreach efforts, all jurisdictions should develop new methods to engage residents directly to help determine their awareness of the requirements associated with SB 1383, such as surveys, online quizzes, and door-to-door polling.

The City implemented education and outreach programming utilizing diverse methods. We believe further actions, such as contamination notices and related outreach material, will prove effective in raising awareness.

CMUSD conducts a biennial Community Survey. The most recent survey conducted in 2023 assessed residents' awareness of SB 1383, how often residents put food waste into their organics cart, if they think separating organic waste to reduce greenhouse gas emissions is important, and if they support the implementation of the Three-Cart Collection System. The District plans to continue assessing these topics in the 2025 survey. CMUSD plans to continue exploring new methods of outreach and education. The 2023 survey results, along with past survey results, are available for public viewing on CMUSD's website at https://www.cmsdca.gov/news_publications/customer_survey.php.

R6. By June 30, 2025, the OCGJ recommends that all jurisdictions participate in the OCW&R-led efforts to develop a coordinated county-wide approach to the organics recycling infrastructure and programs as well as procurement requirements associated with SB 1383, working towards creating circular economy as a long-term goal.

The recommendation has been implemented. A Costa Mesa City representative attends all meetings and discussions hosted by OC Waste & Recycling. In addition, a CMUSD representative attends all meetings and discussions hosted by OCW&R.

R7. By December 31, 2024, the Orange County Board of Supervisors and all Orange County cities should lobby appropriate members of the State Legislature and/or CalRecycle to revise

the organic waste diversion targets to better reflect Orange County's waste amounts, revise the jurisdictions' procurement requirements to better represent the limited options currently available for procurement, the jurisdictions' varying populations, population densities, and geographic size, and to delay associated enforcement actions by the State.

The recommendation has not yet been implemented but will be considered as City staff develops its legislative priorities for 2025.

Should you have any questions or require further information please do not hesitate to contact the City of Costa Mesa's Solid Waste Coordinator, Kevin Gaxiola, at 714-754-5303 or Kevin.Gaxiola@costamesaca.gov.

Sincerely,

Mayor John Stephens
City of Costa Mesa

Cc: Costa Mesa City Council
Lori Ann Farrell Harrison, City Manager
Raja Sethuraman, Public Works Director
Patrick Bauer, Deputy Public Works Director
Kevin Gaxiola, Solid Waste Coordinator
Scott Carroll, General Manager, Costa Mesa Sanitary District



CITY OF COSTA MESA

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 24-322

Meeting Date: 9/3/2024

TITLE:

RESPONSE TO 2023-2024 ORANGE COUNTY GRAND JURY REPORT "LAW ENFORCEMENT'S RESPONSE TO MENTAL HEALTH CALLS FOR SERVICE"

DEPARTMENT: POLICE DEPARTMENT

PRESENTED BY: JOYCE LAPOINTE, POLICE DEPUTY CHIEF

CONTACT INFORMATION: JOYCE LAPOINTE, 714-754-5663

RECOMMENDATION:

Staff recommends the City Council approve and file the response letter to the 2023-2024 Orange County Grand Jury (OCGJ) Report "Law Enforcement's Response to Mental Health Calls for Service".

BACKGROUND:

On May 30, 2024, the City was sent a copy of the 2023-2024 OCGJ report, the title being "Law Enforcement's Response to Mental Health Calls for Service" (Attachment 1). The focus of the report was law enforcement's response to mental health calls for service in Orange County. The attached report is marked "Confidential," however, it was only confidential until June 5, 2024, when the report was released to the public.

Due to litigation resulting from negative outcomes from law enforcement's response to mental health calls for service, the Orange County Grand Jury felt it vital to research how Orange County assists individuals who suffer from mental health illness. Their research included interviews with law enforcement leaders, law enforcement educators, and mental health professionals throughout Orange County.

The report identifies five findings and one recommendation (p. 14 of 20 of report). California Penal Code Section 933 requires the city to provide a response to each of the findings and recommendations in the report. California Penal Code Section 933.05 specifies the exact manner in which the responses and comments on the findings and recommendations are to be made. The responses must be submitted to the Presiding Judge of the Superior Court by September 4, 2024.

Costa Mesa's Comprehensive System of Care

In addition to the City's law enforcement personnel who respond to mental health calls for service, the City of Costa Mesa has developed a comprehensive system of care to address homelessness, including resources and services for those facing mental health challenges. This system of care can be broken down into the three (3) distinct focus areas: Outreach and Engagement, Emergency

Shelter, and Supportive Housing.

1. Outreach and Engagement - The City employs a team of eight (8) Community Outreach Workers to meet people where they are and assist in the removal of barriers to health (including behavioral health), employment, and housing. The Outreach Team annually engages approximately 200 unhoused individuals and, since 2019, has successfully housed over 200 clients. Outreach Workers are highly skilled in de-escalation and trauma-informed care techniques, which are proven to reduce negative encounters.
 - On August 12, 2024, the City became the second municipality in Orange County to implement CalOptima Health's innovative Street Medicine Program, which brings primary and behavioral health care to the unhoused members of our community. Celebrating Life Community Health Center (CLCHC), the agency selected by CalOptima Health to administer Street Medicine in Costa Mesa, will operate their mobile medical office Monday through Friday, from 9 am to 3 pm. Enrollees will have direct access to behavioral health clinicians, medications, individual/group therapy, and case management services to improve overall outcomes for the unhoused.
2. Emergency Shelter - The City owns and operates a 100-bed emergency and navigation shelter known as the Costa Mesa Bridge Shelter. The Shelter provides emergency housing and associated services to over 200 individuals annually. Since opening its doors in April 2021, the Shelter has successfully housed 125 individuals.
 - On March 27, 2024, the City executed an MOU with the Orange County Health Care Agency (OCHCA) for an award of \$3.5 million to add 15 more beds to the shelter and augment behavioral health care services provided at the Shelter. The award also funded a new full-time Case Worker with expertise in managing both mental health and substance use challenges, plus implementation of weekly visits from an OCHCA behavioral health clinician to address mental health and substance use challenges.
3. Permanent Supportive Housing - Over the past two (2) years, the City Council has allocated \$9,850,000 from Federal American Rescue Plan funds, and restricted housing funds to assist in the development of permanent housing for people experiencing homelessness, many of whom face mental health challenges.
 - In 2022, the City Council awarded \$5,850,000 to Community Development Partners to convert the Motel 6 at 2275 Newport Blvd into 86 units of supportive and affordable housing. Ten (10) of these units are set-aside for occupancy by individuals eligible to receive care under the Mental Health Services Act (MHSA). Phase 1 of this project was completed in early 2024 and all ten (10) MHSA units are currently occupied.
 - In 2023, the City Council awarded \$4,000,000 to American Family Housing to convert the Travelodge at 1400 Bristol Ave into 76 units of supportive housing for people experiencing homelessness.

When complete, the project will provide permanent housing and a robust system of wrap-around services, including assistance for those facing mental health challenges. This project is estimated to be completed in the fourth quarter of 2025.

ANALYSIS:

Staff has prepared draft responses below for the City Council's consideration. The draft response letter to the Grand Jury is provided as Attachment 2.

OCGJ Findings and City Responses

F1 Mental health training for law enforcement officers in Orange County exceeds the State's requirements, resulting in law enforcement applying these skills to better evaluate and handle mental health calls for service.

Response - Agree

F2 Law enforcement agencies in Orange County have developed unique ways to deal with mental health calls in their communities based on their needs and budgets, enabling law enforcement to better serve their communities.

Response - Agree

F3 Law enforcement collaboration with County PERT clinicians and Be Well mobile response units has been an effective tool when responding to mental health calls for service.

Response - Agree

F4 People with mental illness respond more positively to "soft uniformed" police personnel, which can be effective in de-escalating situations.

Response - Agree

F5 Providing follow-up case management is not only necessary but critical for the wellbeing of people experiencing mental health issues.

Response - Agree

Recommendation

R1 Based on its investigation, the 2023-2024 OCGJ has determined that law enforcement agencies throughout Orange County have developed unique techniques to adequately address mental health calls, thus this report does not contain recommendations.

Response: Agree with findings - no recommendations.

ALTERNATIVES:

The City Council has the options to receive and file the Police Department's response to the recommendations or provide alternative direction.

FISCAL REVIEW:

There are no fiscal impacts associated with this item.

LEGAL REVIEW:

The City Attorney's Office has reviewed this report and the agreement and approved them as to form.

CITY COUNCIL GOALS AND PRIORITIES:

This item supports the following City Council Goal: Strengthen the Public's Safety and Improve the Quality of Life.

CONCLUSION:

Staff recommends the City Council approve the response to findings and recommendation in the 2023-2024 Orange County Grand Jury Report "Law Enforcement's Response to Mental Health Calls for Service" which would authorize the City to send a response letter to the Presiding Judge of the Superior Court.



ORANGE COUNTY GRAND JURY

700 CIVIC CENTER DRIVE WEST • SANTA ANA, CALIFORNIA 92701 • 714/834-3320
www.ocgrandjury.org • FAX 714/834-5555

May 30, 2024

John Stephens, Mayor
 City of Costa Mesa
 77 Fair Drive
 Costa Mesa, CA 92626

CONFIDENTIAL

Dear Mayor Stephens:

Enclosed is a copy of the 2023-2024 Orange County Grand Jury report, *Law Enforcement's Response to Mental Health Calls for Service*. Pursuant to *Penal Code 933.05(f)*, a copy of the report is being provided to you at least two working days prior to its public release. Please note that under that subsection, "No officer, agency, department, or governing body of a public agency shall disclose any contents of the report *prior to the public release of the final report*." (Emphasis added.) It is **required** that you provide a response to each of the findings and recommendations of this report directed to your office in compliance with *Penal Code 933.05(a)* and (b), copy is enclosed.

Please distribute this report to your governing body.

For each Grand Jury recommendation accepted and not implemented, provide a schedule for future implementation. In addition, by the end of March of each subsequent year, please report on the progress being made on each recommendation accepted but not completed. These annual reports should continue until all recommendations are implemented.

Please mail the response to the recommendations to Maria Hernandez, Presiding Judge of the Superior Court, 700 Civic Center Drive West, Santa Ana, CA 92701, with a separate copy mailed to the Orange County Grand Jury, 700 Civic Center Drive West, Santa Ana, CA 92701, no later than **90 days** after the public release date, **June 5, 2024**, in compliance with *Penal Code 933*, copy enclosed. The due date then is **September 4, 2024**.

Should additional time for responding to this report be necessary for further analysis, *Penal Code 933.05(b)(3)* permits an extension of time up to six months from the public release date. Such extensions should be advised in writing, with the information required in *Penal Code 933.05(b)(3)*, to the Presiding Judge of the Superior Court, with a separate copy of the request to the Grand Jury.

We tentatively plan to issue the public release on **June 5, 2024**. Upon public release, the report will be available on the Grand Jury website at www.ocgrandjury.org.

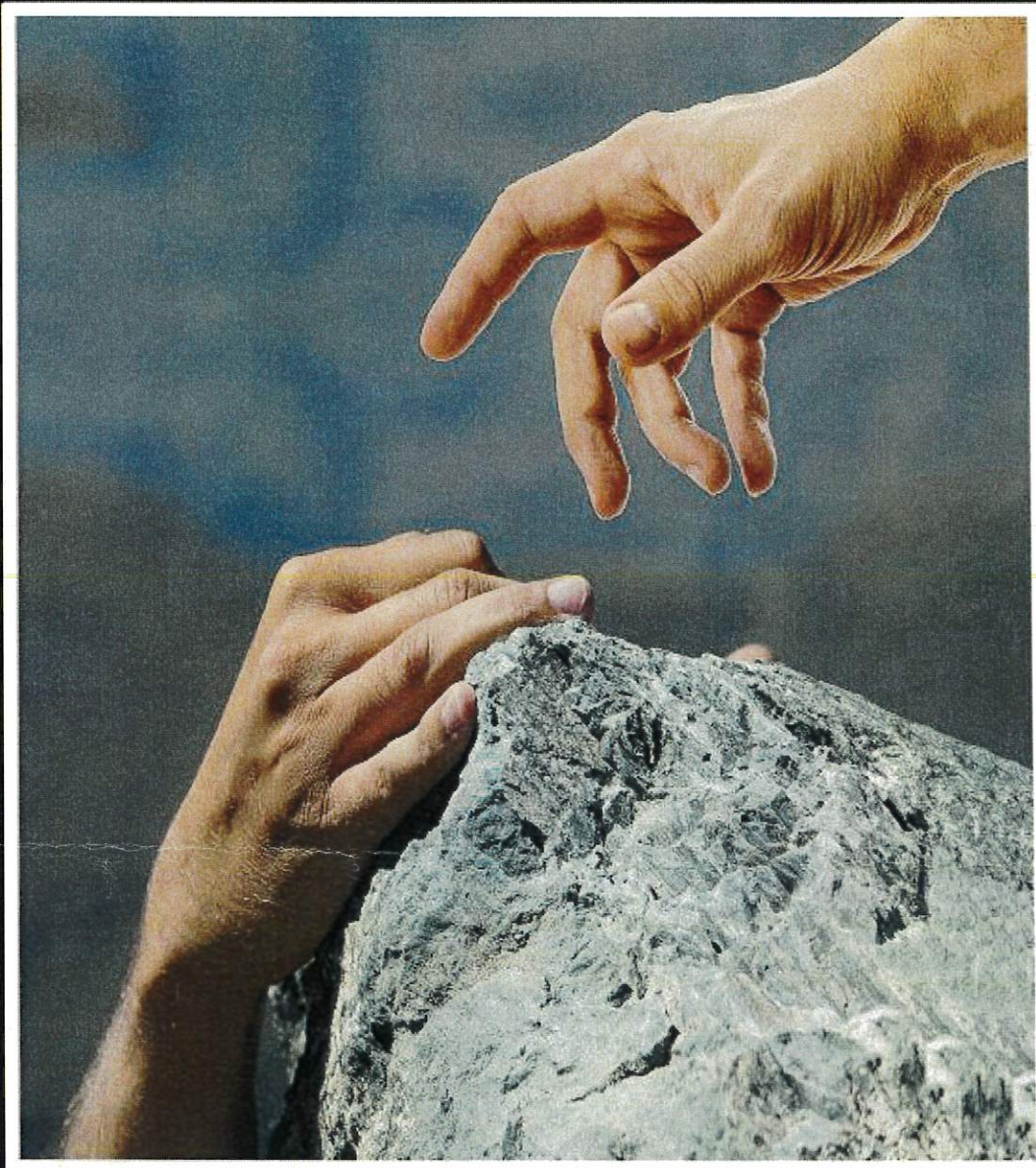
Very truly yours,

Michael J. Verrengia, Foreperson
 2023-2024 ORANGE COUNTY GRAND JURY

MJV:jm

Enclosures: Grand Jury Report
 Penal Code 933, 933.05

Cc: Lori Ann Farrell Harrison, City Manager
 Ronald Laurence, Chief of Police



Law Enforcement's Response to Mental Health Calls for Service



GRAND JURY 2023-2024

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SUMMARY

Approximately 8.8 million Americans have a severe mental illness such as schizophrenia, severe bi-polar disorder, or major depression with psychiatric features.¹ Almost half of these people are treated on a given day.² Without proper treatment, people with severe mental illness are at risk of experiencing negative outcomes that seriously impact them and the people around them.

Decades ago, law enforcement officers in Orange County became mental health clinicians without proper training. While State legislation has since required police agencies to increase mental health training, Orange County law enforcement agencies have surpassed the State's expectations. The Orange County Grand Jury (OCGJ) believes that law enforcement in Orange County is a model for training law enforcement personnel on mental health crisis intervention techniques and collaborating with behavioral health organizations to improve service and reduce stigma for those affected by mental illness.

BACKGROUND

In March 2021, two Los Angeles County Sheriff's Department (LASD) deputies responded to a call regarding a deaf and autistic male adult named Isaias Cervantes who was experiencing a mental health crisis. When deputies arrived, they asked Cervantes to stand up so he could be handcuffed as a safety precaution, and the incident escalated. Cervantes became combative with the deputies, which resulted in one of the deputies shooting him in the back. Consequently, Cervantes is paralyzed and recently won a \$25 million settlement against the County of Los Angeles. The LASD Internal Affairs Bureau concluded that excessive force during this incident was warranted per departmental procedure, although Los Angeles County Risk Management prepared a Summary Corrective Action Plan that focused on numerous root causes for the escalation, including:

- Desk personnel (i.e., dispatch) failed to ask about the nature of Cervantes' mental impairment.
- Desk personnel (i.e., dispatch) failed to send the Mental Evaluation Team as part of the response.³

¹ Treatment Advocacy Center, "Serious Mental Illness by the Numbers," 2022.
<https://www.treatmentadvocacycenter.org>.

² *Ibid.*

³ The Times Staff Editorial, "Sheriff's Shooting Cost Taxpayers \$25 Million. Where's the Accountability?" Los Angeles Times, April 8, 2024.

Approximately one-third of individuals with severe mental illness have their first exposure to mental health treatment through a law enforcement encounter.⁴ Law enforcement officers are often on the front lines of psychiatric care, charged with responding to, addressing, and preventing a mental illness crisis. Responding to and transporting individuals with mental illness occupies more than twenty percent of a law enforcement officers' time.⁵ Many law enforcement agencies across the United States are looking at an alternative approach to mental health calls for service by partnering with mental health professionals rather than handling these calls as the sole first responder. The OCGJ has found that law enforcement agencies throughout Orange County have adopted one or a combination of the following three models to address mental health calls:

- Police Model. All mental health calls for service are handled by police with a clinician back-up.
- Co-Responder Model. Trained mental health professionals are dispatched along with the officers responding to certain calls.
- Alternative Mental Health Response. Only a mental health professional is dispatched to nonviolent calls such as attempted suicide; mentally ill; drug violation; drunk pedestrian; person down; trespasser; and well-being check.

REASON FOR THE STUDY

Christian Glass was a geology enthusiast, a painter, and a young man beset by a mental health crisis when he called 911 for help getting his car unstuck in a Colorado mountain town last year. Convinced that supernatural beings were after him, he balked when sheriff's deputies told him to get out of his car. Body camera video shows that the officers shouted, threatened, and coaxed. Glass hoped that officers would not break his car window, but they did, and the young adult grabbed a small knife. Then he was hit with bean bag rounds, stun gun charges and, ultimately, bullets that killed him and led to a murder charge against one deputy and a criminally negligent homicide charge against another.⁶ Along with the Cervantes incident described above, this article is just one of numerous examples indicating that society needs to reevaluate police protocol when responding to mental health calls for service.

⁴ Treatment Advocacy Center, "Road Runners: The Role and Impact of Law Enforcement in Transporting Individuals with Severe Mental Illness," 2019.

<https://www.treatmentadvocacycenter.org>.

⁵ Jody M. Litchford, JD., "Partnering with Mental Health Providers to Improve Outcomes," Police Chief, December 2023, p. 12.

⁶ Jennifer Peltz and Jesse Bedayn, "Many Big US Cities Now Answer Mental Health Crisis Calls with Civilian Teams – Not Police," Associated Press, August 27, 2023.

The OCGJ felt it was vital to research via interviews with law enforcement leaders, law enforcement educators, and mental health professionals how Orange County assists individuals who suffer from mental illness. It is important to note that this report does not focus on mental health issues that exist within the homeless community, although the OCGJ learned that a significant number of unhoused individuals suffer from mental illness, including substance abuse disorder, which leads to a significant number of police calls for service.

METHOD OF STUDY

The OCGJ conducted thirty-one interviews. Twenty-three of these interviews involved key personnel from law enforcement agencies representing all cities and unincorporated areas in Orange County, including the police agency at the University of California, Irvine (UCI). The OCGJ also interviewed representatives from the Orange County Sheriff's Regional Academy and Golden West College Police Academy, Orange County mental health stakeholders including the Orange County Health Care Agency's Mental Health and Recovery Services Department, the National Alliance on Mental Illness – Orange County Chapter (NAMI OC), and Project Kinship. In addition, the OCGJ conducted the following tours:

- Orange County Central Jail Complex, including the Intake Release Center (IRC), Men's Jail, and Women's Jail
- Central Justice Center Holding Facility
- James A. Musick Jail (under construction)
- Theo Lacy Jail
- Yale Navigation Center and Bridges at Kraemer Place
- Orange County Juvenile Hall and Youth Leadership Academy
- Be Well, Orange Campus

Members of the OCGJ attended monthly meetings of the Orange County Criminal Justice Coordinating Council (OCCJCC), which is a planning body of County government, law enforcement, courts/corrections, and social service agencies responsible for improving public safety on behalf of Orange County residents. These meetings were insightful and provided an understanding of how Orange County leaders collaborate to enhance law enforcement services.

The OCGJ also referred to previous Grand Jury reports, Peace Officer Standards and Training (POST) material, police training documents provided by the Orange County Sheriff's Regional Training Academy and Golden West College Police Academy, and local news articles and reports.

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INVESTIGATION AND ANALYSIS

Legislative Acts to Support Mental Health Training for Law Enforcement

Even in situations in which police officers have completed relevant mental health crisis training, the mere presence of armed, uniformed officers can exacerbate feelings of distress for people with behavioral health conditions. While mental health training in law enforcement is mandated, field experience is also essential in producing positive outcomes to mental health calls for service. Listed below is an overview of mandated mental health training for law enforcement personnel that is regulated by POST.

Peace Officer, Public Safety Dispatcher and Public Safety Dispatch Supervisor

Most often, law enforcement officers are the initial first responders for incidents involving untreated mental illness. On January 1, 2016, Senate Bill (SB) 11 went into effect mandating additional behavioral health training for peace officers. This legislation was codified in California Penal Code Section 13515.27, which requires every peace officer (other than a level III Reserve Peace Officer), Public Safety Dispatcher, and Public Safety Dispatch Supervisor to complete twenty-four or more hours of POST training every two years. The training includes three consecutive hours of a POST-certified mental health training course.⁷ Training includes:

- The cause and nature of mental illness, intellectual disability, and substance abuse disorders.
- Indicators of mental illness, intellectual disability, and substance use disorders.
- Appropriate responses to a variety of situations involving persons with mental illness, intellectual disability, and substance use disorders.
- Conflict resolution and de-escalation techniques for potentially dangerous situations.
- Appropriate use of language when interacting with emotionally distressed individuals.
- Resources available to serve persons with mental illness or intellectual disability.⁸

Police Recruits

SB 11 also added Penal Code Section 13515.26, which requires POST to include fifteen hours of behavioral health training in the basic academy course for new police recruits. Upon graduation from a police academy, police recruits must complete training on subject matter that covers forty-two different law enforcement topics, also known as

⁷ State of California Commission on Peace Officer Standards and Training Website, "Mental Health Training in Law Enforcement."

⁸ https://california.public.law/codes/ca_penal_code_section_13515.27

Law Enforcement's Response to Mental Health Calls for Service

Learning Domains (LD). One of the topics covered is in LD 37, identified as People with Disabilities. It provides trainees instruction on disability laws, developmental disabilities, physical disabilities, and mental illness.⁹ While in the academy, recruits learn to recognize general indicators of mental illness so that appropriate actions can be taken. The following indicators assist recruits in determining whether a behavior is related to mental illness:

- Fearfulness
- Inappropriate Behavior
- Extreme Inflexibility and/or Frustration
- Symptoms of Excitability
- Impaired Self-Care
- Hallucinations and Delusions
- Disorganized Speech, Thought Patterns, or Disorientation
- Clinical Depression
- Bipolar Disorder
- Schizophrenia
- Postpartum-Depression
- Psychosis
- Post-traumatic Stress Disorder (PTSD)
- Personality Disorder¹⁰

Supervisory Police Officers

SB 29, which also went into effect on January 1, 2016, requires police officers in supervisory roles who conduct field training to receive twelve hours of behavioral health training, including eight hours of crisis intervention instruction and an additional four hours in the Field Training Officer program, on how to interact with persons with mental illness or intellectual disability.

Innovative Law Enforcement Mental Health Strategies

The OCGJ interviewed high-ranking officers from twenty-three law enforcement agencies representing all cities and unincorporated areas in Orange County, including

⁹ California Commission on Peace Officer Standards and Training Website, "Mental Health Training in the Regular Basic Course."

¹⁰ California Commission on Peace Officer Standards and Training, Learning Domain 37, People with Disabilities, Version 6.0, Chapter 4.

the police agency at UCI. The OCGJ found that each city and/or unincorporated area handles mental health calls for service in its own, unique way. This is especially true with smaller cities that lack special funding to establish innovative mental health programs. However, smaller cities also have a more modest unhoused population, which makes enforcement more manageable than in larger municipalities. Table 1 on page 13 of this report summarizes key interview results with Orange County law enforcement agencies.

In Orange County, law enforcement's handling of mental health issues has evolved to include non-sworn mental health clinicians. This approach recognizes the need for specialized assistance in dealing with individuals experiencing mental health crises and provides a more tailored and compassionate response. Law enforcement representatives interviewed by the OCGJ agree that individuals experiencing a mental health crisis typically respond better when approached by clinicians who are not wearing uniforms, and emphasize the importance of sensitivity and understanding in these encounters.

Seven Orange County cities plus UCI have contracted with Be Well Orange County to provide mobile response vans staffed with two mental health clinicians seven days a week. The Homeless Outreach and Proactive Engagement (HOPE) Center, serving cities in North Orange County, uses a mobile office vehicle to connect with individuals in the community. Although the HOPE Center is primarily focused on issues related to homelessness, outreach workers are equipped to provide links to service for individuals suffering from mental illness.

Mental health clinicians from the Psychiatric Emergency Response Team (PERT) ride with law enforcement officers in seventeen Orange County cities. Law enforcement in any Orange County city can call the Crisis Assessment Team (CAT), a program that helps anyone in the county who is experiencing a behavioral health crisis. The PERT and CAT teams are staffed by clinicians from the Orange County Health Care Agency (OCHCA).

Some of the smaller police departments may not need an in-house crisis intervention worker, but are familiar with households that include persons with mental health issues, and their officers have established relationships with these families. Officers are also acquainted with many homeless individuals in these cities because their homeless populations are relatively sparse.

Although police agencies may differ in the way mental health calls for service are addressed, there is consensus that police departments would like more time to focus on crime-related calls for service.

Orange County Sheriff's Department's Behavioral Health Bureau

The Orange County Sheriff's Department (OCSD) receives approximately 10,000 calls for service each year involving mental health, individuals experiencing homelessness,

and similar crises.¹¹ In June 2023, the Orange County Board of Supervisors approved the County's budget for Fiscal Year 2023-24; and within its budget, allocated \$2.8 million to expand the OCSD Behavioral Health Bureau (BHB).¹² The bureau is a specialized crisis response team that consists of nine deputy sheriffs, three PERT deputy sheriffs and one PERT clinician. This specialized team responds to mental health crisis calls including calls related to homelessness and conducts proactive follow-up calls. The goal is to assist with de-escalation and diversion to treatment and services, when appropriate.¹³

Some police agencies in Orange County are adopting an alternative mental health approach when responding to mental health calls for service. While there is an appeal to the idea of removing police from nonviolent psychiatric crisis calls, the challenge is training 911 dispatchers to gauge these calls and having experienced clinicians available to expediently respond to them. In March 2024, the OCSD, in partnership with the OCHCA, launched a dispatch call diversion program that guides OCSD dispatchers to triage non-violent and non-criminal behavioral health calls (including homelessness) to determine if they can be diverted to OC Links, which is a 24/7 Behavioral Health Line.¹⁴ OC Links dispatches counselors to these non-violent and non-criminal calls instead of deputies, freeing up deputies to respond to traditional crime-related calls instead.¹⁵

Orange County Intake Release Center (IRC)

The OCSD has partnered with the OCHCA to reduce inmate behavioral health crises. There are mental health hotlines available around the clock in each County jail so that deputies can report concerns regarding an inmate's mental health or behavior that might lead to self-harm. The IRC is part of the Central Jail complex in Santa Ana and houses inmates who suffer from severe mental illness. The facility can house up to 849 inmates and is staffed by sheriff's deputies from the BHB. The cells in the mental health unit have been modified to address safety and self-harm concerns. There are also visiting areas where inmates can use computer tablets for video calls with family, reading e-books, searching for jobs, receiving education, and playing cognitively stimulating games.

¹¹ Orange County Sheriff's Department News Release, "OC Sheriff Partners with the OC Health Care Agency to Support Individuals in Crisis," <https://ocsheriff.gov>.

¹² Minutes of the Orange County Board of Supervisors Meeting on June 27, 2023; Adoption of the Fiscal Year 2024-25 Final Budget Resolution.

¹³ OC Cares Justice Through Prevention and Intervention, 2025 Quarterly Status Report, October – December 2023, p 16.

¹⁴ Orange County Sheriff's Department News Release "OC Sheriff Partners with the OC Health Care Agency to Support Individuals in Crisis," <https://ocsheriff.gov>.

¹⁵ *Ibid*.

Fullerton Police Department Social Worker Program

In 2023, Orange County Supervisor Doug Chaffee allocated \$1 million from the Fourth Supervisorial District Discretionary Grants to help fund the Fullerton Police Department Social Worker Program, which is a two-year pilot program.¹⁶ The objective is to dispatch licensed clinical social workers (LCSWs) alongside or in lieu of police officers when responding to mental health crises, domestic violence, or juvenile delinquency. The program consists of two LCSWs and focuses on crisis response, mediation, referrals to health care providers, treatment plans and case follow-ups, and de-escalation techniques for peaceful resolution.

Irvine Police Department Mental Health Unit

In 2014, the Irvine Police Department established a mental health unit that consists of three sworn police officers and two County PERT clinicians. The mental health sworn officers partner with the PERT clinicians in response to mental health calls for service. When not responding to mental health calls for service, the mental health unit is conducting follow-up calls for service with their clients. There is an additional trained clinician assigned to the mental health unit from the City's FOR Families program that provides short-term mental health support to Irvine residents on a variety of concerns including:

- Stress/Depression
- Substance Abuse
- Family Violence
- Relationship Problems
- Legal/Financial Issues
- Children/Teen Behavioral Difficulties

Residents who are affected by a mental health issue can contact the City's dedicated email address at outreach@cityofirvine.org.

City of Huntington Beach Police Department

Huntington Beach was the first city in Orange County to enter into an agreement with Be Well OC where two professional crisis counselors respond to non-violent mental health calls relating to suicide, family disputes, drug/alcohol abuse, welfare checks, and general mental health crisis calls. Collaboration with Be Well OC has allowed sworn officers to dedicate more time responding to crime-related calls for service.

¹⁶ "Fullerton Police Department Get \$1 Million to Start a Pilot Program," Fullerton Observer, July 22, 2023.

Orange County Service Planning Areas (SPAs)

Service Planning Areas (SPAs) are divisions of Orange County into North, Central, and South cities to coordinate homeless shelters and services on a regional basis. The North Orange County Service Planning Area (North SPA) is the most active and innovative of the three SPAs. It coordinates collaboration among thirteen cities in North Orange County. In 2018, North SPA was given over \$12 million dollars by the State of California to address the crisis of homelessness.¹⁷ The North SPA partnership is an effort to comply with a court ruling prohibiting enforcement of anti-camping laws on public property when local shelter beds are not available. The funding was used to open two homeless "Navigation Centers," one in Buena Park and the other in Placentia.

The HOPE Center was opened in 2022 to gain more reliable relief and consistent support for homeless individuals in the North SPA area. The HOPE Center is designed as a central command center for case workers, mental health clinicians, resource providers, and homeless liaison officers working together to address public health issues with an emphasis on homeless individuals. The goal is to end homelessness in the North SPA cities by getting "the right resource to the right person at the right time."¹⁸ The HOPE Center mobile office vehicle is used to respond to calls for service. Center clinicians engage in outreach activities when they are not on calls. At the opening of the HOPE Center, State Senator Josh Newman (D-Fullerton/District 29) said the HOPE Center will be "a critical hub for subject matter experts, health care workers, community-based organizations, and local law enforcement to coordinate and deliver resources efficiently under one roof."¹⁹

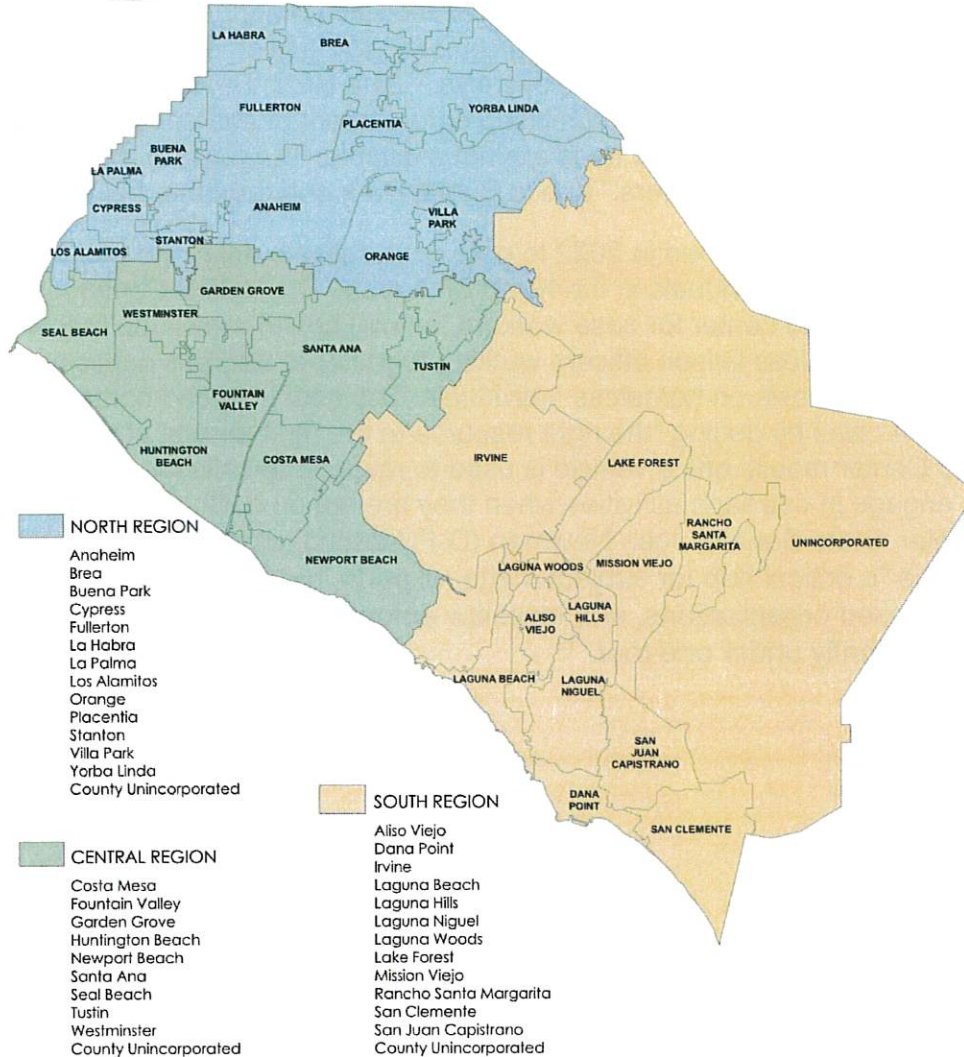
¹⁷ "North Orange County Service Planning Area (North SPA) Received \$12,062,300 in Homeless Emergency Aid Program (HEAP) Funding to Open Navigation Center in Buena Park and Placentia," November 9, 2018, https://www.buenapark.com/T2_R49.php.

¹⁸ HOPE Center Orange County Mission Statement, <https://ochopecenter.org>.

¹⁹ Tess Sheets and Alicia Robinson, "Governor Gavin Newsom Visits to Help Open New Hub for North Orange County Homeless Services," Orange County Register, October 27, 2022.



County of Orange Service Planning Areas



Law Enforcement Partnerships

Be Well (Hope Starts Here)

Hope Starts Here is the slogan for Be Well OC. It was established in 2017 (under the leadership of Mind OC) as a public-private partnership which provides mental health stabilization, a sobering center, and residential housing for both substance abuse and

Law Enforcement's Response to Mental Health Calls for Service

mental health treatment for the residents of Orange County. Insurance is not a requirement to receive treatment.²⁰

The first of three proposed Be Well campuses opened in January 2021 in the City of Orange to serve North Orange County. Funding was provided by the County Board of Supervisors, CalOptima, private donors, and major hospital systems. In October 2023, construction began on the second Be Well campus located in Irvine's Great Park that will serve South Orange County. This facility will be larger than the Orange Campus and will have the additional ability to support children, youth, and families. The campus is expected to open in 2025. A campus to serve Central Orange County is proposed.

Mind OC was established in 2017 as a California 501(c)(3) non-profit organization. The purpose of the non-profit is to partner with the County of Orange to establish behavioral health campuses in Orange County. When the Be Well Campus in Orange opened, it was under the responsibility of the OCHCA. In January of 2023, Mind OC assumed responsibility for the campus.²¹

In addition to the Be Well campuses, Be Well OC has a mobile response program. The slogan for the program is Hope Happens Here.²² Identifiable outreach vans with mental health crisis counselors (working in pairs) work in collaboration with law enforcement to respond to mental health calls. The counselors are trained in de-escalation, crisis stabilization, and counseling. Seven municipal police agencies (Anaheim, Garden Grove, Huntington Beach, Irvine, Laguna Beach, Newport Beach, and Westminster) and UCI currently have mobile response contracts. Law enforcement agencies without contracts with the mobile response program can transport people in need to the Be Well Orange Campus.

Project Kinship (Hope Lives Here)

In November 2014, California voters approved Proposition 47 that reduced some low-level felonies in the state to misdemeanors. The proposition required the Board of State and Community Corrections to use a portion of the annual savings from Proposition 47 to administer grant programs for diversion, mental health services, or substance abuse treatment.²³ Since 2016, Orange County has received \$12 million in grants from Proposition 47. Orange County's goal is to reduce the number of people with mild-to-moderate mental health and/or substance use disorders incarcerated in the county jail by reducing recidivism through intensive case management, linkages to treatment, housing and behavioral health services, and community supports upon release.²⁴

²⁰ <https://bewelloc.org/>

²¹ *Ibid.*

²² <https://mind-oc.org/>

²³ Libby Doyle, Leigh Courtney, Bryce Peterson of the Urban Institute, "Evaluation of Orange County's Proposition 47 Grant-Related Services," Executive Summary, September 2021, p.v.

²⁴ *Ibid.*

Located in Santa Ana, Project Kinship was established in 2014 as a non-profit organization to address people's basic needs upon their release from custody. Although Project Kinship offers a variety of services including Schools and Youth Programs and a Workforce Program, this report focuses on the Adult Re-Entry Program in which Correctional Health Services provides Project Kinship with a list of upcoming inmates scheduled for release. Project Kinship conducts a triage on those inmates who are willing to sign an agreement for assistance (for up to eighteen months) that addresses people's basic needs upon their release from custody, such as housing, referrals to treatment facilities, mental health counseling, clothing, or reunification with family. Upon release from jail, these individuals are at risk of recidivism, victimization, and homelessness when they do not have resources such as clothing and food. The OCSD collaborates with Project Kinship by providing office space at the IRC and the Theo Lacy Jail. Project Kinship assists releasees on a round-the-clock basis at these facilities. Project Kinship is unique in that more than fifty percent of its workforce and all of its peer navigators have had analogous life experiences.²⁵

The Proposition 47 grant money has allowed Orange County to fund Project Kinship's relocation to a larger space and hire additional case managers, clinicians, and peer navigators.²⁶ There are now approximately 120 Project Kinship employees who served 179 clients between July 2020 and March 2021.²⁷ In a meeting at the OCCJCC, members from the OCGJ witnessed an inspiring story from a Project Kinship employee as she described how her repeat offenses were causing her to be institutionalized and comfortable knowing that jail provided her with housing, clothing, food, and some sort of socialization. It was Project Kinship that approached her when she was preparing to be released from jail for the last time. Project Kinship provided her with a comprehensive approach to addressing short-and long-term reentry needs that helped her realize she could start a new life for herself.

City Net

Seven cities throughout Orange County contract with City Net to work with police agencies on reducing homelessness through street outreach and engagement.

²⁵ *Id.*, p. 20.

²⁶ *Ibid.*

²⁷ *Id.*, p. 21.

Law Enforcement's Response to Mental Health Calls for Service

Table 1: Interview Results with Orange County Law Enforcement Agencies

Law Enforcement Agencies	Be Well Mobile Response Team	PERT	City Net	NorthSpa/Hope Center	Behavioral Health Bureau	Non-Sworn Crisis Worker
Anaheim	X	X	X	X		
Brea				X		
Buena Park		X		X		
Costa Mesa		X				
Cypress				X		
Fountain Valley		X	X			
Fullerton		X		X		*
Garden Grove	X	X				
Huntington Beach	X	X				X
Irvine	X	X				X
La Habra				X		X
La Palma				X		
Laguna Beach	X	X				
Los Alamitos			X	X		
Newport Beach	X	X	X			
Orange		X		X		
Placentia			X	X		
Santa Ana		X	X			
Seal Beach		X				
Tustin		X	X			X
UCI	X	X				**
Westminster	X	X				
Orange County Sheriff		X		***	X	

* City of Fullerton is developing a pilot Social Worker Program within its police department.

** UCI has several student counseling services on campus.

*** The cities of Stanton and Yorba Linda are members of North SPA.

CONFIDENTIAL

COMMENDATIONS

Orange County Criminal Justice Coordinating Council (OCCJCC) – The OCCJCC is to be commended for its efforts to improve public safety through greater inter-agency communication, coordination and collaboration regarding law enforcement and administration of justice issues including mental health.²⁸

²⁸ Orange County Board of Supervisors Resolution No. 2001-38, Adopted February 6, 2001, OCCJCC Proposed Reorganization.

Orange County Intake Release Center (IRC) – The IRC is to be commended for partnering with the OCHCA to reduce inmate behavioral health crises.

FINDINGS

In accordance with California Penal Code Sections 933 and 933.05, the 2023-2024 Grand Jury requires responses from each agency affected by the findings presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation described here, the 2023-2024 OCGJ has arrived at the following principal findings:

- F1. Mental health training for law enforcement officers in Orange County exceeds the State's requirements, resulting in law enforcement applying these skills to better evaluate and handle mental health calls for service.
- F2. Law enforcement agencies in Orange County have developed unique ways to deal with mental health calls in their communities based on their particular needs and budgets, enabling law enforcement to better serve their communities.
- F3. Law enforcement collaboration with County PERT clinicians and Be Well mobile response units has been an effective tool when responding to mental health calls for service.
- F4. People with mental illness respond more positively to "soft uniformed" police personnel, which can be effective in de-escalating situations.
- F5. Providing follow-up case management is not only necessary but critical for the wellbeing of people experiencing mental health issues.

RECOMMENDATIONS

Based on its investigation, the 2023 – 2024 OCGJ has determined that law enforcement agencies throughout Orange County have developed unique techniques to adequately address mental health calls, thus this report does not contain recommendations.

RESPONSES

California Penal Code Section 933 requires the governing body of any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the governing body. Such comment shall be made no later than 90 days after the Grand Jury publishes its report (filed with the Clerk of the Court). Additionally, in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official, such official shall comment on the findings and recommendations pertaining to the matters under that official's control within 60 days to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code Section 933.05 specifies the manner in which such comment(s) are to be made as follows:

- (a) As to each Grand Jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding.
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.
- (b) As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the Grand Jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation, thereof.
- (c) If a finding or recommendation of the Grand Jury addresses budgetary or

personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the Grand Jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

The Orange County Grand Jury requires and requests the following responses, as indicated:

Findings – 60 Day Response Required

Orange County Sheriff-Coroner	F1, F2, F3, F4, F5
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Findings – 90 Day Response Required

City Councils of:

Anaheim	F1, F2, F3, F4, F5
Brea	F1, F2, F4, F5
Buena Park	F1, F2, F3, F4, F5
Costa Mesa	F1, F2, F3, F4, F5
Cypress	F1, F2, F3, F4, F5
Fountain Valley	F1, F2, F3, F4, F5
Fullerton	F1, F2, F3, F4, F5
Garden Grove	F1, F2, F3, F4, F5
Huntington Beach	F1, F2, F3, F4, F5
Irvine	F1, F2, F3, F4, F5
La Habra	F1, F2, F3, F4, F5
La Palma	F1, F2, F4, F5
Laguna Beach	F1, F2, F3, F4, F5
Los Alamitos	F1, F2, F3, F4, F5

Law Enforcement's Response to Mental Health Calls for Service

Newport Beach	F1, F2, F3, F4, F5
Orange	F1, F2, F3, F4, F5
Placentia	F1, F2, F4, F5
Santa Ana	F1, F2, F3, F4, F5
Seal Beach	F1, F2, F3, F4, F5
Tustin	F1, F2, F3, F4, F5
Westminster	F1, F2, F3, F4, F5

Findings – 90 Day Response Requested

University of California, Irvine	F1, F2, F3, F4, F5
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GLOSSARY

BHB	Behavioral Health Bureau (Orange County Sheriff's Department)
BHS	Behavioral Health Services
BRU	Behavioral Response Unit
CAT	Crisis Assessment Team
CIT	Crisis Intervention Training
HOPE	Homeless Outreach and Proactive Engagement
IRC	Intake Release Center
LASD	Los Angeles Sheriff's Department
LCSW	Licensed Clinical Social Worker
LD	Learning Domain
NAMI OC	National Alliance on Mental Illness – Orange County Chapter
OCCJCC	Orange County Criminal Justice Coordinating Council
OCGJ	Orange County Grand Jury
OCHCA	Orange County Health Care Agency
OCSD	Orange County Sheriff's Department
PERT	Psychiatric Emergency Response Team
POST	Peace Officer Standards and Training
SB	Senate Bill
SPA	Service Planning Area
UCI	University of California, Irvine

APPENDIX

National Alliance on Mental Illness, Orange County (NAMI OC) Warm Line

If you or someone you know is experiencing a mental health crisis, it is essential to take immediate action.

Why a "Warm Line" and not a "Hot Line?"

Imagine a pot left unattended and beginning to boil over—it requires immediate intervention to prevent avoidable damage. Distress left avoided for too long is similar to a boiling pot.

The Warm Line aims to be an accessible mental health resource people can use for support before they've reached their boiling point. Our research shows that immediate support will prevent crisis later.

The Warm Line aspires to bring authentic human connection to every conversation. Because our counselors are peers with their own experiences of mental health challenges, MHASF provides support from a place of empathy, understanding, and constant hope for recovery.

Source: [Warm Line - Mental Health Association of San Francisco \(mentalhealthsf.org\)](https://www.mentalhealthsf.org/warm-line)



California Penal Code Sections §933 and §933.05

(Note: To reduce grand jury requests for additional response information, the grand Jury has bolded those words in §933.05 which should be appropriately included in a response.)

933. (a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.
- (b) ~~One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.~~
- (c) ~~No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.~~
- (d) As used in this section "agency" includes a department.

- 933.05. (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:
- (1) The respondent **agrees** with the finding.
 - (2) The respondent **disagrees wholly or partially** with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
- (1) ~~The recommendation has been implemented~~, with a summary regarding the implemented action.
 - (2) ~~The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.~~
 - (3) ~~The recommendation requires further analysis~~, with an explanation and the scope and parameters of an analysis or study, and a **timeframe** for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This **timeframe** shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation **will not be implemented** because it is not warranted or is not reasonable, with an explanation therefor.
- (c) ~~However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.~~
- (d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.
- (e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.
- (f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report

GUTIERREZ, FATIMA

From: Grand Jury Support <GrandJurySupport@occourts.org>
Sent: Wednesday, June 5, 2024 10:00 AM
To: gjsupport
Subject: Orange County News Release
Attachments: GJ News Release 060524.pdf

News Release

The 2023-2024 Orange County Grand Jury has released the report titled, “ **Law Enforcement’s Response to Mental Health Calls for Service** ” Please see the attached news release. This report can be found on the Orange County Grand Jury’s website at www.ocgrandjury.org.

Thank you,

Joyce Mwangi
Grand Jury Coordinator
Orange County Grand Jury
 714-834-3320

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NEWS RELEASE

June 5, 2024

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Law Enforcement's Response to Mental Health Calls for Service

Santa Ana, California— Approximately 8.8 million Americans have a severe mental illness such as schizophrenia, severe bi-polar disorder, or major depression with psychiatric features.¹ Almost half of these people are treated on a given day.² Without proper treatment, people with severe mental illness are at risk of experiencing negative outcomes that seriously impact them and the people around them.

Decades ago, law enforcement officers in Orange County became mental health clinicians without proper training. While State legislation has since required police agencies to increase mental health training, Orange County law enforcement agencies have surpassed the State's expectations. The Orange County Grand Jury (OCGJ) believes that law enforcement in Orange County is a model for training law enforcement personnel on mental health crisis intervention techniques and collaborating with behavioral health organizations to improve service and reduce stigma for those affected by mental illness.

The Grand Jury report, including Findings/Conclusions and Recommendations, can be found on the Orange County Grand Jury's website at www.ocgrandjury.org. This report will also be included as part of the Final Report of the 2023-2024 Grand Jury, to be published later this year.

2023-2024 Orange County Grand Jury

A handwritten signature in blue ink that reads "Margaret Riley" followed by a stylized signature that appears to be "for" or "for [unclear]".

Michael J. Verrengia, Foreperson



CITY OF COSTA MESA

CALIFORNIA 92628-1200

P.O. Box 1200

FROM THE POLICE DEPARTMENT

July,30 2024

The Honorable Maria Hernandez,
 Presiding Judge of the Superior Court
 Orange County Grand Jury
 700 Civic Center Drive West
 Santa Ana, CA 92701

Subject: Report of the Orange County Grand Jury – Law Enforcement’s Response to Mental Health Calls for Service

Dear Presiding Judge Hernandez,

The City of Costa Mesa appreciates the time and effort the Grand Jury spent on the development of their report, Law Enforcement’s Response to Mental Health Calls for Service.

The City Council has reviewed the report and authorized the attached response to the findings and recommendations noted in the report.

Should you have any questions or require further information, please do not hesitate to reach out me at 714-754-5663 or jlapointe@costamesaca.gov

Sincerely,

Joyce LaPointe, Deputy Police of Chief

Enclosure: City of Costa Mesa's Response to Findings and Recommendations

cc: City of Costa Mesa Council,
 Costa Mesa City Council
 Lori Ann Farrell Harrison, City Manager
 Cecilia Gallardo-Daly, Assistant City Manager
 Raja Sethuraman, Public Works Director
 Ron Lawrence, Chief of Police
 Jason Chamness, Police Captain

City of Costa Mesa Responses to Finding & Recommendations: 2023-2023 Orange County Grand Jury report, Law Enforcement's Response to Mental Health Calls for Service.

Findings and Responses

- F1** Mental health training for law enforcement officers in Orange County exceeds the State's requirements, resulting in law enforcement applying these skills to better evaluate and handle mental health calls for service.

Response - Agree

- F2** Law enforcement agencies in Orange County have developed unique ways to deal with mental health calls in their communities based on their needs and budgets, enabling law enforcement to better serve their communities.

Response - Agree

- F3** Law enforcement collaboration with County PERT clinicians and Be Well mobile response units has been an effective tool when responding to mental health calls for service.

Response - Agree

- F4** People with mental illness respond more positively to "soft uniformed" police personnel, which can be effective in de-escalating situations.

Response - Agree

- F5** Providing follow-up case management is not only necessary but critical for the wellbeing of people experiencing mental health issues

Response - Agree

Recommendations

- R1** Based on its investigation, the 2023-2024 OCGJ has determined that law enforcement agencies throughout Orange County have developed unique techniques to adequately address mental health calls, thus this report does not contain recommendations.

City's Response:

Agrees with findings- No recommendations.



CITY OF COSTA MESA

77 Fair Drive
Costa Mesa, CA 92626

Agenda Report

File #: 24-318

Meeting Date: 9/3/2024

TITLE:

SECOND READING OF AN ORDINANCE APPROVING THE FIRST AMENDMENT (DA-20-05) TO DEVELOPMENT AGREEMENT (DA-94-01) BETWEEN THE CITY OF COSTA MESA AND THE INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB ALLOWING FOR A 20-YEAR TIME EXTENSION THAT WOULD EXPIRE OCTOBER 31, 2044; AMENDING PROVISIONS PERTAINING TO THE RATE AND METHODOLOGY FOR CALCULATING TRAFFIC IMPACT FEES; AND, AMENDING PROVISIONS RELATED TO THE SETBACK OF A FUTURE PARKING STRUCTURE; FOR A PROPERTY LOCATED AT 3333 FAIRVIEW ROAD

**DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/
PLANNING DIVISION**

PRESENTED BY: CHRISTOPHER ALDANA, ASSISTANT PLANNER

CONTACT INFORMATION: CHRISTOPHER ALDANA, ASSISTANT PLANNER, (714) 754-4868

RECOMMENDATION:

Staff recommends the City Council:

1. Find, pursuant to CEQA Guidelines Section 15162, that the project is within the scope of the June 20, 1994-certified Final Environmental Impact Report (EIR) #1045 (State Clearing House No. 94021036) for the Auto Club Expansion project. The effects of the project were examined in the 1994 FEIR, and all feasible mitigation measures and alternatives developed in the 1994 FEIR are incorporated into this project, and no new mitigation measures are required. Therefore, the 1994 FEIR for the Automobile Club Expansion project is determined to be adequate to serve as the environmental documentation for this project, that no further environmental review is required, and that all requirements of CEQA are satisfied.
2. Give second reading to and adopt, by title only, Ordinance 2024-XX approving the First Amendment (DA-20-05) to the Automobile Club of Southern California Development Agreement (DA-94-01) to allow for a 20-year time extension that would expire October 31, 2044; to amend provisions pertaining to the rate and methodology for calculating traffic impact fees; and to amend provisions related to the setback of a future parking structure.



City of Costa Mesa

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

Item #: 24-318

Meeting Date: 09/03/2024

TITLE: SECOND READING OF AN ORDINANCE APPROVING THE FIRST AMENDMENT (DA-20-05) TO DEVELOPMENT AGREEMENT (DA-94-01) BETWEEN THE CITY OF COSTA MESA AND THE INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB ALLOWING FOR A 20-YEAR TIME EXTENSION THAT WOULD EXPIRE OCTOBER 31, 2044; AMENDING PROVISIONS PERTAINING TO THE RATE AND METHODOLOGY FOR CALCULATING TRAFFIC IMPACT FEES; AND, AMENDING PROVISIONS RELATED TO THE SETBACK OF A FUTURE PARKING STRUCTURE; FOR A PROPERTY LOCATED AT 3333 FAIRVIEW ROAD

DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/ PLANNING DIVISION

PRESENTED BY: CHRISTOPHER ALDANA, ASSISTANT PLANNER

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RECOMMENDATION:

Staff recommends the City Council:

1. Find, pursuant to CEQA Guidelines Section 15162, that the project is within the scope of the June 20, 1994-certified Final Environmental Impact Report (EIR) #1045 (State Clearing House No. 94021036) for the Auto Club Expansion project. The effects of the project were examined in the 1994 FEIR, and all feasible mitigation measures and alternatives developed in the 1994 FEIR are incorporated into this project, and no new mitigation measures are required. Therefore, the 1994 FEIR for the Automobile Club Expansion project is determined to be adequate to serve as the environmental documentation for this project, that no further environmental review is required, and that all requirements of CEQA are satisfied.
2. Give second reading to and adopt, by title only, Ordinance 2024-XX approving the First Amendment (DA-20-05) to the Automobile Club of Southern California Development Agreement (DA-94-01) to allow for a 20-year time extension that would expire October 31, 2044; to amend provisions pertaining to the rate and methodology for calculating traffic impact fees; and to amend provisions related to the setback of a future parking structure.

APPLICANT OR AUTHORIZED AGENT:

The applicant and authorized agent is Jennifer J. Farrell, Esq., representing the property owner, Interinsurance Exchange Automobile Club of Southern California.

BACKGROUND:

At the August 6, 2024, City Council meeting, the Council considered the proposed amendments to the above noted Ordinance, considered the Planning Commission recommendation, heard public comment, and passed the Ordinance to a second reading by a 7-0 vote.

The August 6, 2024, City Council report and video are linked below:

August 6, 2024, City Council Agenda Report (also provided as Attachment 3):

<https://costamesa.legistar.com/LegislationDetail.aspx?ID=6816050&GUID=783400DD-5790-4172-B7CD-B9A8C26E0A7C>

August 6, 2024, City Council Video:

https://costamesa.granicus.com/player/clip/4159?view_id=14&redirect=true

ANALYSIS:

In voting to introduce the ordinance for first reading, the City Council found that the proposed first amendment to the development agreement is consistent with General Plan policies and objectives, and that the proposed development associated with the Development Agreements is compatible with the nearby existing land uses located north of Interstate 405 which includes larger development such as South Coast Plaza, Metro Pointe, IKEA and the Segerstrom Center for the Arts.

Based on local and State development agreement review provisions/requirements, the City Council found that the extension of the Development Agreement will provide additional time to complete buildout of the Automobile Club's corporate campus; would not be detrimental to the public health, safety, and general welfare; and will not adversely affect the orderly development of the subject or surrounding properties. City Council support for the first amendment was generally based on retention of a large and high-quality local employer, and the preservation and generation of local employment opportunities. Additionally, the project will contribute additional funding for road improvement and circulation projects citywide through the payment of enhanced traffic impact fees.

ENVIRONMENTAL DETERMINATION:

Pursuant to CEQA Guidelines Section 15162, this project remains within the scope of the June 20, 1994 certified Final Environmental Impact Report (FEIR) #1045 (State Clearinghouse No. 94021036) for the AAA Expansion project. The effects of the project were examined in the 1994 FEIR, and all feasible mitigation measures and alternatives developed in the 1994 FEIR are incorporated into this project, and no new mitigation measures are required. Therefore, the 1994 FEIR for AAA Expansion project is determined to be adequate to serve as the environmental documentation for this project, no further environmental review is required, and that all requirements of CEQA are satisfied.

ALTERNATIVES:

The City Council may give second reading and adopt the Ordinance as proposed, modify the Ordinance, or not adopt the Ordinance. If the City Council wishes to make substantive modifications to the Ordinance at second reading, those changes would first need to be negotiated with the applicant and re-introduced for first reading at a future City Council meeting.

FISCAL REVIEW:

The overall impact to the City from Traffic Impact Fee revenue under the revised calculation from \$228 to \$235 per net trip, if AAA expands to the maximum allotted 250,000-square-foot building, would be an additional one-time estimated increase of \$160,000 in revenue to the Traffic Impact Fees Fund (Fund 214).

LEGAL REVIEW:

The draft Ordinance and staff report have been prepared in conjunction with and reviewed by the City Attorney's Office.

PUBLIC NOTICE:

Pursuant to Government Code Section 36933, a summary of the proposed ordinance was published once in the newspaper no less than five days prior to the September 3, 2024, second reading. A summary of the adopted ordinance will also be published in the newspaper within 15 days after adoption.

Public comments received prior to the September 3, 2024, City Council meeting may be viewed at this link:

[CITY OF COSTA MESA - Calendar \(legistar.com\)](https://legistar.com/calendar/city-of-costa-mesa/)

CITY COUNCIL GOALS AND PRIORITIES:

This item is administrative in nature.

CONCLUSION:

The proposed amendment does not modify the development plan beyond extending the date of expiration, updating the rate and method of calculating traffic impact fees, and modifying language pertaining to increasing the setback of a future parking structure. The City Council voted in favor of the proposed Development Agreement first amendment in that the extended term would support the retention of a long-term, large and high-quality local employer, allow the City the opportunity to benefit from the remaining traffic impact fees which would be used on road improvement projects, and the development will create additional quality local employment opportunities. Finally, the proposal is in conformance with the City's General Plan.

ORDINANCE NO. 2024-xx**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING THE FIRST AMENDMENT (DA-20-05) TO DEVELOPMENT AGREEMENT (DA-94-01) BETWEEN THE CITY OF COSTA MESA AND THE INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB**

THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA DOES HEREBY FIND AND DECLARE AS FOLLOWS:

WHEREAS, public hearings were held on May 23, 1994 before the Planning Commission pursuant to the Procedures and Requirements for Consideration of Development Agreements set forth in City Council Resolution No. 88-53 and Government Code 65867, regarding the proposed Development Agreement DA-94-01 (hereinafter, the "Agreement"), at which time the Planning Commission considered testimony presented by the public and applicant (hereinafter, "Developer") and thereafter made a recommendation to the City Council; and

WHEREAS, a public hearing was subsequently held before the City Council on June 6, 1994 and June 20, 1994 pursuant to the requirements of Resolution No. 88-53 and Government Code 65867, at which time the City Council considered testimony presented by the public and the Developer and the recommendation of the Planning Commission regarding the proposed Agreement; and

WHEREAS, EIR No. 1045 and Addendum No. 1 were prepared for the project and were certified on June 20, 1994, in accordance with Sections 15090 and 15164 of the CEQA Guidelines; and

WHEREAS, on behalf of the property owner, the applicant, Jennifer J. Farrell of Rutan, submitted application Development Agreement DA-20-05 in August 2023 requesting amendments to several terms of Development Agreement DA-94-01; and

WHEREAS, the proposed First Amendment (DA-20-05) to Development Agreement (DA-94-01) between the City of Costa Mesa and the Interinsurance Exchange of the Automobile Club requests approval of the following:

- A 20-year time extension that would expire on October 31, 2044,
- Update to the rate and methodology for calculating traffic impact fees,
- Update to the setback of a future parking structure, and

WHEREAS, a duly-noticed public hearing was held on July 22, 2024, before the Planning Commission pursuant to the Procedures and Requirements for Consideration of Development Agreements set forth in City Council Resolution No. 88-53 and Government Code Section 65867, regarding the proposed First Amendment (DA-20-05) to Development Agreement (DA-94-01), attached hereto as Exhibit “B” (hereinafter, the “Agreement”), at which time the Planning Commission considered testimony presented by the public and applicant and property owner Interinsurance Exchange of the Automobile Club (hereinafter, “Developer”) and thereafter recommended by a vote of 4-1-2 that the City Council approve the proposed Agreement; and

WHEREAS, a duly-noticed public hearing was subsequently held on August 6, 2024, before the City Council pursuant to the Procedures and Requirements for Consideration of Development Agreements set forth in City Council Resolution No. 88-53 and Government Code 65867, regarding the proposed First Amendment (DA-20-05) to Development Agreement (DA-94-01), at which time the City Council considered testimony presented by the public and the Developer and the recommendation of the Planning Commission; and

WHEREAS, the First Amendment to the Development Agreement is:

- (a) Consistent with the objectives, policies, general land uses and programs specified in the General Plan;
- (b) Compatible with the uses authorized in, and the existing land use regulations prescribed for, the zoning district in which the real property is and will be located; and
- (c) Is in conformity with and will promote public convenience, general welfare, and good land use practice.

WHEREAS, the First Amendment to the Development Agreement will not:

- (a) Be detrimental to the health and safety and general welfare; or
- (b) Adversely affect the orderly development of property or the preservation of property values.

WHEREAS, the First Amendment to the Development Agreement will promote and encourage the development of the proposed project and will ensure the public benefits promised therein, by providing stability and certainty to Developer; and

WHEREAS, pursuant to CEQA Guidelines Section 15162, the project is within the scope of the June 20, 1994-certified Final Environmental Impact Report (EIR) #1045 and Addendum No. 1 (State Clearinghouse No. 94021036) for the Auto Club Expansion project. The effects of the project were examined in the 1994 FEIR, and all feasible mitigation measures and alternatives developed in the 1994 FEIR are incorporated into this project and no new mitigation measures are required. Therefore, the 1994 FEIR for the Automobile Club Expansion project is determined to be adequate to serve as the environmental documentation for this project, that no further environmental review is required, and that all requirements of CEQA are satisfied.

WHEREAS, all legal prerequisites prior to the adoption of this Ordinance have occurred.

Now, therefore, THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: Findings and Declarations. The above stated findings and declarations are true and correct.

Section 2: Approval. The City Council hereby approves, adopts, and enters into the First Amendment (DA-20-05) to Development Agreement (DA-94-01) in the form attached hereto as Exhibit "A" and incorporates the First Amendment (DA-20-05) to the Development Agreement (DA-94-01) herein by this reference.

Section 3: Recordation. Upon execution of the Agreement by all parties, the City Clerk is directed to record the First Amendment (DA-20-05) pursuant to Resolution No. 88-53.

Section 4: Environmental Compliance. Pursuant to the provisions of CEQA and State CEQA guidelines, a Final EIR and Addendum No. 1, State Clearing House No. 94021036, including a mitigation monitoring program and statement of overriding consideration, was certified for the project on June 20, 1994, and the City has determined that the effects of this project were examined in the 1994 FEIR, and all feasible mitigation measures and alternatives developed in the 1994 FEIR are incorporated into this project and no new mitigation measures are required. Therefore, the 1994 FEIR for the Automobile Club Expansion project is determined to be adequate to serve as the environmental documentation for this project, that no further environmental review is required, and that all requirements of CEQA are satisfied.

Section 5: Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies

and or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

Section 6: Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 7: Effective Date. This Ordinance shall take effect 30 days after adoption.

Section 8: Certification. The City Clerk shall certify the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner as required by law.

PASSED AND ADOPTED this ____ day of _____, 2024.

John Stephens
Mayor of the City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

Brenda Green, City Clerk

Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing Ordinance No. 2024-xx was duly introduced for first reading at a regular meeting of the City Council held on the 6th day of August, 2024, and that thereafter, said Ordinance was duly passed and adopted at a regular meeting of the City Council held on the ____ day of _____, 2024, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 4th day of September, 2024.

Brenda Green, City Clerk

EXHIBIT A

FINDINGS

DA-20-05 is a request for 20-year time extension that would expire on October 31, 2044, and to also amend provisions of Development Agreement DA-94-01 pertaining to the rate and methodology for calculating Traffic Impact Fees and the setback for a future parking structure. The requested amendments do not change the previously approved project plans. Therefore, the findings, and the facts in support of those findings, contained in the Ordinances and Resolutions for Final Environmental Impact Report #1045, General Plan Amendment (GP-94-01A), Rezone (R-94-01), Planning Action (PA-94-15), Tentative Parcel Map (S-94-120), and Development Agreement (DA-94-01) remain true and in effect. The following findings, and facts in support of those findings, pertain only to the scope of the proposed amendments.

Pursuant to City Council Resolution No. 88-53, Development Agreement Procedures and Requirements, and Government Code Section 65865(c), staff recommends approval of the requested amendments, based on the following assessment of facts and findings:

- *The Development Agreement between the City of Costa Mesa and Developer is:*
 - *Consistent with the objectives, policies, general land uses and programs specified in the General Plan and with the General Plan as a whole;*
 - *Compatible with the uses authorized in, and the existing land use regulations prescribed for, the zoning district in which the real property is and will be located; and*
 - *Is in conformity with and will promote public convenience, general welfare, and good land use practice.*

The proposed amendment to the DA is consistent with General Plan policies and objectives, primarily objective LU-6C, in that the long-term build-out of the AAA office campus will support the retention and expansion of the City's employment base with diverse and quality employment opportunities. Additionally, the City's Land Use Element specifies that the "Urban Center Commercial" Land Use District is intended to "allow for high-intensity mixed-use commercial development within a limited area", and identifies that one of the four major developments located within the Urban Center Commercial Land Use District is the "Automobile Club of Southern California". The proposed development is also compatible with the existing land uses located North of Interstate 405 which includes larger developments such as The South Coast Plaza, Metro Pointe, IKEA and the Segerstrom Center for the Arts. Lastly, AAA has operated from this site since 1980 without any impacts to surrounding uses, including the nearby residential developments.

- *The Development Agreement between the City of Costa Mesa and Developer will not:*
 - *Be detrimental to the health, safety and general welfare; and*

- Adversely affect the orderly development of property or the preservation of property values.

This AAA headquarters has operated at the site since 1980 and there have been no incompatibilities with the surrounding uses. The proposed use, size, and intensity of the project is consistent with the existing development within the general area located north of the 405 freeway, and would not be detrimental to the health, safety, and general welfare of the community. There are no modifications proposed to the site's previously entitled development intensity and only minor considerations are proposed to improve the site's physical layout to avoid potential impacts to nearby residential development. As such, the extension of the DA will not be detrimental to the health, safety and general welfare, or adversely affect the orderly development of property or the preservation of property values.

EXHIBIT B

**FIRST AMENDMENT (DA-20-05) TO THE DEVELOPMENT AGREEMENT BETWEEN THE
CITY OF COSTA MESA AND INTERINSURANCE EXCHANGE OF THE AUTOMOBILE
CLUB (DA-94-01)**

RECORDING REQUESTED BY AND WHEN
RECORDED MAIL TO:

City of Costa Mesa
PO Box 1200
Costa Mesa, CA 92628-1200
Attn: City Clerk

Space Above This Line for Recorder's Use (Exempt
from Recording Fee per Gov't Code §6103 and §27383)

**FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF COSTA MESA
AND
THE INTERINSURANCE EXCHANGE OF THE
AUTOMOBILE CLUB**

698/037947-0002
19250070.11 a05/30/24

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

This First Amendment to Development Agreement (the “Amendment”) is entered into as of the _____ day of _____, 2024 (“First Amendment Effective Date”), by and between the CITY OF COSTA MESA (“City”), and the INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB, formerly known as the Interinsurance Exchange of the Automobile Club of Southern California (“Owner”). Each party may be referred to individually as “Party” or together as the “Parties”.

RECITALS

A. WHEREAS, pursuant to Section 65864 *et seq.* of the Government Code and the City’s adopted rules and procedures, the Parties entered into that certain Development Agreement dated October 5, 1994 and recorded in the official records of Orange County, California on November 1, 1994, as instrument number 94-0641379 (the “Development Agreement”); and

B. WHEREAS, among other purposes, the City entered into the Development Agreement in furtherance of the City’s policy to support the retention and expansion of businesses located in the City in order to increase employment, maintain a stable tax base, attract new businesses, and promote a diversified, stable, and healthy local economy; and

C. WHEREAS, the assurances provided by the Development Agreement were and remain necessary to provide the certainty which will allow the Owner to make the long-term commitments involved in consolidating its facilities and operations in the City; and

D. WHEREAS, the Project on the Property (as defined and described in the Development Agreement) has not been completed based, in part, by the interruption starting in early 2020 in the Owner’s development and planning caused by the COVID-19 pandemic, uncertainty in space needs caused by the changing trends in remote and hybrid work, uncertainty in the configuration of spaces in buildings due to safety protocols and other changing trends, and the evolving business needs of the Owner, all of which merit additional time to complete the development of the Project; and

E. WHEREAS, extending the term of the Development Agreement and updating specified City fees, with all of the terms and conditions in the Development Agreement otherwise remaining the same, continue to further the City’s policy to support the retention and expansion of businesses located in the City in order to increase employment, maintain a stable tax base, attract new businesses, and promote a diversified, stable, and healthy local economy; and

F. WHEREAS, the best interests of the citizens of Costa Mesa, and the public health, safety and welfare, are served by extending the term of the Development Agreement as provided herein; and

G. WHEREAS, the Amendment and the Project are consistent with the City’s General Plan; and

H. WHEREAS, pursuant to Section 65868 of the Government Code and the City's adopted rules and procedures, this Amendment has been reviewed by City Staff, the Planning Commission, and the City Council; and

I. WHEREAS, the City and Owner have a mutual interest, based on the Recitals in the Agreement and as set forth herein above, to extend the term of the Development Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the terms and conditions set forth herein, and for good and valuable consideration, the Parties do hereby agree as follows:

1. Except as expressly defined in this Amendment, all capitalized words and phrases shall have the same meaning ascribed to them in the Development Agreement.

2. The term of the Development Agreement shall be extended for an additional twenty (20) years ("Extension Term"), commencing on November 1, 2024, which is the first day after the last day of the 30-year term set forth in Section 2.3 of the Development Agreement. For purposes of the Agreement, the "term" or "Term" of the Agreement shall include the entire period for which the Development Agreement is operative, including the initial 30-year term and Extension Term.

3. To correct duplicative numbering in Article 2 of the Development Agreement, the second Section numbered "2.4" shall be renumbered to "2.5", and the Section numbers thereafter in Article 2 shall likewise be renumbered, so that the Sections numbered "2.5" and "2.6" shall be renumbered to "2.6" and "2.7", respectively.

4. The Owner notice addresses in the Development Agreement in Section 2.7(b), as modified by this Amendment, shall be deleted in their entirety and replaced with the following:

"If to OWNER:

Interinsurance Exchange of the Automobile Club
3333 Fairview Road, A410
Costa Mesa, California 92626
Attn: Vice President, Administrative Services

with copies to:

Interinsurance Exchange of the Automobile Club
3333 Fairview Road, A491
Costa Mesa, California 92626
Attn: General Counsel"

5. The proposed Phase II parking structure location shall be addressed in Section 3.7 of the Development Agreement, relating to changes to the Existing Development Approvals which

shall be deemed “minor,” by adding a new clause as clause (e) and renumbering clause (e) to (f) in the last sentence of Section 3.7, to read as follows:

“Unless otherwise required by law, a change to the Existing Development Approvals shall be deemed ‘minor’ and not require an amendment to this Agreement provided such change does not:

(e) Decrease the setback distance requirements for the proposed Phase II parking structure from the northern property boundary, as set forth in Item #5 (Shade and Shadows) of the Inventory of Mitigation Measures, attached as part of Exhibit “B” to City Council Resolution No. 94-54. (Relocation of the Phase II parking structure shall be proposed further away from the existing residential uses north of the smaller parcel to improve compatibility and to minimize potential adverse impacts of the parking structure proximate to residential units); or,

(f) Constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.”

Except as amended above, all of the terms and conditions set forth in Section 3.7 of the Development Agreement shall remain in full force and effect.

6. The Development Exactions in Section 3.9(b), clauses (i) and (iii), of the Development Agreement shall be amended as follows:

(a) During the Extension Term as defined above, the first sentence of clause (i) of Section 3.9(b) is amended such that the ADT generated by the second phase of development shall be calculated by multiplying .00989 times the number of square feet of building area to be constructed under the building permit, to read as follows:

“The ADT generated by new development shall be calculated by multiplying .00718 times the number of square feet of building area to be constructed under the building permit; provided, however, that during the Extension Term, the ADT generated by the second phase of development shall be calculated by multiplying .00989 times the number of square feet of building area to be constructed under the building permit.”

Except as amended above, all of the terms and conditions set forth in clause (i) of Section 3.9(b) of the Development Agreement shall remain in full force and effect.

(b) During the Extension Term as defined above, clause (iii) of Section 3.9(b) of the Development Agreement shall be amended by adding the following sentences at the end of the paragraph, to read as follows:

“Commencing on the Extension Term, the traffic impact fee shall be adjusted to two hundred thirty-five dollars (\$235.00) per ADT. For any building permit issued during the Extension Term, the traffic impact fee shall be the lesser of either \$235 per ADT or the amount per ADT then in effect in accordance with Section 13-274 of the CITY Planning, Zoning and Development Code or any successor CITY ordinance.”

Except as amended above, all of the terms and conditions set forth in clause (iii) of Section 3.9(b) of the Development Agreement shall remain in full force and effect.

7. The Development Exactions in Section 3.9(c), clauses (ii) and (iii), of the Development Agreement shall be amended as follows:

(a) During the Extension Term as defined above, the last sentence of clause (ii) of Section 3.9(c) shall be amended so that the modified traffic impact fee of two hundred thirty-five dollars (\$235.00) and provisions applicable during the Extension Term are incorporated into this clause (ii), to read as follows:

“Any such payment by OWNER or refund by CITY shall be made within thirty days of submittal of such traffic study and shall be based on the lesser of either two hundred twenty-eight dollars (\$228.00) (or, during the Extension Term, two hundred thirty-five dollars (\$235.00)) per ADT or the amount per ADT then in effect under Section 13-326 (or, during the Extension Term, Section 13-274) of the CITY Planning, Zoning and Development Code or any successor CITY ordinance.”

Except as amended above, all of the terms and conditions set forth in clause (ii) of Section 3.9(c) of the Development Agreement shall remain in full force and effect.

(b) During the Extension Term as defined above, the last sentence of clause (iii) of Section 3.9(c) of the Development Agreement shall be amended so that the modified traffic impact fee of two hundred thirty-five dollars (\$235.00) and provisions applicable during the Extension Term are incorporated into this clause (iii), to read as follows:

“Any such payment by OWNER or refund by CITY shall be made within thirty (30) days of submittal of such second traffic study and shall be based on the lesser of two-hundred twenty-eight dollars (\$228.00) (or, during the Extension Term, two hundred thirty-five dollars (\$235.00)) per ADT or the amount per ADT then, in effect under Section 13-326 (or, during the Extension Term, Section 13-274) of the CITY Planning, Zoning and Development Code or any successor CITY ordinance.”

Except as amended above, all of the terms and conditions set forth in clause (iii) of Section 3.9(c) of the Development Agreement shall remain in full force and effect.

8. Except as expressly modified by this Amendment, all of the terms and conditions set forth in the Development Agreement shall remain the same and shall be in full force and effect.

IN WITNESS WHEREOF, Developer and City have executed this Amendment as of the First Amendment Effective Date.

“CITY”
CITY OF COSTA MESA

Dated: _____

By: _____

Name: _____

Its: _____

ATTEST:

CITY CLERK

By: _____

Name: _____

APPROVED AS TO FORM:

By: _____

Name: _____

Its: _____

“OWNER”
INTERINSURANCE EXCHANGE OF
THE AUTOMOBILE CLUB

Dated: _____

By: _____

Name: _____

Its: _____

APPROVED AS TO FORM:

By: _____

Name: _____

Its: _____

DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF COSTA MESA
and
THE INTERINSURANCE EXCHANGE OF
THE AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA

DEVELOPMENT AGREEMENT

This Development Agreement (hereinafter “Agreement”) is entered into effective on the date it is recorded with the Orange County Recorder (hereinafter the “Effective Date”) by and between the CITY OF COSTA MESA (hereinafter “CITY”), and the INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA (hereinafter “OWNER”).

RECITALS

WHEREAS, CITY is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property, pursuant to Section 65864, et seq. of the Government Code; and,

WHEREAS, CITY has adopted rules and regulations for consideration of development agreements, pursuant to Section 65865 of the Government Code; and,

WHEREAS, OWNER has requested CITY to enter into a development agreement and proceedings have been taken in accordance with the rules and regulations of CITY; and,

WHEREAS, by electing to enter into this Agreement, CITY shall bind future City Councils of CITY by the obligations specified herein and limit the future exercise of certain governmental and proprietary powers of CITY; and,

WHEREAS, it is the policy of the CITY to support the retention and expansion of businesses located in the CITY in order to increase employment, maintain a stable tax base, attract new businesses, and promote a diversified, stable, and healthy local economy; and,

WHEREAS, the assurances provided by this Agreement are necessary in order to provide the certainty which will allow OWNER to make the long-term commitments involved in consolidating its facilities and operations in the CITY; and,

WHEREAS, the retention and expansion of OWNER’s business pursuant to this Agreement will substantially promote a diversified, stable, and healthy local economy, serving to retain approximately twelve hundred jobs in the CITY and ultimately producing an additional thirteen hundred fifty local jobs; and,

WHEREAS, the terms and conditions of this Agreement have undergone extensive review by CITY, its Planning Commission and City Council and have been found to be fair, just and reasonable; and,

WHEREAS, the best interests of the citizens of Costa Mesa and the public health, safety and welfare will be served by entering into this Agreement; and,

WHEREAS, all of the procedures of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) have been met with respect to the Project and this Agreement; and,

WHEREAS, this Agreement and the Project (as hereinafter defined) are consistent with the CITY General Plan; and,

WHEREAS, all actions taken and approvals given by CITY have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and,

WHEREAS, development of the Property in accordance with this Agreement will provide substantial benefits to CITY and will further important policies and goals of CITY; and,

WHEREAS, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the Property, ensure progressive installation of necessary improvements, provide for public services appropriate to the development of the Project, and generally serve the purposes for which development agreements under Sections 65864, et seq. of the Government Code are intended; and,

WHEREAS, OWNER has incurred and will in the future incur substantial costs in order to assure development of the Property in accordance with this Agreement.

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS AND EXHIBITS.

1.1 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.1.1 “Agreement” means this Development Agreement.

1.1.2 “CITY” means the City of Costa Mesa, a municipal corporation organized and existing under the laws of the State of California.

1.1.3 “Development”, “development”, and “develop” mean the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of infrastructure and public facilities related to the Project whether located within or outside the Property; the construction, demolition, reconstruction and redevelopment of buildings and structures; and the installation of landscaping.

1.1.4 “Development Approvals” means all permits and other entitlements for use subject to approval or issuance by CITY in connection with development of the Property including, but not limited to:

(a) Tentative and final subdivision and parcel maps;

- (b) Conditional use permits, final development permits and variances;
- (c) Zoning;
- (d) Grading and building permits.
- (e) Occupancy permits.

1.1.5 “Development Exaction” means any requirement of CITY in connection with or pursuant to any Land Use Regulation or Development Approval for the dedication of land, the construction of public improvements or public facilities, or the payment of fees in order to lessen, offset, mitigate or compensate for the impacts of development on the environment or other public interests.

1.1.6 “Development Plan” means the Existing Development Approvals and the Existing Land Use Regulations applicable to development of the Property.

1.1.7 “Effective Date” means the date this Agreement is recorded with the Orange County Recorder.

1.1.8 “Existing Development Approvals” means all Development Approvals approved or issued prior to the Effective Date. Existing Development Approvals includes the Development Approvals incorporated herein as Exhibit “C” and all other Development Approvals which are a matter of public record on the Effective Date.

1.1.9 “Existing Land Use Regulations” means all Land Use Regulations in effect on the Effective Date. The Existing Land Use Regulations are listed on Exhibit “D” and incorporated herein by reference.

1.1.10 “Index” means the Engineering News-Record Construction Cost Index for Los Angeles published monthly in the Engineering News-Record by McGraw-Hill, Inc. The Index for January 1994 was 6474.60. In the event the publication of the Index is discontinued or the basis of calculating the Index is modified, then CITY and OWNER shall jointly select an alternative index of construction costs which is most nearly the same as the Index.

1.1.11 “Land Use Regulations” means all ordinances, resolutions, codes, rules, regulations and official policies of CITY governing the development and use of land, including, without limitation: the permitted use of land; the density or intensity of use; subdivision requirements; the maximum height and size of proposed buildings; Development Exactions; regulations regarding the rate, time or sequence of development; and the design, improvement and construction standards and specifications applicable to the development of the Property. “Land Use Regulations” includes any CITY ordinance or regulation adopted by initiative or referendum.

1.1.12 “OWNER” means the Interinsurance Exchange of the Automobile Club of Southern California, a reciprocal insurer organized under the California Insurance Code to serve the members of the Automobile Club of Southern California, a California non-profit mutual benefit corporation, and its successors in interest to all or any part of the Property.

1.1.13 “Mortgagee” means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other secured lender, and their successors and assigns.

1.1.14 “Project” means the development of the Property as provided by the Development Plan as such Development Plan may be further defined, ‘enhanced or modified pursuant to the provisions of this Agreement.

1.1.15 “Property” means the real property described on Exhibit “A” and shown on Exhibit “B” to this Agreement.

1.1.16 “Resolution No. 88-53” means the CITY resolution adopted on July 19, 1988 titled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ESTABLISHING PROCEDURES AND REQUIREMENTS FOR CONSIDERATION OF DEVELOPMENT AGREEMENTS.*

1.1.17 “Subsequent Development Approvals” means all Development Approvals required subsequent to the Effective Date in connection with development of the Property.

1.1.18 “Subsequent Land Use Regulations” means any Land Use Regulations adopted and effective after the Effective Date of this Agreement.

1.2 Exhibits. The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit “A” —
Legal Description of the Property.

Exhibit “B” —
Map showing Property and its location.

Exhibit “C” —
Existing Development Approvals.

Exhibit “D” —
Existing Land Use Regulations.

2. GENERAL PROVISIONS.

2.1 Binding Effect of Agreement. The Property is hereby made subject to this Agreement. Development of the Property is hereby authorized and shall be carried out in accordance with the terms of this Agreement.

2.2 Ownership of Property. OWNER represents and covenants that it is the owner of a legal or equitable interest in the Property.

2.3 Term. The term of this Agreement shall commence on the Effective Date and shall continue for a period of thirty (30) years thereafter unless this term is modified or extended

pursuant to the provisions of this Agreement. The term of the Development Agreement shall be extended for an additional twenty (20) years (“Extension Term”), commencing on November 1, 2024, which is the first day after the last day of the 30-year term set forth in Section 2.3 of the Development Agreement. For purposes of the Agreement, the “term” or “Term” of the Agreement shall include the entire period for which the Development Agreement is operative, including the initial 30-year term and Extension Term.

2.4 Assignment. OWNER shall have the right to sell, assign or transfer the Property in whole or in part (provided that no such partial transfer shall violate the Subdivision Map Act, Government Code Section 66410 et seq.) to any person, partnership, joint venture, firm or corporation at any time during the term of this Agreement. Any such sale, assignment or transfer may include the assignment of those rights, duties and obligations arising under or from this Agreement which are applicable to the Property or part thereof being assigned, transferred or sold; provided, however, that no such assignment of this Agreement shall be effective without the prior written approval of the CITY, which approval shall not be unreasonably withheld. OWNER shall give written notice to CITY of its intent to assign this Agreement, in whole or in part, at least thirty (30) days prior to making such assignment, and CITY shall give written notice to OWNER approving or disapproving such proposed assignment, within thirty (30) days of receipt of such notice of intent to assign. If CITY fails to give notice to OWNER approving or disapproving any proposed assignment within thirty (30) days of receipt of the notice of intent to assign, such failure shall be deemed approval of the proposed assignment. No sale, transfer, or assignment of any right or interest under this Agreement shall be made unless made together with the sale, transfer, or assignment of all or a part of the Property. The express written assumption of any or all of the obligations of OWNER under this Agreement by such assignee, transferee or purchaser shall relieve OWNER of its legal duty to perform such obligations under this Agreement. Any purchaser, assignee or transferee of OWNER shall have all of the rights, duties and obligations of OWNER under this Agreement insofar as such rights, duties and obligations are applicable to the Property or part thereof purchased, assigned or transferred.

2.5 ~~2.4~~—Amendment or Cancellation of Agreement. This Agreement may be amended or cancelled in whole or in part only by written consent of all parties in the manner provided for in Government Code Section 65868. This provision shall not limit any remedy of CITY or OWNER as provided by this Agreement.

2.6 ~~2.5~~—Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

- (a) Expiration of the stated term of this Agreement *as* set forth in Section 2.3.
- (b) Entry of a final judgment setting aside, voiding or annulling the adoption of the ordinance approving this Agreement or otherwise invalidating this Agreement.
- (c) The adoption of a referendum measure overriding or repealing the ordinance approving this Agreement.

(d) Completion of the Project in accordance with the terms of this Agreement including issuance of all required occupancy permits. Termination pursuant to this paragraph shall not be deemed to occur until OWNER provides written notice to CITY of completion of the Project.

Termination of this Agreement shall not constitute termination of any other Development Approvals approved for the Property.

2.7 ~~2.6~~ — Notices.

(a) As used in this Agreement, “notice” includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.

(b) All notices shall be in writing and shall be considered given either: (i) when delivered in person to the recipient named below; or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, and postage and postal charges prepaid, and addressed to the recipient named below; or (iii) on the date of delivery shown in the records of the telegraph company after transmission by telegraph to the recipient named below. All notices shall be addressed as follows:

If to CITY:

City of Costa Mesa
77 Fair Drive
Costa Mesa, California 92626
Attn: City Manager

with a copy to:

City of Costa Mesa
77 Fair Drive
Costa Mesa, California 92626
Attn: City Attorney

If to OWNER:

Interinsurance Exchange of the
Automobile Club ~~of Southern California~~
~~2601 South Figueroa Street~~
~~Los Angeles~~ 3333 Fairview Road, A410
Costa Mesa, California ~~90007-3294~~ 92626
Attn: ~~Director of~~ Vice President, Administrative Services

with copies to:

Interinsurance Exchange of the

Automobile Club ~~of Southern~~
3333 Fairview Road, A491
Costa Mesa, California 92626
~~2601 South Figueroa Street~~
~~Los Angeles, California 90007-3294~~
Attn: -General Counsel

~~and~~

~~Pillsbury Madison & Sutro~~
~~600 Anton Boulevard, Suite 1100~~
~~Costa Mesa, CA 92626~~
~~Attention: Robert L. Klotz~~

(c) Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

3. DEVELOPMENT OF THE PROPERTY.

3.1 Rights to Develop. Subject to the terms of this Agreement, OWNER shall have a vested right to develop the Property in accordance with, and to the extent of, the Development Plan. The Project shall remain subject to all Subsequent Development Approvals required to complete the Project as contemplated by the Development Plan. Except as otherwise provided in this Agreement, the permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation and dedication of land for public purposes shall be those set forth in the Development Plan.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement, the Land Use Regulations applicable to development of the Property shall be the Existing Land Use Regulations, and no Subsequent Land Use Regulation shall be applicable to the Project. If there is any conflict between any Existing Land Use Regulation and any other provision of this Agreement, such other provision of this Agreement shall be controlling.

3.3 Timing of Development. The parties acknowledge that OWNER cannot at this time predict when or the rate at which phases of the Project will be developed. Such decisions depend upon numerous factors which are not within the control of OWNER, such as business demand, interest rates, competition and other similar factors. Since the California Supreme Court held in Pardee Construction Co. v. City of Camarillo (1984) 37 Cal.3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' intent to cure that deficiency by acknowledging and providing that OWNER shall have the right to develop the Property in such increments and in such order and at such rate and at such times as OWNER deems appropriate within the exercise of its subjective business judgment, subject only to any timing or phasing requirements set forth in the Development Plan. In the event any Subsequent Land Use Regulation is enacted which relates to the rate, timing or sequencing of development of property

within the CITY, CITY agrees that such Subsequent Land Use Regulation shall not apply to the Project. In addition to and not in limitation of the foregoing, CITY agrees that no moratorium or other limitation affecting subdivision maps, building permits or other entitlements for use within the CITY or any part of the CITY shall apply to the Project.

3.4 Environmental Review. CITY certifies that Environmental Impact Report No. 1045 (“EIR”), prepared in conjunction with the Project, is a complete and accurate document which satisfies all the requirements of the California Environmental Quality Act (“CEQA”, Public Resources Code, Section 21000 et seq.) and the State CEQA Guidelines (14 California Code of Regulations 15000 et seq.) with respect to the Project and this Agreement. CITY agrees that no mitigation measures arising out of environmental concerns that are not incorporated in the Existing Development Approvals shall be imposed on the Project except as otherwise provided in this Section. CITY has reviewed the Development Plan and determined that all Subsequent Development Approvals required to implement the Existing Development Approvals are “ministerial” as defined in CEQA and the State CEQA Guidelines and therefore exempt from review under Section 21080 of the Public Resources Code. Accordingly, CITY shall not require any further review pursuant to CEQA for any Subsequent Development Approval unless OWNER applies for a Subsequent Development Approval amending the Development Plan which requires discretionary action by the CITY and unless one or more of the events set forth in Section 21166 of the Public Resources Code occurs.

3.5 Duration of Development Approvals. Notwithstanding any provision of the Existing Land Use Regulations (including without limitation the provisions of Sections 13-254 and 13-349 of the CITY Planning, Zoning and Development Code), all Existing Development Approvals and all Subsequent Development Approvals shall remain valid and effective for all purposes during the term of this Agreement unless OWNER consents in writing to earlier termination.

3.6 Subsequent Development Approvals Implementing the Development Plan. In addition to the existing Development Approvals, completion of development, in accordance with the Development Plan will require the approval and issuance by the CITY of Subsequent Development Approvals including without limitation grading permits, building permits, and occupancy permits. CITY acknowledges and agrees that all such Subsequent Development Approvals required to implement and complete development in accordance with the Development Plan are ministerial in nature. In acting on such Subsequent Development Approvals, CITY shall act promptly, reasonably and in accordance with the Development Plan. CITY shall approve and issue any such Subsequent Development Approval within one hundred twenty (120) days after CITY accepts an application therefor as complete, provided such application complies with the Development Plan. No later than thirty (30) days after receipt of an application for any such Subsequent Development Approval, City shall notify OWNER in writing whether the application is complete, specifying any information required to make the application complete.

3.7 Changes and Amendments to Existing Development Approvals. The parties acknowledge that refinement and further development of the Project may require Subsequent Development Approvals which change the Existing Development Approvals. In the event OWNER finds that a change in the Existing Development Approvals is necessary or appropriate, OWNER shall apply for a Subsequent Development Approval to effectuate such change and CITY

shall promptly process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement. If approved, any such change in the Existing Development Approvals shall be incorporated herein as an addendum to Exhibit “C”, and may be further changed from time to time as provided in this Section. Unless otherwise required by law, a change to the Existing Development Approvals shall be deemed “minor” and not require an amendment to this Agreement provided such change does not:

- (a) Alter the permitted uses of the Property as a whole; or,
 - (b) Increase the density or intensity of use of the Property as a whole;
- or,
- (c) Increase the maximum height and size of permitted buildings; or,
 - (d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or,

~~(d)~~(e) Decrease the setback distance requirements for the proposed Phase II parking structure from the northern property boundary, as set forth in Item #5 (Shade and Shadows) of the Inventory of Mitigation Measures, attached as part of Exhibit “B” to City Council Resolution No. 94-54. (Relocation of the Phase II parking structure shall be proposed further away from the existing residential uses north of the smaller parcel to improve compatibility and to minimize potential adverse impacts of the parking structure proximate to residential units); or,

~~(e)~~(f) Constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.8 Reservations of Authority. Notwithstanding any other provision of this Agreement, the following Subsequent Land Use Regulations shall apply to the development of the Property.

(a) Generally applicable processing fees and charges imposed by CITY to cover the actual costs to CITY of processing applications for Development Approvals or for monitoring compliance with any Development Approvals granted or issued. Such processing fees and charges shall not exceed the reasonable estimated costs of providing such services.

(b) Regulations which are not in conflict with the Development Plan. Any Development Exaction, any Land Use Regulation which increases the costs of development and any Land Use Regulation, whether adopted by initiative or otherwise, limiting the rate or timing or sequencing of development of the Property shall be deemed to conflict with the Development Plan and shall therefore not be applicable to the development of the Property.

(c) Regulations which are in conflict with the Development Plan provided OWNER has given written consent to the application of such regulations to development of the Property.

3.9 Development Exactions.

(a) All Development Exactions applicable to the Project are included in the Existing Development Approvals incorporated herein as Exhibit “C”. CITY shall not impose any Development Exaction on development in accordance with the Development Plan except as set forth in Exhibit “C.” In approving any Subsequent Development Approval amending the Development Plan as provided in Section 3.7 of this Agreement, CITY shall not impose any Development Exaction which would exceed the Development Exactions included in the Existing Development Approvals provided such Subsequent Development Approval does not alter the permitted uses of the Property as a whole or increase the density or intensity of use of the Property as a whole. CITY acknowledges and agrees that OWNER would not proceed with the Project but for the foregoing limitation on Development Exactions and the other assurances provided by this Agreement. CITY has determined that the maintenance and expansion of a diverse employment base within the CITY, the direct and indirect contributions to overall economic activity within the CITY, and the positive fiscal impact associated with the Project substantially contribute to the public welfare notwithstanding the limitation on Development Exactions contained in this Agreement.

(b) OWNER shall pay a traffic impact fee for each new average daily vehicle trip end (“ADT”) generated by all new development on the Property. This traffic impact fee shall be paid prior to issuance of a building permit for each phase of the Project and shall be determined as follows:

(i) The ADT generated by new development shall be calculated by multiplying .00718 times the number of square feet of building area to be constructed under the building permit; provided, however, that during the Extension Term, the ADT generated by the second phase of development shall be calculated by multiplying .00989 times the number of square feet of building area to be constructed under the building permit. The number of square feet of building area shall not include any building area within any parking structure. If any phase of the Project involves both the demolition of an existing building and the construction of a new building, the determination of the number of square feet of new building area shall be reduced by the building area to be demolished. CITY acknowledges and agrees that construction of the first phase of the Project will produce a decrease of sixty-three (63) ADT as a result of the elimination of that number of trips between the Property and other offices of OWNER, and CITY therefore agrees that the number of ADT calculated for the first building permit for the first phase of the Project shall be reduced by sixty-three (63). This reduction shall be subject to confirmation and adjustment as described in paragraph (c) of this Section.

(ii) For any building permit issued within three (3) years of the Effective Date, the traffic impact fee shall be the lesser of either two hundred twenty-eight dollars (\$228.00) per ADT or the amount per ADT then in effect under Section 13-326 of the CITY Planning, Zoning and Development Code or any successor CITY ordinance.

(iii) For any building permit issued more than three (3) years after the Effective Date, the traffic impact fee of two hundred twenty-eight dollars

(\$228.00) per ADT shall be adjusted for inflation in accordance with the Index by multiplying two hundred twenty-eight dollars (\$228.00) by a fraction, the numerator of which is the Index on the date of issuance of the building permit and the denominator of which is the Index on the Effective Date. For any building permit issued more than three (3) years after the Effective Date, the traffic impact fee shall be the lesser of either such inflation-adjusted amount per ADT or the amount per ADT then in effect under Section 13-326 of the CITY Planning, Zoning and Development Code or any successor CITY ordinance. Commencing on the Extension Term, the traffic impact fee of two hundred thirty-five dollars (\$235.00) per ADT. For any building permit issued during the Extension Term, the traffic impact fee shall be the lesser of either \$235 per ADT or the amount per ADT then in effect in accordance with Section 13-274 of the CITY Planning, Zoning and Development Code or successor CITY ordinance.

(c) The ADT generated by new development on the Property and the traffic impact fee payable as a result of such ADT shall be subject to confirmation and adjustment in accordance with the following procedures:

(i) No earlier than thirty (30) months and no later than thirty-six (36) months after the issuance of certificate(s) of occupancy for new development totalling 200,000 square feet of building area or more, OWNER shall submit a traffic study to the CITY. This traffic study shall be prepared under the direction of the CITY Director of Public Services at OWNER's expense by a professional traffic consultant selected by OWNER, and shall provide actual daily vehicle trip counts for the Property for a period consisting of not less than two twenty-four hour days, which days shall not include any holiday or weekend day. The traffic study shall calculate ADT by averaging the actual daily vehicle trip counts over the number of days studied.

(ii) If the ADT counted pursuant to such traffic study exceeds the sum of 3353 and the ADT calculated pursuant to paragraph (b)(i) of this Section, OWNER shall pay to CITY an additional traffic impact fee for each such additional ADT. If the ADT counted pursuant to such traffic study is less than the sum of 3353 and the ADT calculated pursuant to paragraph (b)(i) of this Section, CITY shall pay to OWNER a refund of traffic impact fees for each such reduced ADT. Any such payment by OWNER or refund by CITY shall be made within thirty days of submittal of such traffic study and shall be based on the lesser of either two hundred twenty-eight dollars (\$228.00) (or, during the Extension Term, two hundred thirty-five dollars (\$235.00)) per ADT (adjusted for inflation as provided in paragraph (b)(iii) of this Section) or the amount per ADT then in effect under Section 13-326 (or, during the Extension Term, Section 13-274) of the CITY Planning Zoning and Development Code or any successor CITY ordinance.

(iii) No earlier than thirty (30) months and no later than thirty-six months after the issuance of certificate(s) of occupancy for new development totalling 450,000 square feet of building area or more, OWNER shall submit a second traffic study to CITY prepared in accordance with the provisions of paragraph (c)(i) of this Section. If the ADT counted pursuant to such second traffic study exceeds the sum of the ADT counted in the first traffic study prepared pursuant to paragraph (c)(i) of this Section and the ADT calculated pursuant to paragraph (b)(i) above for all new development occupied

subsequent to the preparation of such first traffic study, OWNER shall pay to CITY an additional traffic impact fee for each such additional ADT. If the ADT counted pursuant to such second traffic study is less than the sum of the ADT counted pursuant to paragraph (c)(i) of this Section and the ADT calculated pursuant to paragraph (b)(i) of this Section for all new development occupied subsequent to the preparation of such first traffic study, CITY shall pay to OWNER a refund of traffic impact fees for each such reduced ADT. Any such payment by OWNER or refund by CITY shall be made within thirty (30) days of submittal of such second traffic study and shall be based on the lesser of two-hundred twenty-eight dollars (\$228.00) (or, during the Extension Term, two hundred thirty-five dollars (\$235.00)) per ADT (adjusted for inflation as provided in paragraph (b)(iii) of this Section) or the amount per ADT then in effect under Section 13-326 (or, during the Extension Term, Section 13-274) of the CITY Planning, Zoning and Development Code or any successor CITY ordinance.

(d) Notwithstanding any provision of the Existing Land Use Regulations (including without limitation the provisions of Section 13-326 of the CITY Planning, Zoning and Development Code), CITY may utilize the traffic impact fees received pursuant to this Agreement for the construction or improvement of any road, street, on-ramp, off-ramp or intersection within the CITY.

(e) Notwithstanding any provision of the Existing Land Use Regulations, the Project shall not be subject to any requirement of the CITY with respect to a conditional use permit for a transportation demand management program.

3.10 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not within the control of CITY *possess* authority to regulate aspects of the development of the Property separately from or jointly with CITY and this Agreement does not limit the authority of such other public agencies. OWNER agrees that the traffic-related development fees imposed by the joint powers authority known as the San Joaquin Hills Corridor Agency shall not be limited by this Agreement. CITY shall not oppose any application by OWNER to any other public agency for any permit or approval which is required for the Project. CITY shall provide to OWNER or to such other public agencies information possessed by CITY and necessary for processing such applications, and OWNER shall reimburse CITY for the actual and reasonable costs of providing such information.

4. CONFLICTS OF LAW.

4.1 Conflict with State or Federal Laws. In the event that State or Federal laws or regulations, enacted after the Effective Date of Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations; provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

4.2 Notice. Any party which determines that it cannot perform any act authorized or required by the Agreement due to a conflict described in Section 4.1 shall, within fifteen (15) days

of making such determination, provide all other parties with written notice of such State or Federal law or regulation and a statement of the conflict with provisions of this Agreement.

4.3 Modification Conference. The parties shall, within thirty (30) days after notice is provided in Section 4.2, hereof, meet and confer in good faith in an reasonable attempt to modify this Agreement to comply with such law or regulation.

4.4 City Council Hearing. Within thirty (30) days after the modification conference, regardless of whether the parties reach an agreement on the effect of such law or regulation upon this Agreement,, the matter shall be scheduled for hearing before the City Council. Notice of such hearing shall be given pursuant to Section 65090 of the Government Code. The City Council, at such hearing, shall determine the exact modification or suspension which shall be necessitated by such law or regulation. OWNER shall have the right to offer oral and written testimony at. the hearing. No modification or suspension of this Agreement shall be effective unless approved by the affirmative vote of not less than a majority of the authorized voting members of the City Council and by OWNER.

4.5 Cooperation in Securing Permits or Approvals. CITY shall use its best efforts to assist OWNER in the timely securing of any permits or approvals which may be required as a result of such modifications to, or suspensions of, all or any part of this Agreement.

4.6 Challenge Regarding New Law or Regulation. OWNER or CITY shall have the right to challenge by appropriate judicial proceedings any such new law or regulation preventing compliance with the terms of this Agreement or the modification or suspension of this Agreement. In the event that such challenge is successful, this Agreement shall remain unmodified and in full force and effect.

5. RESTRICTION ON SPECIAL DISTRICTS.

During the term of this Agreement, CITY and OWNER agree that no assessment district or special tax district including all or any part of the Property, will be created by the CITY or any agency or instrumentality of the CITY, unless OWNER expressly then grants such authority and concurs in the creation of such district and the terms and conditions of any assessments or special taxes to be levied thereunder. The provisions of this Section 5 shall apply only to assessment districts and special tax districts including developed property. The Property shall be considered developed property provided building permit(s) for a first phase of development comprising at least 200,000 square feet of building area are issued within three (3) years of the Effective Date. The provisions of this Section 5 shall not be applicable to the levy or collection by CITY of any tax which is paid to the general fund of the CITY, including, but not limited to, any CITY general tax on utility service.

6. PERIODIC REVIEW.

6.1 Procedure. CITY shall, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by OWNER with the terms of this Agreement in accordance with Government Code Section 65865.1 and Resolution No. 88-53 and as further provided in this Section. OWNER shall have the duty to demonstrate its good faith substantial compliance with the terms of this Agreement at such periodic review. OWNER shall

furnish such evidence of good faith substantial compliance as the CITY in the exercise of its reasonable discretion may require. Either party may address any requirements of this Agreement during the review. However, ten (10) days' written notice of any requirement to be addressed shall be made by the requesting party. If at the time of review an issue not previously identified in writing is required to be addressed, the review at the request of either party shall be continued to afford sufficient time for analysis and preparation. CITY shall not terminate or modify this Agreement except upon failure of OWNER to perform a material duty or obligation under this Agreement which has not been cured by OWNER as provided under Section 8.3 of this Agreement.

6.2 Information to Be Provided OWNER. CITY shall deposit in the mail to OWNER a copy of all staff reports, exhibits and other evidence concerning Agreement performance a minimum of ten (10) calendar days prior to any such review or action upon this Agreement by the Planning Commission or the City Council.

6.3 Failure to Perform Periodic Review. The failure of the CITY to review at least annually OWNER's compliance with the terms and conditions of this Agreement shall not constitute or be asserted by either party as a breach by the other party of this Agreement.

7. ESTOPPEL CERTIFICATES.

Either party may at any time, and from time to time, deliver written notice to the other party requesting that the other party certify in writing that to the knowledge of the certifying party:

(a) This Agreement is in full force and effect and is a binding obligation of the parties.

(b) This Agreement has not been amended or modified and, if so amended, identifying the amendments.

(c) No default in the performance of the requesting party's obligations under this Agreement exists or, if in default, the nature and extent of any default.

A party receiving a request hereunder shall execute and return the certificate within thirty (30) days following receipt thereof. The City Manager shall have the right to execute any certificate requested by OWNER on behalf of CITY.

8. DEFAULT AND REMEDIES.

8.1 Cumulative Remedies. Subject to the provisions of Section 8.6 of this Agreement, each of the parties hereto may pursue any remedy at law, excluding damages, or equity available for the breach of any provision of this Agreement. Any party may initiate arbitration to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of this Agreement, including without limitation arbitration requesting declaratory relief, specific performance and relief in the nature of mandamus. All remedies shall be cumulative and not exclusive of one another, and the exercise of any one or more of the remedies shall not constitute a waiver or election with respect to any other available remedy.

The parties acknowledge and agree that specific performance and other non-monetary relief are appropriate remedies for the enforcement of this Agreement and shall be available to all parties.

8.2 Cooperation in the Event of Legal Challenge. In the event of any legal action instituted by a third party, including without limitation any other governmental entity or official, challenging the validity of this Agreement or any Development Approval granted pursuant to this Agreement, the parties agree to cooperate fully with each other in defending such action; provided, however, that each party shall bear its own costs and legal expenses in defending such action.

8.3 Termination of Agreement for Default of OWNER. CITY may terminate this Agreement for any failure of OWNER to perform any material duty or obligation of OWNER under this Agreement (hereinafter referred to as “default”); provided, however, CITY may terminate this Agreement only after providing written notice to OWNER of default setting forth the nature of the default and the actions, if any, required by OWNER to cure such default and, where default can be cured, OWNER has failed to take such actions and cure such default within sixty (60) days after the effective date of such notice or, in the event that such default cannot be cured within such sixty (60) day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such sixty (60) day period and to diligently proceed to complete such actions and cure such default.

8.4 Termination of Agreement for Default of CITY. OWNER may terminate this Agreement in the event of a default by CITY in the performance of a material duty or obligation of CITY under this Agreement and only after providing written notice to CITY of default setting forth the nature of the default and the actions, if any, required by CITY to cure such default and, where the default can be cured, CITY has failed to take such actions and cure such default within sixty (60) days after the effective date of such notice or, in the event that such default cannot be cured within such sixty (60) day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such sixty (60) day period and to diligently proceed to complete such actions and cure such default.

8.5 Attorneys’ Fees and Costs. In any action or proceeding (including arbitration) brought by any party to interpret or enforce any provision of this Agreement, or otherwise arising under this Agreement, the prevailing party shall be entitled to reasonable attorneys’ fees and all costs, expenses and disbursements in connection with such action or proceeding, including the cost of reasonable investigation, preparation and professional expert consultation and arbitration fees and costs, which sums may be included in any judgment or decree entered in such action in favor of the prevailing party.

8.6 Arbitration. Any dispute or controversy arising from any provision of this Agreement, including without limitation any action or proceeding brought by any party to interpret or enforce any provision of this Agreement, shall be submitted to arbitration under the provisions of this Section 8.6.

(a) The arbitration shall be held in Orange County, California before a single arbitrator acceptable to both parties. If the parties are unable to agree on an arbitrator within seven (7) days after either party gives a written notice to the other party requesting arbitration, the Orange County office of the Judicial Arbitration and Mediation Service

("JAMS") shall be requested by either party to submit a list of arbitrators.(all of whom must have had at least 5 years experience as a California superior court judge) from which the arbitrator shall be selected by agreement between the parties within seven (7) days after the parties receive that list. If the parties still fail to agree on an arbitrator within that time, they shall within seventy-two (72) hours after the expiration of that time each strike off the names of potential arbitrators who are unacceptable and shall indicate the order of preference of those remaining; each party must leave at least one name on its list. They, or either of them, shall thereupon immediately request JAMS to appoint an arbitrator from the names remaining, after considering preference, qualification, and availability. The parties shall thereafter use their best efforts and diligence to see that the appointment of the arbitrator by JAMS is made as rapidly as possible, and in no event more than fourteen (14) days after the date the list is submitted to JAMS. If at the time arbitration is requested JAMS is no longer in operation, then its successor by sale, acquisition or merger (if applicable) shall take the place of JAMS under this provision. If there is no such successor, then the presiding judge of the Orange County Superior Court shall be requested to submit a list of qualified arbitrators (who shall be retired superior court judges) from which the parties will choose a single arbitrator in the manner provided above.

(b) Upon the appointment of an arbitrator, the parties shall immediately use their best efforts and due diligence to begin the arbitration hearing at the earliest possible date, and in no event more than thirty (30) days after the appointment of the arbitrator, and to thereafter diligently pursue it to completion. The parties agree to promptly sign a *JAMS* Submission Agreement upon institution of the arbitration process to the extent the provisions of that Submission Agreement are not inconsistent with the provisions of this Section.8.6. Upon a showing of a lack of good faith and due diligence by a party in expediting the arbitration proceedings within the time limits described above, the aggrieved party shall be entitled to all damages suffered by that party as a result of any delay in the arbitration proceedings. This item of damages shall be a separate matter to be decided by the arbitrator at the arbitration hearing.

(c) Subject to the above thirty (30) day limitation, the arbitration shall be governed by the discovery procedures in California Code of Civil Procedure Section 1283.05 as presently existing (or, if not materially changed, as existing at the time the arbitration notice is given). The arbitrator shall apply California substantive law and the California Evidence Code to the arbitration proceeding. The arbitrator shall have the power to grant all legal and equitable remedies provided by California law but shall not have the power to award compensatory or punitive damages except as provided in paragraph (b) of this Section 8.6. The arbitrator shall prepare in writing and provide to the parties a decision including factual findings and the reasons on which the decision is based. The arbitrator shall not have the power to commit errors of law or legal reasoning, and the decision may be vacated or corrected for those or other grounds pursuant to California Code of Civil Procedure Sections 1286.2, 1286.4, 1286.6, or 1282.8 as presently existing for any such error. The arbitrator shall be bound by all legal principles under California statutory and case law. The arbitrator shall decide the case in the same manner as the case would be decided in a California court of law.

(d) The decision may be judicially enforced (confirmed, corrected, or vacated) pursuant to Section 1285, et seq. of the California Code of Civil Procedure. It is final and binding and there is no direct appeal from the decision other than as expressly provided to the contrary in this Section 8.6. The arbitrator shall award reasonable attorneys' fees and costs to the prevailing party in its arbitration.

9. MORTGAGEE PROTECTION.

The parties hereto agree that this Agreement shall not prevent or limit OWNER, in any manner, at OWNER's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. CITY acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with OWNER and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. CITY will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any Mortgagee of the Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee, has submitted a request in writing to the CITY in the manner specified herein for giving notices, shall be entitled to receive written notification from CITY of any default by OWNER in the performance of OWNER's obligations under this Agreement.

(c) If CITY timely receives a request from a Mortgagee requesting a copy of any notice of default given to OWNER under the terms of this Agreement, CITY shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to OWNER. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of OWNER's obligations or other affirmative covenants of OWNER hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by OWNER is a condition precedent to the performance of a covenant by CITY, the performance thereof shall continue to be a condition precedent to CITY's performance hereunder.

10. MISCELLANEOUS PROVISIONS.

10.1 Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the Orange County Recorder by the City Clerk within the period required by Section 65868.5 of the Government Code.

10.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or • evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

10.3 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby and shall remain in full force and effect unless amended by mutual written consent of the parties.

10.4 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

10.5 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

10.6 Rules of Construction. As used herein, the singular of any word includes the plural and the masculine gender includes the feminine.

10.7 Consent. Where a consent or approval of a party is required or necessary under this Agreement, such consent or approval shall not be unreasonably withheld.

10.8 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

10.9 Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a representative of the party against whom enforcement of a waiver is sought. No waiver of any right or remedy in respect of any occurrence or event shall be deemed a waiver of any right or remedy in respect of any other occurrence or event.

10.10 No Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

10.11 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor

difficulties beyond the party's control, (including the party's employment force), government regulations, court actions (such as restraining orders or injunctions), or other causes beyond the party's control. If any such events shall occur, the time for performance by either party of any of its obligations hereunder shall be extended by the parties for the period of time that such events prevented such performance.

10.12 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefitted thereby of the covenants to be performed hereunder by such benefitted party.

10.13 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest and assigns of the parties to this Agreement.

10.14 Counterparts. This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

10.15 Project as a Private Undertaking. It is understood and agreed by and between the parties hereto that the development of the Project is a private development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between CITY and OWNER is that of a government entity regulating the development of private property and the owner of such property.

10.16 Further Actions and Instruments. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

10.17 Covenant of Good Faith and Fair Dealing Domain. Neither party shall do anything which shall have the effect of harming or injuring the right of the other party to receive the benefits of this Agreement. Each party shall refrain from doing anything which would render its performance under this Agreement impossible or impracticable. Each party shall do everything which this Agreement contemplates that such party shall do to accomplish the objectives and purposes of this Agreement.

10.18 Releases. CITY hereby covenants and agrees that upon completion of the Project as provided under this Agreement, or any portion thereof, CITY shall execute and deliver to the Orange County Recorder an appropriate release of OWNER of further obligations under this Agreement.

10.19 Integrated Project. CITY acknowledges, by executing this Agreement for the Project as a whole, that the Project is and shall be considered a single, integrated development project and that each component of the Project is dependent upon the completion and occupancy of each other component, and that the viability of each component of the Project is and shall be dependent of the completion and occupancy of each other component and the full performance of this Agreement.

10.20 Authority to Execute.

10.20.1 CITY. By the execution hereof, CITY confirms and acknowledges that CITY, acting through its City Council and the City Planning Commission, have complied in full with the requirements of Section 65864 et seq. of the Government Code and Resolution No. 88-53 for public hearing and the giving of notice of intention to consider adoption of this Agreement, and that this Agreement has been approved by ordinance as required by Section 65867.5 of the Government Code. CITY warrants and represents that the CITY has given all notices, held all hearings and complied with all other legal requirements and procedures required to make this a valid Agreement.

10.20.2 OWNER. Persons executing this Agreement on behalf of OWNER warrant and represent that they have the authority to execute this Agreement and represent that they have the authority to bind OWNER to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

CITY OF COSTA MESA

Dated: _____

By: _____
Mayor

ATTEST:

CITY CLERK

By: _____
Deputy

(SEAL)

APPROVED AS TO FORM:

City Attorney

Date: _____

OWNER:

INTERINSURANCE EXCHANGE OF THE
AUTOMOBILE CLUB OF SOUTHERN
CALIFORNIA

By: ACSC Management Services, Inc.,
Attorney-in-Fact

By: _____
Name: _____
Its: _____

DESCRIPTION OF PROPERTY

Parcel 1:

That portion of the land allotted to James McFadden in decree of partition of the Rancho Santiago De Santa Ana, recorded in Book "B" of Judgments of the 17th Judicial District Court of California, in the City of Costa Mesa, County of Orange, State of California, described as follows:

Beginning at the northeast corner of the land conveyed to Horace Kent by deed recorded January 28, 1878 in Book 58, Page 417 of Deeds of Los Angeles County, California; thence north $89^{\circ} 36' 27''$ west, 1100.00 feet to the northwest corner of said land of Kent; thence south $0^{\circ} 23' 33''$ west, 4.41 feet along the west line of laid land to the southerly line of the north one-half of the land conveyed to the J. J. Maxwell by deed recorded February 15, 1876 in Book 43 Page 2 of Deeds of said Los Angeles County; thence south $89^{\circ} 48' 26''$ west, 1102.02 feet to the southwest corner of said north one-half; thence north $0^{\circ} 27' 51''$ west 0.11 feet along the westerly line of said north one-half to the southerly line of the land described in a deed to the Orange County Flood Control District recorded October 31, 1959 in Book 4468, Page 441 of official records of said Orange County; thence easterly, northeasterly and northerly along the southerly, southeasterly and easterly line of said described land the following courses; north $89^{\circ} 25' 40''$ east, 156.80 feet to the beginning of the tangent curve concave northwesterly having a radius 1384.00 feet; thence northeasterly 2168.55 feet along said curve through a central angle of $89^{\circ} 46' 30''$; thence tangent from said curve north $0^{\circ} 20' 50''$ west, 197.36 feet to the northerly line of said land of J. J. Maxwell, thence north $89^{\circ} 25' 45''$ east, 687.25 feet to the northeast corner of said land of J. J. Maxwell; thence south $0^{\circ} 23' 33''$ west 1597.66 feet to the point of beginning.

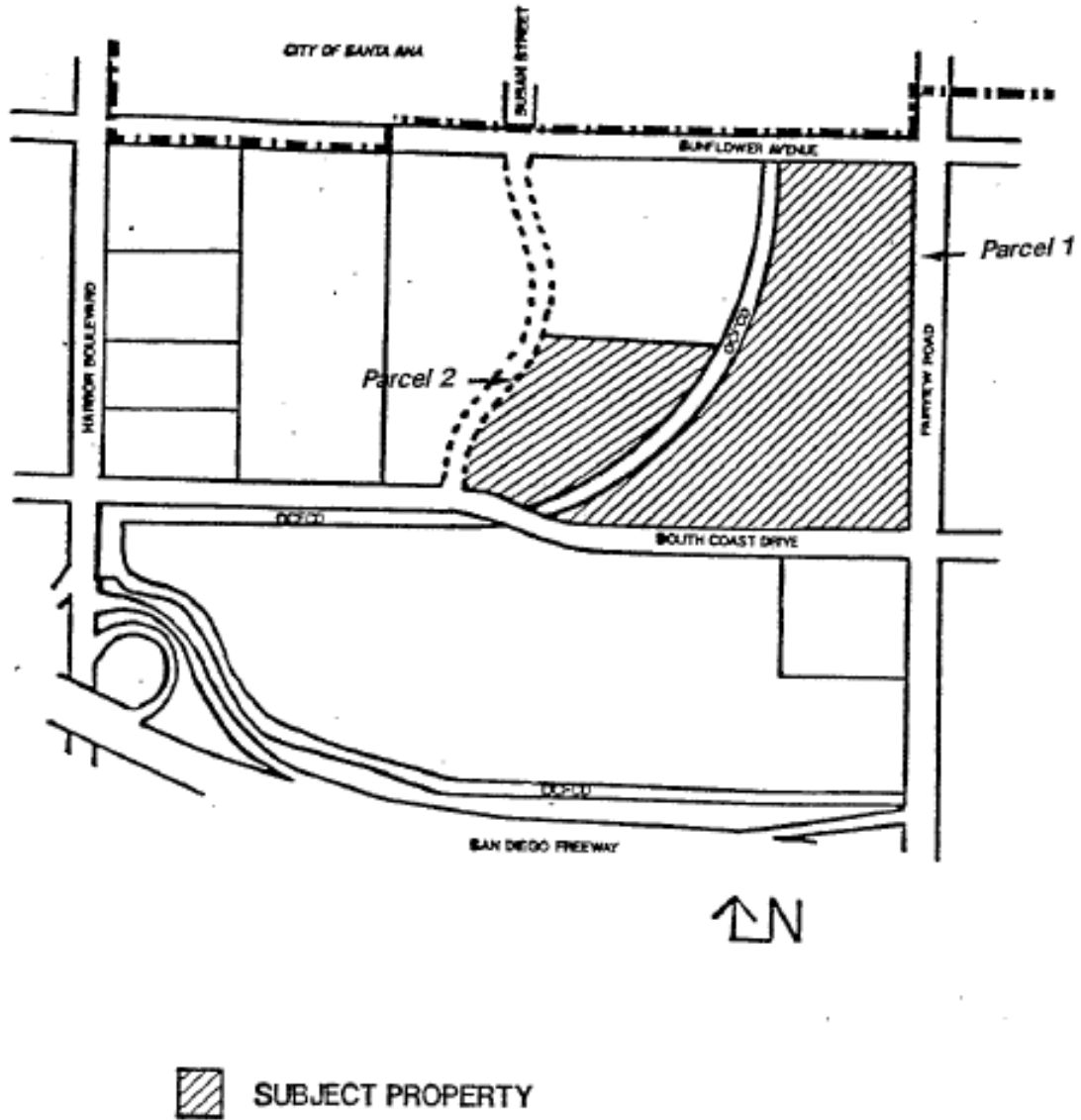
Parcel 2:

That portion of the land allotted to James McFadden in Decree of Partition of the Rancho Santiago De Santa Ana, recorded in Book "B" of Judgments of the 17th Judicial District Court, in the City of Costa Mesa, all in the County of Orange, State of California, described as follows:

Beginning at the northeast corner of the 160 acres parcel conveyed to J. J. Maxwell by deed recorded February 15, 1876 in Book 43, Page 2 of Deeds, in the Office of the County Recorder of Los Angeles County, California; thence south 1584.00 feet along the east line of said Maxwell land to the northeast corner of the land conveyed to Horace Kent by deed recorded January 28, 1878 in Book 58, Page 417 of said deeds; thence west 1099.96 feet to the northwest corner of said Kent land being also the southeast corner of the land conveyed to Charles H. Stanley of deed recorded July 27, 1897 Book 32, Page 145 of deeds, in the office of the County Recorder of said County, thence north 1584.00 feet along the east line of said Stanley land to the north line of said Maxwell land; thence east 1089.00 feet to the point of the beginning.

Except that portion thereof lying southeasterly of the northwesterly line of the land described in the deed to the Orange County Flood Control District, recorded October 31, 1959 in Book 4469, Page 441 of Orange County Official Records.

MAP SHOWING THE PROPERTY AND ITS LOCATION



EXISTING DEVELOPMENT APPROVALS

COPIES OF THE EXISTING DEVELOPMENT APPROVALS LISTED BELOW ARE ON FILE IN THE CITY OF COSTA MESA PLANNING DIVISION AND ARE INCORPORATED HEREIN BY REFERENCE:

1. General Plan Amendment GP-94-01A, approved June 20, 1994, by Resolution No. 94-54;
2. Rezone Petition R-94-01, adopted July 5, 1994, by Ordinance No. 94-10;
3. Planning Action PA-94-15, approved June 20, 1994, by Resolution No. 94-55; and
4. Parcel Map S-94-120, approved June 20, 1994, by Resolution No. 94-56.

THE ABOVE DEVELOPMENT APPROVALS ARE SUBJECT TO ALL MITIGATION MEASURES INCLUDED IN FINAL ENVIRONMENTAL IMPACT REPORT NUMBER 1045, CERTIFIED JUNE 20, 1994, BY RESOLUTION NO. 94-53.

EXISTING LAND USE REGULATIONS

1. City of Costa Mesa General Plan as amended through Resolution No. 94-54;
2. Title 13 of the Costa Mesa Municipal Code (Planning, Zoning, and Development Codes) as amended through Ordinance No. 94-10; and
3. Resolution No. 88-53, A Resolution of the City Council of the City of Costa Mesa, California Establishing Procedures and Requirements for Consideration of Development Agreements.

COPIES OF THE EXISTING LAND USE REGULATIONS LISTED ABOVE ARE ON FILE IN THE CITY PLANNING DEPARTMENT AND ARE INCORPORATED HEREIN BY REFERENCE.



City of Costa Mesa

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

Item #: 24-302

Meeting Date: 08/06/2024

TITLE: INTRODUCTION AND FIRST READING OF AN ORDINANCE APPROVING THE FIRST AMENDMENT (DA-20-05) TO DEVELOPMENT AGREEMENT (DA-94-01) BETWEEN THE CITY OF COSTA MESA AND THE INTERINSURANCE EXCHANGE OF THE AUTOMOBILE CLUB ALLOWING FOR A 20-YEAR TIME EXTENSION THAT WOULD EXPIRE OCTOBER 31, 2044; AMENDING PROVISIONS PERTAINING TO THE RATE AND METHODOLOGY FOR CALCULATING TRAFFIC IMPACT FEES; AND, AMENDING PROVISIONS RELATED TO THE SETBACK OF A FUTURE PARKING STRUCTURE; FOR A PROPERTY LOCATED AT 3333 FAIRVIEW ROAD

DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/ PLANNING DIVISION

PRESENTED BY: CHRISTOPHER ALDANA, ASSISTANT PLANNER

CONTACT INFORMATION: CHRISTOPHER ALDANA, ASSISTANT PLANNER, (714) 754-4868

RECOMMENDATION:

On July 22, 2024, the Planning Commission recommended that the City Council approve the proposed development agreement amendments and Ordinance adoption by a vote of 4-1-2 to:

1. Find, pursuant to CEQA Guidelines Section 15162, that the project is within the scope of the June 20, 1994-certified Final Environmental Impact Report (EIR) #1045 (State Clearing House No. 94021036) for the Auto Club Expansion project. The effects of the project were examined in the 1994 FEIR, and all feasible mitigation measures and alternatives developed in the 1994 FEIR are incorporated into this project and no new mitigation measures are required. Therefore, the 1994 FEIR for the Automobile Club Expansion project is determined to be adequate to serve as the environmental documentation for this project, that no further environmental review is required, and that all requirements of CEQA are satisfied.
2. Introduce for first reading, by title only, Ordinance 2024-XX approving the First Amendment (DA-20-05) to the Automobile Club of Southern California Development Agreement (DA-94-01) to allow for a 20-year time extension that would expire October 31, 2044; to amend provisions pertaining to the rate and methodology for calculating traffic impact fees; and to amend provisions related to the setback of a future parking structure.

APPLICANT OR AUTHORIZED AGENT:

The applicant and authorized agent is Jennifer J. Farrell, Esq., representing the property owner, Interinsurance Exchange Automobile Club of Southern California.

BACKGROUND:

The Automobile Club of Southern California (AAA) has operated at 3333 Fairview Road since the 1980s. The site operates and is developed with AAA office and support services that were approved pursuant to Development Review (DR-80-05). The AAA site is a 29.5-acre lot subdivided in 1979 as Parcel 1 of Parcel Map No. 79-381 and an adjacent 9.7-acre site to the west that was later subdivided in 1994 as Parcel 2 of Parcel Map No. 94-120 (see the below Exhibit 1).

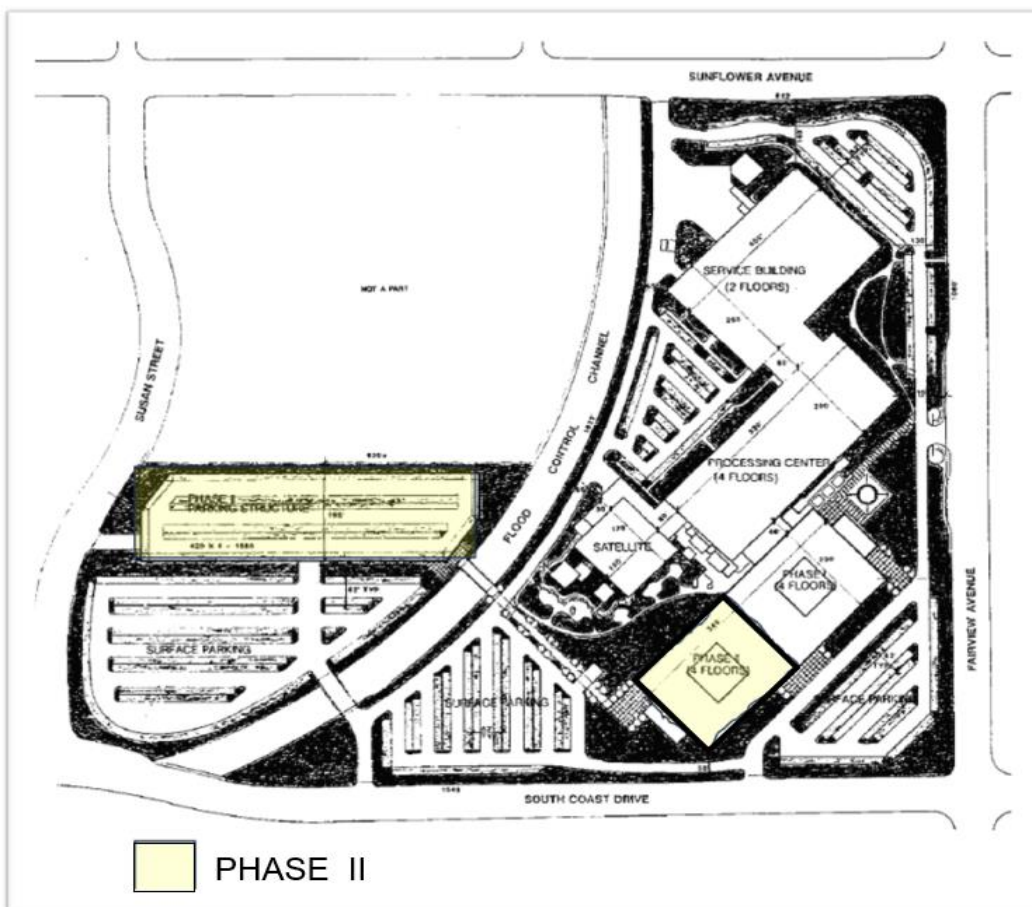
Exhibit 1 – Vicinity Map

In 1994, the City of Costa Mesa approved the following applications for the development of the subject property:

- 1) **Final Environmental Impact Report #1045** (State Clearinghouse No. 94021036);

- 2) **General Plan Amendment (GP-94-01A)** to redesignate the subject property and the adjacent 9.7-acre parcel from Industrial Park and Medium Density Residential to Urban Center Commercial;
- 3) **Rezone (R-94-01)** to change the subject property from Industrial Park (MP) and Planned Development Residential-Medium Density (PDR-MD) to Planned Development Commercial (PDC);
- 4) **Planning Action (PA-94-15)** for a final development plan for a 500,000-square-foot expansion of the existing Automobile Club facility with a four-level parking structure;
- 5) **Tentative Parcel Map (S-94-120)** to divide the northerly portion of the Segerstrom Home Ranch site into three parcels to accommodate the proposed project; and
- 6) **Development Agreement (DA-94-01)** an agreement between the applicant and the City pursuant to California Government Code Sections 65864, et seq. that guarantees project approvals for 30 years from its effective date, in exchange for certain public benefits.

Exhibit 2 – DA-94-01 Approved AAA Site Plan



The 1994 entitlements included a 500,000-square-foot expansion that was planned to occur in two phases. Each phase was to consist of an approximate 250,000-square-foot building. Additionally, a four-level 1,840 space parking structure is approved on the adjacent 9.7-acre parcel. To date, AAA has completed Phase I improvements, which total 235,825 square feet of the 500,000-square-foot expansion. Including the aforementioned addition (Phase I), the AAA total site floor area is approximately 702,825 square feet. Additionally, the 9.7-acre parcel to the west, which has a driveway along Susan Street, has been improved and is utilized as a surface parking lot for AAA employees. This surface parking lot is accessed internally by a 40-foot-wide bridge that connects the main AAA facility. The remaining Phase II improvements are shown in yellow-shading on the above Exhibit 2.

The original development agreement (DA-94-01) provided for a 30-year timeframe in which to develop the project. This term will expire on October 31, 2024 unless extended. AAA is in full compliance with all terms of the development agreement for the square footage that has been constructed to date, which includes payment of traffic impact fees and Transportation Corridor fees.

In recent years, AAA management has contemplated consolidating their southern California regional operations to their Costa Mesa facility. The square footage that remains to be built pursuant to the development agreement is believed to be adequate to accommodate this consolidation. In 2023, AAA approached the City with a request to extend the development agreement by 20 years, starting on November 1, 2024 to October 31, 2044, in order to accommodate their consolidation plans. During conversations with the applicant, City staff requested additional updates to the terms of the development agreement that include the payment of traffic impact fees, and consideration of the setback of the future parking structure from the adjacent residential community, which was contemplated in the original project approval. The applicant was amenable to these updates and has included them in their application.

Requested Amendments

In support of their long-term plans to consolidate regional business operations in Costa Mesa, AAA proposes the following revisions to the development agreement (see Attachment 2):

1. Page 2, Section 2: Change the expiration year from 2024 to 2044. This will extend the development agreement for an additional 20 years, commencing on November 1, 2024 and terminating on October 31, 2044.
2. Page 3, Section 6 (a): Update the average daily vehicle trip "ADT" multiplier from .00718 to .00989. This change reflects the current Institute of Transportation Engineers (ITE) trip generation factor for office land uses.
3. Page 4, Section 6 (b): Update the Traffic Impact Fee from \$228 to \$235, or the current rate at time of development, whichever is less. This change is necessary to reflect the City's current adopted fee.

4. Page 3, Section 5(e): Specify that the Phase II parking structure shall be proposed a minimum of 60 feet from the existing residential uses located to the north of the smaller parcel to improve land use compatibility.
5. Other non-substantive numbering, reference, and/or formatting edits to clarify intent and implement the proposed changes.

Refer to the applicant's letter in Attachment 3 for a detailed description of the applicant's requests.

Public Comments

One comment letter was received prior to the Planning Commission meeting. The letter requested additional information from staff relating to the proposed parking structure location. Staff spoke with the commenter by phone and addressed their questions. The commenter then indicated to staff that they had no concerns. At the Planning Commission meeting held on July 22, 2024, no members of the general public spoke either in support or opposition to the project.

Planning Commission Recommendation

On July 22, 2024, the Planning Commission considered the request and reviewed the proposed DA modifications/updates. After considering staff's presentation, the applicant's presentation, and opening the hearing for public comments, the Planning Commission deliberated and voted 4-1-2 to find that the project is within the scope of the June 20, 1994 certified Final Environmental Impact Report, and to adopt a Resolution that recommends City Council approval of the First Amendment (DA-20-05) to the Automobile Club of Southern California Development Agreement (DA-94-01) by adopting an ordinance to allow for a 20-year time extension until October 31, 2044; to amend provisions pertaining to the rate and methodology for calculating traffic impact fees; and, to amend provisions related to the setback of a future parking structure. Planning Commissioner Martinez voted to not recommend project approval to the City Council, and Chair Ereth and Commissioner Andrade recused themselves from the project review.

Planning Commissioner comments supporting the motion for approval included that "the AAA is an excellent local business", "the AAA facility is very well maintained" and the "AAA facility has great employee amenities that attracts high quality jobs to the City". Commissioner Martinez did not support the motion and provided comments that the project was generally not consistent with certain General Plan Policies that encouraged multi-modal transportation, and that the site was over-parked. The July 22, 2024, Planning Commission staff report and video is linked below:

The July 22, 2024 Planning Commission staff report (also provided as Attachment 8) can be viewed at this link:

<https://costamesa.legistar.com/LegislationDetail.aspx?ID=6790093&GUID=D41EA24A-9362-496E-B877-A33BB700B732>

The July 22, 2024 Planning Commission meeting video can be viewed at this link:

https://costamesa.granicus.com/player/clip/4155?view_id=14&redirect=true

ANALYSIS:

Pursuant to City Council Resolution No. 88-53, Development Agreement Procedures and Requirements, and Government Code Section 65865(c), the proposed amendments are subject to the following two determinations:

1. The Development Agreement between the City of Costa Mesa and Developer is:
 - Consistent with the objectives, policies, general land uses and programs specified in the General Plan and with the General Plan as a whole;
 - Compatible with the uses authorized in, and the existing land use regulations prescribed for, the zoning district in which the real property is and will be located; and
 - Is in conformity with and will promote public convenience, general welfare, and good land use practice.

In making its recommendation to the City Council, the Planning Commission found that the proposed first amendment to the development agreement is consistent with General Plan policies and objectives, primarily objective LU-6C, in that the long-term build-out of the AAA office campus will support the retention and expansion of the City's employment base with diverse and quality employment opportunities. Additionally, the City's Land Use Element specifies that the "Urban Center Commercial" Land Use District is intended to "allow for high-intensity mixed-use commercial development within a limited area" and identifies that one of the four major developments located within the Urban Center Commercial Land Use District is the "Automobile Club of Southern California". The proposed development is also compatible with the existing land uses located north of Interstate 405 which includes larger developments such as South Coast Plaza, Metro Pointe, IKEA and the Segerstrom Center for the Arts. Lastly, AAA has operated from this site since 1980 without any impacts to surrounding uses, including the nearby residential developments.

2. The Development Agreement between the City of Costa Mesa and Developer will not:
 - Be detrimental to the health, safety and general welfare; and
 - Adversely affect the orderly development of property or the preservation of property values.

In making its recommendation to the City Council, the Planning Commission also found that the AAA headquarters has operated at the site since 1980 and there have been no incompatibilities with the surrounding uses. The proposed use, size, and intensity of the project is consistent with the existing development within the general area located north of the 405 freeway, and would not be detrimental to the health, safety, and general welfare of the community. There are no modifications proposed to the site's previously entitled development

intensity and only minor considerations are proposed to improve the site's physical layout to avoid potential impacts to nearby residential development. As such, the extension of the Development Agreement will not be detrimental to the health, safety and general welfare, or adversely affect the orderly development of property or the preservation of property values.

Project Effective Date

The current development agreement provides that it may be amended or canceled in whole or in part only by written consent of all parties in the manner provided for in Government Code Section 65868. If the City Council approves this request prior to the expiration date of the existing development agreement, this first amendment will become effective on November 1, 2024 and be valid through October 31, 2044.

ENVIRONMENTAL DETERMINATION:

Pursuant to CEQA Guidelines Section 15162, this project remains within the scope of the June 20, 1994 certified Final Environmental Impact Report (FEIR) #1045 (State Clearinghouse No. 94021036) for the AAA Expansion project. The effects of the project were examined in the 1994 FEIR, and all feasible mitigation measures and alternatives developed in the 1994 FEIR are incorporated into this project, and no new mitigation measures are required. Therefore, the 1994 FEIR for AAA Expansion project is determined to be adequate to serve as the environmental documentation for this project, no further environmental review is required, and that all requirements of CEQA are satisfied.

ALTERNATIVES:

Other than the recommended action, the City Council may:

1. *Introduce the Ordinance for First Reading with Modifications.* The City Council may suggest specific changes that are appropriate to address concerns or improve the project. Please note that Development Agreements are, effectively, contracts between the City and the applicant and, as such, the applicant would need to agree to any proposed modifications.
2. *Continue the Ordinance for First Reading to a date certain.* The City Council may continue the item to a date certain with direction for staff to return with additional information, changes, and/or clarifications. Please note that any continuation should have the item return to the City Council for final action before September 30, 2024, so that an approval will occur prior to the expiration of the existing agreement.
3. *Deny the project.* If the City Council believes there are insufficient reasons to support the determinations for approval, the City Council must deny the application.

FISCAL REVIEW:

The overall impact to the City from Traffic Impact Fee revenue under the revised calculation from \$228 to \$235 per net trip, if AAA expands to the maximum allotted 250,000-square-foot building, would be an additional one-time estimated increase of \$160,000 in revenue to the Traffic Impact Fees Fund (Fund 214).

LEGAL REVIEW:

The draft Ordinance and staff report have been prepared in conjunction with and reviewed by the City Attorney's Office.

PUBLIC NOTICE:

Pursuant to CMMC Section 13-29(d), three types of public notification have been completed no less than 10 days prior to the date of the public hearing:

1. **Mailed notice.** A public notice was mailed to all property owners and occupants within a 500-foot radius of the project site. The required notice radius is measured from the external boundaries of the property.
2. **On-site posting.** A public notice was posted on each street frontage of the project site.
3. **Newspaper publication.** A public notice was published once in the Daily Pilot newspaper.

Any public comments received prior to the August 6, 2024 City Council meeting, may be viewed at this link: [CITY OF COSTA MESA - Calendar \(legistar.com\)](https://legistar.com/calendar/city-of-costa-mesa/)

CITY COUNCIL GOALS AND PRIORITIES:

This item is administrative in nature.

CONCLUSION:

An Ordinance for DA 94-01 was adopted by the City Council in 1994 and included a 30-year time frame for completion. Unless extended, the DA will expire on October 31, 2024. As approved, the AAA development consists of two phases of which only Phase I has been completed. AAA is now interested in completing the second phase of the approved entitlements to consolidate regional operations in Costa Mesa. Beyond extending the date of expiration, updating the rate and method of calculating traffic impact fees, and modifying language pertaining to the location of a future parking structure, there are no changes to the DA agreement. The Planning Commission voted in favor of the proposed first amendment because the extended term will retain a large and high-quality local employer, allow the City the opportunity to benefit from the remaining traffic impact fees which would be used on road improvement projects, and the development will create additional quality local employment opportunities. Finally, the proposal is in conformance with the City's General Plan.



CITY OF COSTA MESA

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 24-321

Meeting Date: 9/3/2024

TITLE:

GENERAL PLAN AMENDMENT (PSCR-24-0004) SCREENING FOR A PROPOSED RESIDENTIAL DEVELOPMENT ON A 6.125 ACRE SITE LOCATED AT 3150 BEAR STREET

**DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICES
DEPARTMENT/PLANNING DIVISION**

PRESENTED BY: CHRIS YEAGER, ASSOCIATE PLANNER

CONTACT INFORMATION: CHRIS YEAGER, ASSOCIATE PLANNER, (714) 754-4883

RECOMMENDATION:

Provide direction regarding an applicant requested General Plan Amendment associated with the proposed development of 146 residential units at 3150 Bear Street. In addition to the General Plan Amendment, the application would also include a related change to the property's zoning designation to support residential development, and a density bonus in conjunction with providing eight very-low-income units. All of the units in the development are proposed for individual ownership.



Agenda Report

Item #: 24-321

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BACKGROUND:

General Plan Amendment Screening

City Council Policy 500-2 establishes a procedure for processing privately initiated General Plan Amendments. This procedure requires that the City Council screen the request prior to its acceptance for formal processing. If the City Council does not reject the proposal, the applicant can submit a formal application package that will include several other entitlement requests for review by the Planning Commission who will make a recommendation to the City Council.

Affordable Housing Ordinance

Ordinance 2024-02 was adopted by City Council on August 6, 2024, with the purpose of establishing an inclusionary affordable housing program in the City. The ordinance exempts specific projects from its requirements including residential ownership projects. The proposed project is an ownership development and therefore, is exempt from the requirements of the City's Affordable Housing Ordinance. As indicated above, the applicant is requesting to provide eight ownership housing units pursuant to a five-percent State density bonus proposal. By comparison, a residential rental development of this size would have a very-low-income unit requirement of four-percent very-low-income units, or six units.

PROJECT SITE:

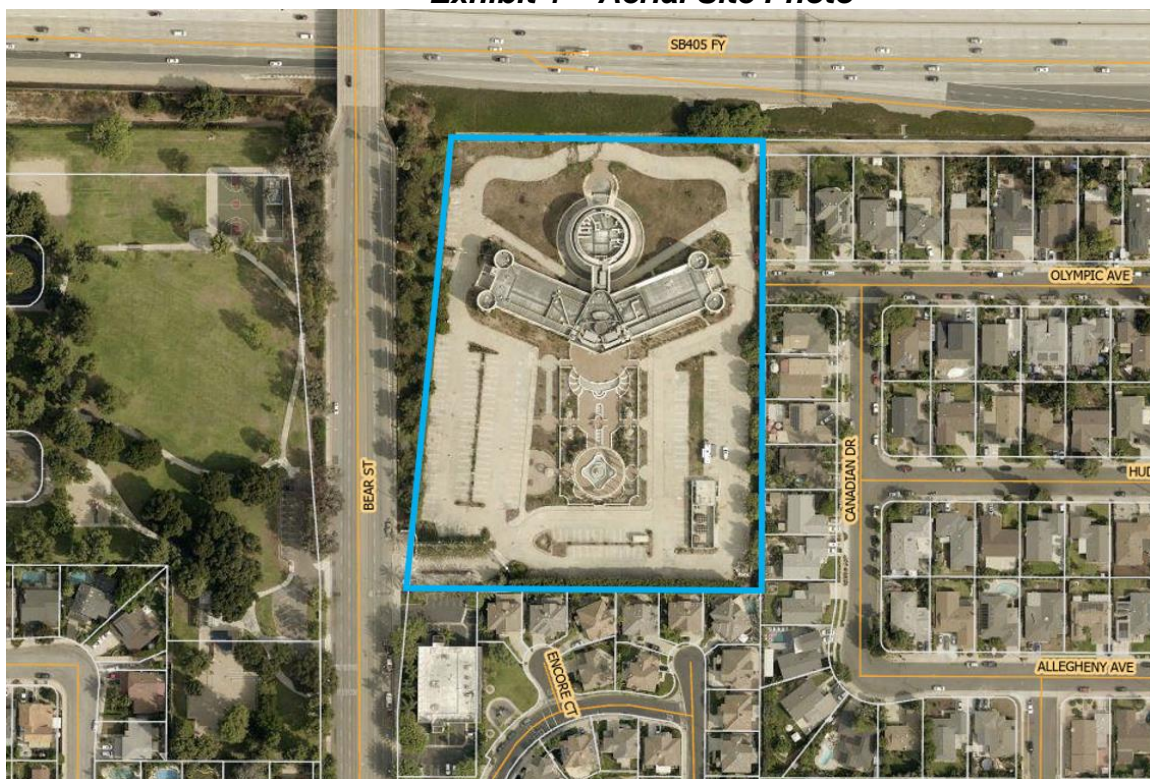
The project site is located on the east-side of Bear Street, south of the I-405 freeway. The project is proposed on a 6.125-acre parcel that is developed with the former Trinity Broadcasting Network Headquarters (see Exhibit 1 below). The site is designated “General Commercial” in the Land Use Element of the General Plan and zoned “Administrative Professional” (AP). The primary building is a three-story 65,924-square-foot structure that was constructed in 1978. An accessory structure, located near the southeast corner of the property houses the property’s on-site electric energy production facility. The remainder of the property is improved with 241 surface parking spaces, decorative hardscape, and landscaping.

The project site is bounded by Bear Street to the west with Shiffer Park located beyond; the I-405 Freeway to the north; two-story single-family residential properties to the south, and one-story single family residential property to the east; and an office building that fronts on Bear Street to the south. The property is in close proximity to South Coast Plaza and Metro Pointe are located north of the I-405 Freeway.

The site is currently being used as office space, including a social media studio, storage, professional office, and temporary assembly. In addition, the City Council granted a Conditional Use Permit (PA-22-37) approval on April 16, 2024 to operate an event center with valet parking services.

The project site is not identified as a Candidate Housing Site in the General Plan Housing Element; however, this site is a “Measure K” site. “Measure K” was passed by Costa Mesa voters on November 8, 2022, for the purpose of revitalizing commercial corridors by encouraging new housing in commercial and industrial areas while preserving the character of existing residential neighborhoods.

Exhibit 1 – Aerial Site Photo



ANALYSIS:

The project site's "General Commercial" land use classification and "AP, Administrative and Professional" zoning classification do not support residential uses of the property, but instead allow for institutional, office, and professional uses. Because the current zoning does not allow for residential development, the applicant is requesting a general plan amendment to establish a "High Density Residential" land use designation and to rezone the property to "R3, Multiple Family Residential", to allow for residential development. If approved, the applicant would develop 146 for-sale residential units that includes 20 single-family residential dwellings and 126 townhomes.

The current AP zoning district is intended to establish areas where public, administrative, professional, and business offices may be located. It is the further purpose of this district to limit the intensity of use within the district to be compatible with the types of activities generally associated with office developments. Conversely, the proposed R3, Multiple-Family Residential District is intended to promote the development of multi-family rental as well as ownership dwelling units.

The following entitlements are required for the proposed project:

General Plan Amendment

The existing Land Use designation of "General Commercial" is proposed to be changed to "High Density Residential" to allow for the residential project. The proposed Land Use designation would enable residential development on the property of up to 20 dwelling units per acre.

Rezone

A rezone is required to update the City's Zoning Map with the R3, High Density Residential District, to allow for residential development on the site. The "High Density Residential" Zoning District would permit approximately 122 units on the 6.125 Acre site.

Density Bonus

The project proposes to include eight "Very-Low" income, deed restricted affordable units. Pursuant to the California State Density Bonus provisions, the proposed affordable unit percentage proposed by the applicant (five-percent) would allow for a density bonus of 20 percent over the allowable density of 20 du/ac, which would allow for 24 dwelling units per acre. As proposed, the project includes a total density of 23.8 dwelling units per acre (146 units). Pursuant to State Density Bonus Law, the provision of five-percent affordable units also allows for the project to request concessions and waivers to development standards, and reduced parking requirements.

Pursuant to State law, a "concession" is defined as:

- A reduction in site development standards or a modification of zoning code or architectural design requirements, such as a reduction in setback or minimum square footage requirements;
- Approval of mixed-use zoning; or
- Other regulatory incentives or concessions which actually result in identifiable and actual cost reductions.

Pursuant to State Law, a “waiver” is defined as a reduction or modification of a development standard and other regulations that physically precludes the construction of the project, including any density bonus units. The primary difference between a concession and a waiver is that a concession is defined as a local standard or provision that would “result in identifiable and actual cost reductions” for an affordable housing project, whereas a waiver is a development standard or provision that “physically precludes the construction of the affordable housing project, including any density bonus units”.

California Density Bonus law (Government Code Sections 65915 – 65918) allows one concession for the requested five percent very-low affordable housing unit proposal and does not limit the number of requested waivers. The applicant is requesting a concession in the form of an exception to the maximum building height limit (maximum 27 feet/two-stories) to allow for townhomes to be built at 50 feet, 6 inches/four stories. A waiver is requested to deviate from open space requirements (minimum 40% of the lot) to allow for a reduced overall open space area of approximately 27%.

State Law allows a City to deny an incentive, concession, or waiver if the granting of the incentive, concession, or waiver would either:

1. Not result in an identifiable and actual cost reduction to providing affordable units (incentive/concession only);
2. Have a specific, adverse, and unavoidable impact on public health and safety;
3. Have an adverse impact on a property that is listed in the California Register of Historical Resources; or
4. Be contrary to state or federal law.

The applicant is also requesting a parking reduction pursuant to State Density Bonus Law, which is described further below under the *Parking, Circulation and Trip Generation* section of this report.

Tentative Tract Map

A tentative tract map subdivision is necessary to establish a condominium map to allow for individual ownership of each unit.

Design Review

Any construction that results in three or more dwelling units in any residential zone, except planned development, is subject to design review and associated findings.

PROPOSED DEVELOPMENT:

The applicant proposes 146 residential units ranging from 1,065 square feet to 2,218 square feet. Twenty of the units are proposed to be developed as detached single-family dwellings and located along the south and east property lines, with the remainder of the units proposed as attached units to be located in eight, four-story buildings.

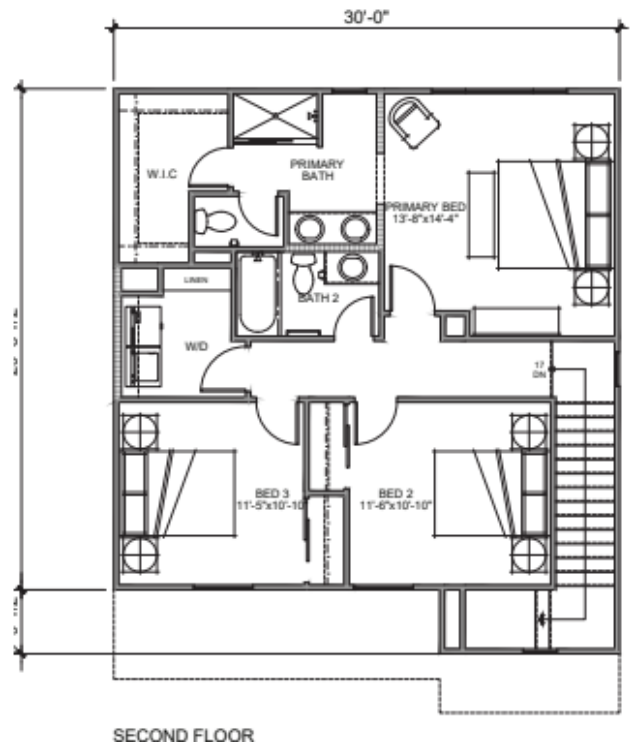
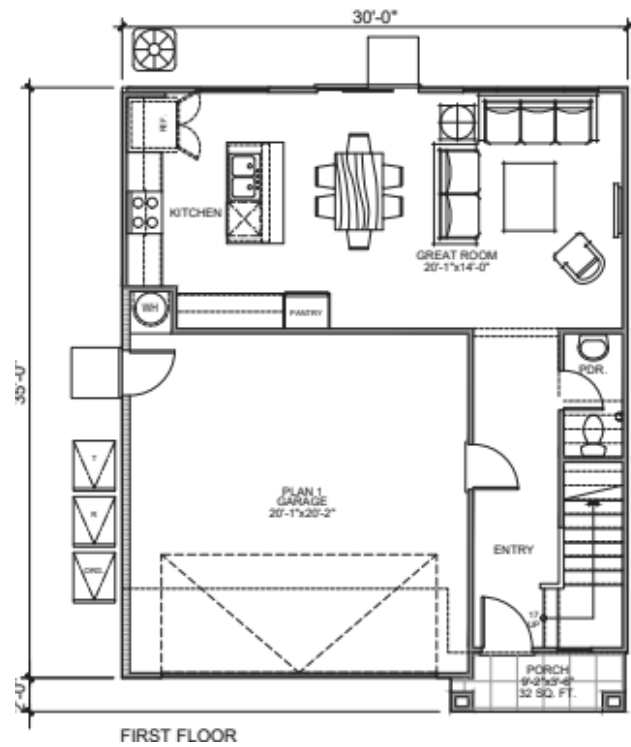
Detached Units

The project proposes two detached unit types. As shown in Exhibit 2 below, the detached units are proposed to include a two-car garage with ground floor living space. Plan D1 proposes to include three bedrooms on the second floor as well as a laundry room and two bathrooms. Plan D2 proposes to

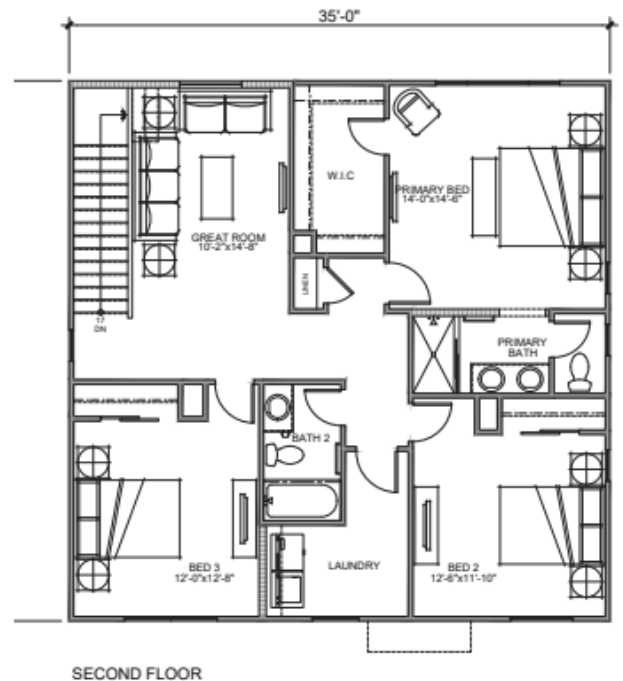
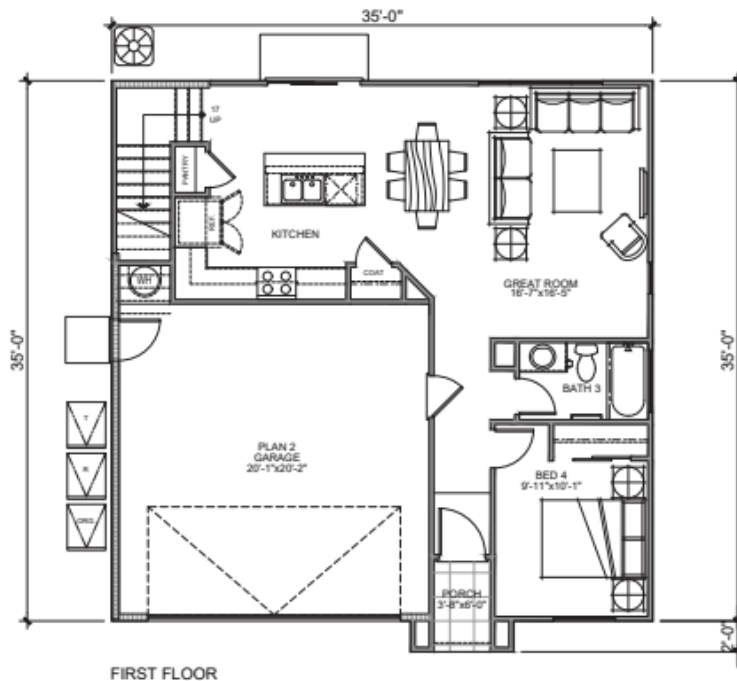
include one bedroom on the ground floor and three additional bedrooms on the second floor. Each unit would have its own private open space on the ground floor.

Exhibit 2 – Detached Unit Floor Plans

PLAN D1



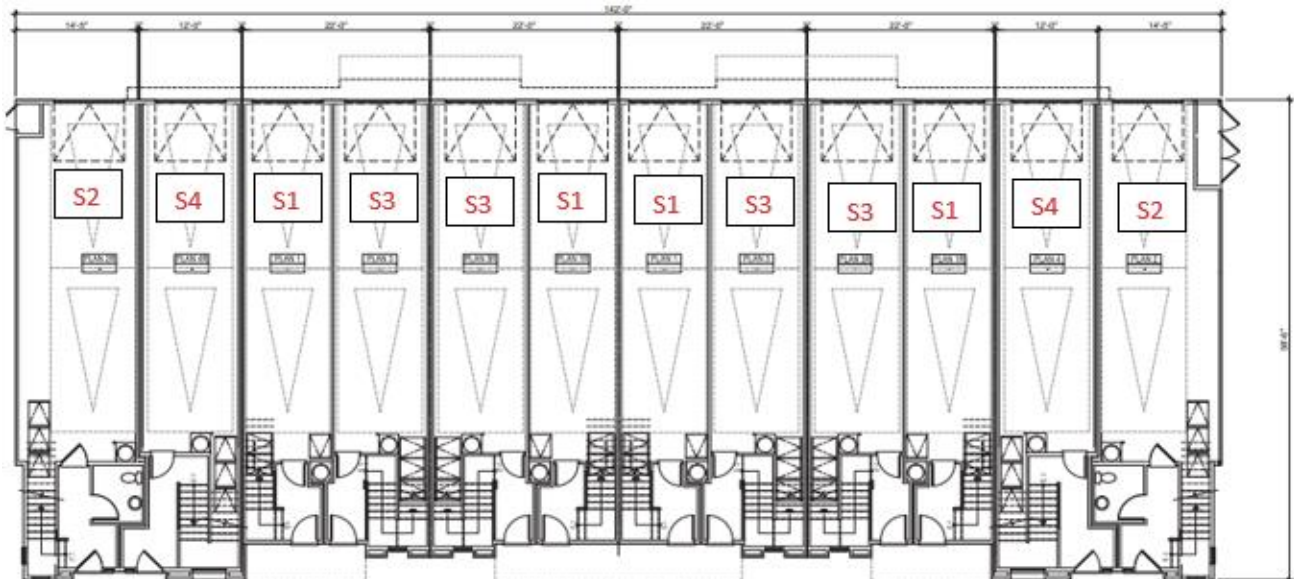
PLAN D2



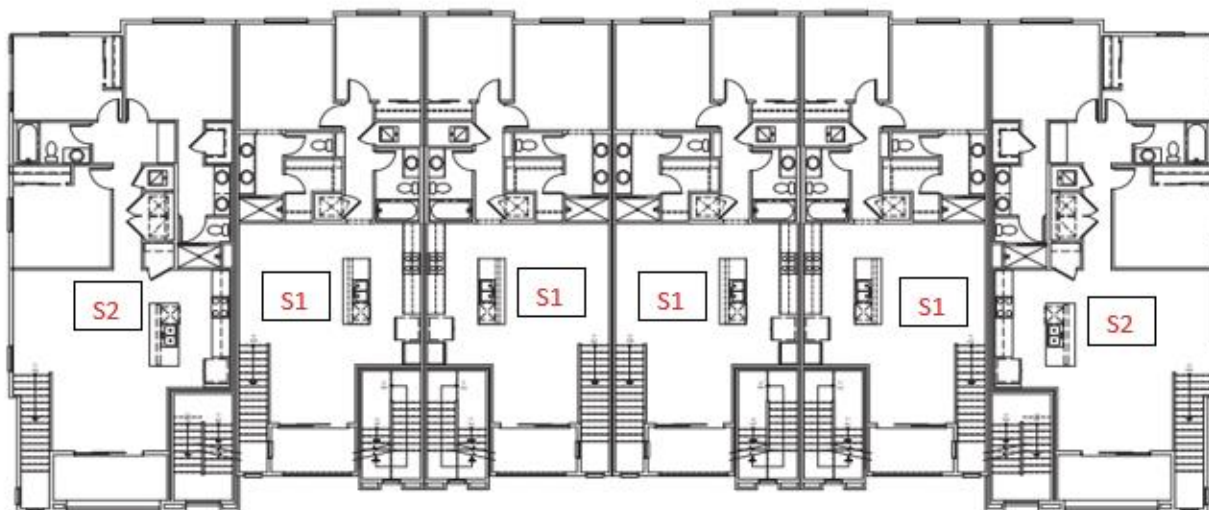
Attached Units - Flats

The majority of the units (126) are proposed within eight, four-story buildings. Each unit is accessed via a ground floor entry and would include an attached, tandem, two-car garage. The project proposes four attached unit types referred to as flats. As shown in Exhibit 3 below, units S1 and S2 include an entry on the first-floor with the remainder of the living space being located on the second-floor. Plan S1 includes two bedrooms, two bathrooms, an open main living space, and a private balcony. Plan S2 includes three bedrooms, two full bathrooms, one half bathroom, open living space, and a private balcony. Plan S3 and S4 include an attached, tandem, two-car garage and ground floor entry. The main living space for the units is located on the third and fourth floor and includes an open living area and multiple balconies. Plan S3 proposes to have three bedrooms and three bathrooms, and Plan S4 proposes to have four bedrooms and three bathrooms.

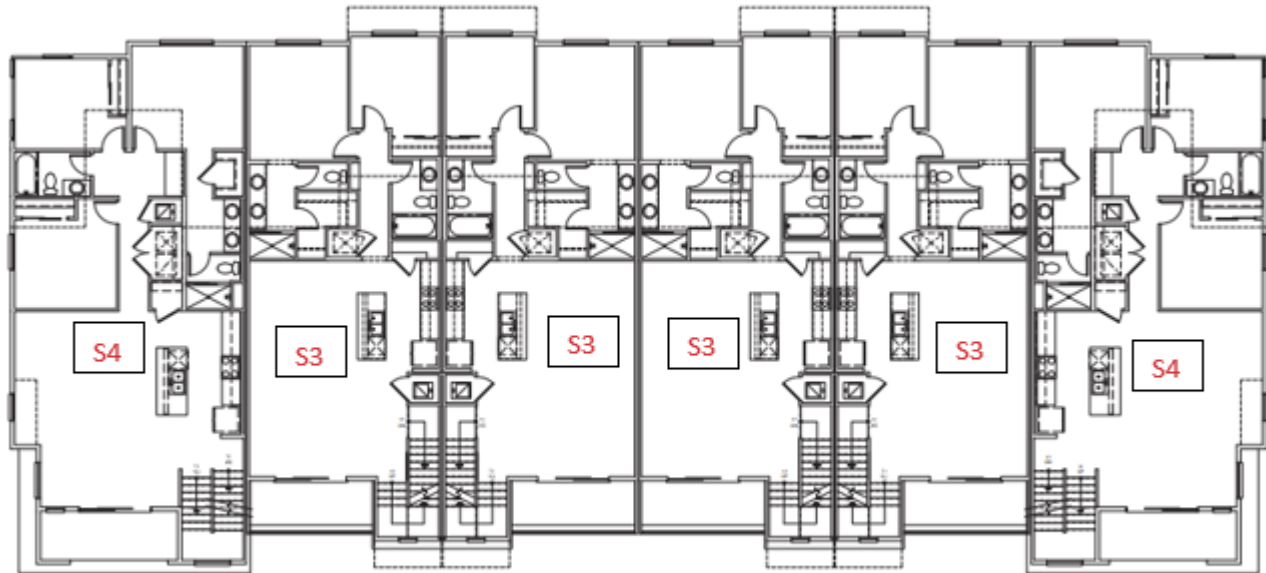
Exhibit 3 – Flats Floor Plans



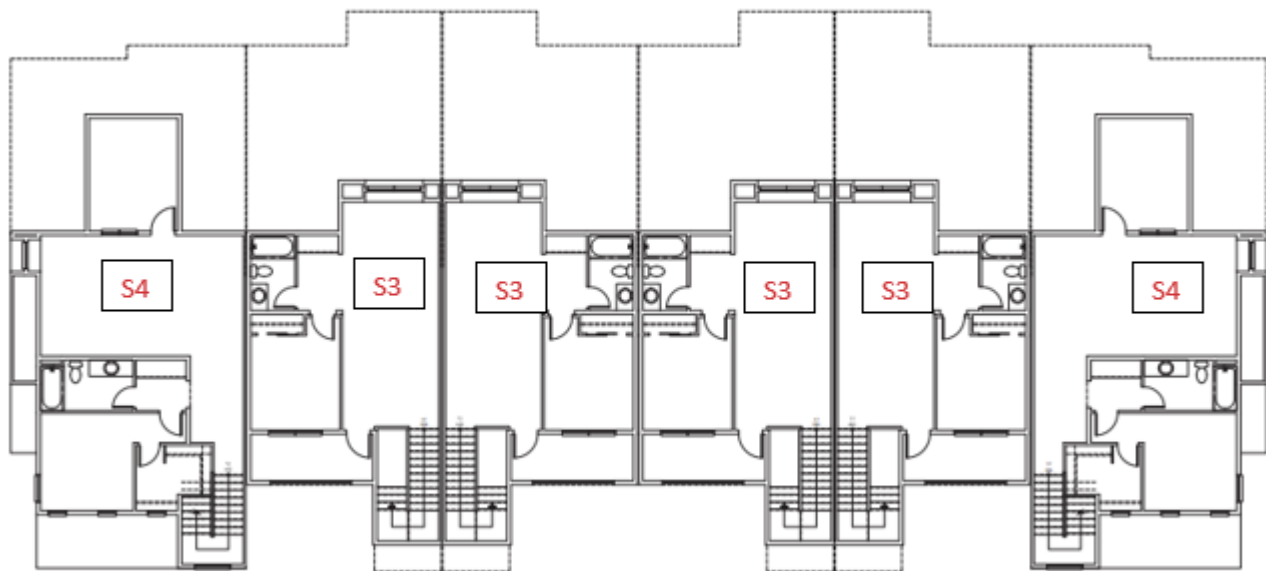
First Floor



Second Floor



Third Floor



Fourth Floor

The detached single-family dwelling units are proposed to be located adjacent to the established single-family neighborhoods along the south and east property lines. The homes to the east along Canadian Drive and Olympic Avenue consist of single-story residences constructed in 1962, and the homes to the south consist of two-story residences constructed in 1996.

Exhibit 4 – Site Plan**Proposed Building Height and Architecture**

Maximum building height in the R3 Zoning District is limited to two-stories/27 feet. As previously indicated in this report, the provision of five-percent "very-low" income units allows the project to request one concession to the City's Development Standards. As proposed, the project requests a concession to allow for the maximum building height to exceed the CMMC standard. Specifically, the townhome portion of the project would have a maximum height of four stories/50.5-foot (two stories and 23.5 feet above the CMMC maximum allowed height), and the detached units are proposed with a maximum height of two stories/30 feet (three feet above the CMMC maximum allowed height). The

taller townhome component has been located as far as possible (greater than 120 feet) from the established residential units to reduce any privacy or shade impacts. The applicant has also indicated that they will attempt to retain all existing mature screening vegetation to provide an additional buffer.

Exhibit 6 – Project Renderings



The applicant submitted several exhibits that include modern craftsmen architectural styles for the proposed development. The project designs incorporate various offsets, articulations, and construction materials to enhance the buildings' aesthetic qualities. Details regarding the architectural style, materials used, building facades, as well as shade and shadow analysis, will be required and thoroughly reviewed with the future project application submission. In addition, staff will work with the applicant to further refine the architecture.

Circulation, Parking and Trip Generation

The site plan (see Exhibit 4 above) proposes that vehicular access to the site would be provided by a driveway with access from Bear Street (similar to existing site access). Emergency vehicle access will also continue to be provided through Olympic Avenue. In addition, sidewalks are proposed to be connected to Bear Street to allow for pedestrian circulation. The internal private streets are generally

proposed in a grid pattern with additional pedestrian connections throughout the proposed open space areas.

Parking

The Costa Mesa Municipal Code requires 477 parking spaces for the proposed development. However, pursuant to California Density Bonus Law, the City may not require more than the following parking ratios for the proposed affordable housing project (see Table 1 below).

Table 1: Density Bonus Parking Requirements

Unit Type	Density Bonus Parking	No. of Proposed Units	Required Parking
Studio	1 space	-	-
1 Bedroom	1 space	-	-
2&3 Bedroom	1.5 spaces	137	205.5
4 Bedroom	2.5 spaces	9	22.5

As indicated in Table 2 above, the maximum on-site parking that the City can require for the proposed development is 228 spaces (205.5 spaces for the two/three bedroom units, and 22.5 spaces for the four bedroom units). As proposed, each unit includes a two-car garage for a total of 292 parking spaces. An additional 80 open parking spaces are proposed throughout the project site. The 372 total parking spaces proposed exceeds the 228 parking spaces required pursuant to State Density Bonus Law. Pursuant to State Law, onsite parking spaces may be provided through on-site tandem or uncovered parking. The State Density Bonus Law parking provisions are in addition to any allowed concessions.

Bus Routes

The Orange County Transportation Authority (OCTA) operates the 55 and 57 bus routes approximately 0.6 miles walking distance from the project site at the intersection of Bristol Street and Paularino Avenue. The 55 bus operates north-south through Costa Mesa with termini in Santa Ana and the Newport Transportation Center. The 57 bus also operates generally north-south through Costa Mesa with termini at the Newport Transportation Center and the Brea Mall.

Bike Lanes

An existing Class-2 bike lane is provided on Bear Street. The bicycle lane is interconnected with the regional bicycle trail system and provides connections between Costa Mesa, Huntington Beach, Newport Beach, and Santa Ana.

Trip Generation

CMMC Section 13-275(e) indicates that any increase in traffic generation by a change of use that is required to obtain a discretionary permit, shall be subject to review by the appropriate reviewing authority, which may impose fees to address increased trip generation. If required, the fee collected is used to fund the City's comprehensive transportation system improvement program. The purpose of the program is to ensure that the City's transportation system has the capacity to accommodate additional trips. The Citywide Traffic Impact Fee related to new and expanding developments is determined using estimated Average Daily Trips (ADT), which is the combined total number of vehicular trips both in and out of a development generated throughout an average weekday. The City's Transportation Division has conducted a preliminary trip generation study which indicates that the project would result in approximately 1,009 daily trips, and would generate more trips compared to the

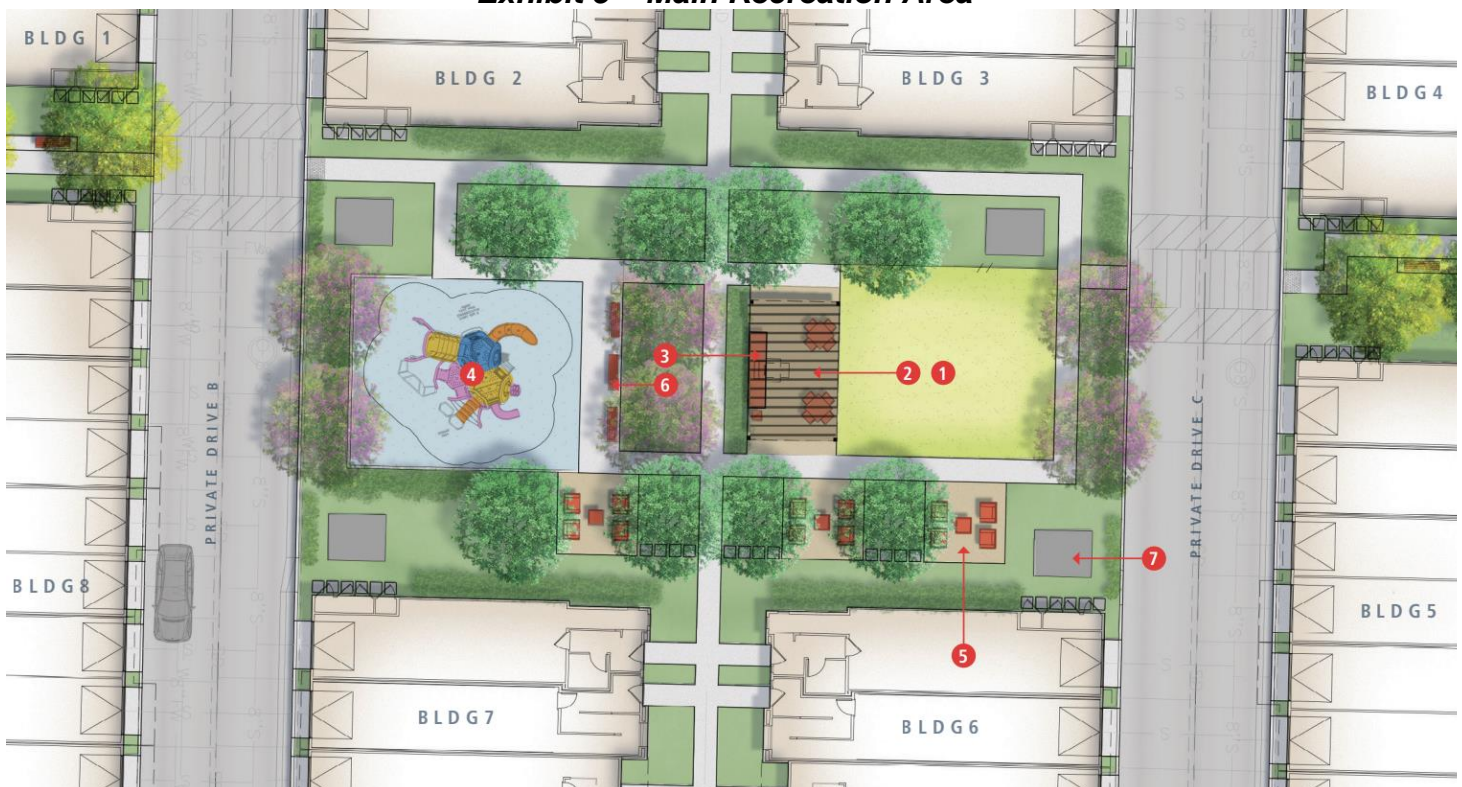
existing uses. Therefore, a traffic impact fee will be required if the project proceeds. The fee calculation would be finalized during the building permit plan check process and be paid prior to building permit issuance.

Lastly, CMMC Section 13-275(a), specifies that “a traffic impact study shall be required for all development projects estimated by the Public Works Department to generate one hundred (100) or more vehicle trip ends during a peak hour.” The highest peak hour trips in either the AM or PM is used to estimate the number of vehicular trips generated both in and out of a new or expanded development, known as vehicle trip-ends during a peak hour. The City’s Transportation Services staff determined that the proposed project would result in approximately 66 AM and 80 PM net peak hour trips and thus a traffic study would not be required.

Open Space

New residential development proposed in the R3 Zoning District is required to provide a minimum of 40% open space on the project site. The project is proposing approximately 46,000 square feet of shared open space, including a central recreation area that includes shade structures, BBQ area, play equipment, and casual seating areas (see Exhibit 5 below). An additional passive recreational area is proposed on the west side of the property. In addition to the proposed common open space areas, each unit is proposed to include private open space. The detached single-family dwellings are proposed to include private rear yards with approximately 600 square feet of open space. Each townhome is provided with at least one balcony. The total open space proposed onsite is 72,906 square feet, or approximately 27% of the lot. Pursuant to State Density Bonus Law, the applicant is proposing a “waiver” to deviate from the CMMC open space requirements.

Exhibit 5 – Main Recreation Area



Fire and Emergency Access

If the project is accepted for processing, firefighter and apparatus access will be required throughout the project, and the applicant will work with the Fire Marshal to develop an acceptable project safety plan. The project's incremental impact to fire/life safety resources will also be evaluated. Based on the Fire Department's preliminary review of the project, there does not appear to be any significant issues that would preclude the project from moving forward.

Off-site Improvements

As indicated in the attached project applicant letter, the applicant is currently working with City staff for development of certain off-site improvements in conjunction with the proposed new residential development. As currently conceived, the applicant would provide certain public benefits, at no cost to the City, such as a pedestrian access easement through the project site from the neighboring existing residential development (via a gate on Olympic Avenue), and upgrades to Bear Street that include, but not limited to, a signalized pedestrian crosswalk that connects the easterly (project) side of Bear Street to Schiffer Park. If the project continues, details regarding the off-site improvements will be refined and thoroughly reviewed with the future project application submission.

General Plan Consistency

The following project-applicable General Plan goals and policies can be reviewed and considered by the City Council in the context of the overall project as the Council considers whether or not to allow the proposed General Plan application to proceed:

Goal LU-1: A balanced community with a mix of land uses to meet resident and business needs.

The project will contribute to a balanced mix of uses in the area that includes providing additional ownership housing opportunities. The project would remove approximately six-acres from the City's inventory of commercial properties to allow for residential uses. According to the applicant, current market demand supports the conversion of the property to residential use because of the reduced demand in office space coupled with the increased residential demand from the Statewide shortage in housing. However, if the project proceeds, staff will require a fiscal impact study that addresses potential City economic or other impacts related to the proposed change in land use.

Policy LU-1.3: Strongly encourage the development of residential uses and owner-occupied housing (single-family detached residences, condominiums, townhouses) where feasible to improve the balance between rental and ownership housing opportunities.

In 2018, owner-occupied housing units accounted for 40.4 percent of the housing stock and 59.6 percent were rental occupied units. The project proposes 146 new ownership housing units including eight very low-income units. As encouraged by this General Plan Policy, the inclusion of 146 additional ownership units will improve the imbalance of rental-to-ownership housing in the City.

Policy LU-2.8: *Limit building height to four stories above grade south of the I-405 Freeway, except for special purpose housing such as elderly, affordable, or student housing, unless otherwise approved by a General Plan amendment.*

The project, which proposes an affordable housing component, is located south of the I-405 Freeway and would not exceed a maximum height of four stories.

Policy C-6.12: *Require that every new development project pay its share of costs associated with the mitigation of project generated impacts.*

The project will be subject to the payment of development impact fees including transportation impact fees, drainage fees, and parkland fees.

Policy HOU-3.4: *Consider the potential impact of new housing opportunities and their impacts on existing residential neighborhoods when reviewing development applications affecting residential properties.*

Two established single-family residential neighborhoods are located adjacent to the subject site to the south and east. The project is not anticipated to negatively impact the adjacent residential uses in that site planning and design considerations (including building massing, location and height) are included to protect privacy of adjacent residents and balance their exposure to air, sun, shade and other potential impacts.

Policy HOU-3.5: *Encourage residential and mixed-use development along transportation routes and major commercial/mixed use corridors.*

If accepted for processing, the project would be situated near the I-405 freeway. Additionally, the site is located adjacent to Bear Street and nearby Bristol Street, both identified as “major arterials” in the Master Plan of Streets Highways (MPSH). Bus routes are located approximately ½ mile from the subject site and the project site is adjacent to an existing Class II bikeway.

California Environmental Quality Act (CEQA)

The project is subject to the California Environmental Quality Act (CEQA). If the General Plan application is accepted for processing, staff will ensure compliance with CEQA. An initial study will be prepared to determine whether the project would result in environmental effects. The appropriate environmental document, which could be a mitigated negative declaration (MND), negative declaration (ND), or an environmental impact report (EIR) will then be prepared. If necessary and applicable, appropriate environmental studies will recommend necessary and appropriate mitigation measures, to support the requisite environmental document.

ALTERNATIVES:

Because the screening process allows the applicant to consider the City Council’s initial comments and to refine the development concept based on Council feedback prior to submittal of a land use application for review, and no decisions are made, there are no alternative actions for the City Council to consider.

FISCAL REVIEW:

There is no fiscal impact to the City associated with this item. However, approval of this request and the potential development of the 146 ownership residential units will generate revenue such as property tax, sales tax, franchise tax, etc. If the City Council directs staff to proceed with the project, a comprehensive project-specific fiscal analysis would be completed and would include an identification of both positive and negative fiscal impacts.

LEGAL REVIEW:

The City Attorney has reviewed this report and has approved it as to form.

CITY COUNCIL GOALS AND PRIORITIES:

This item supports the following City Council Goal:

- Diversify, stabilize, and increase housing to reflect community needs.

CONCLUSION:

The General Plan Screening is a preliminary project review requirement necessary to initiate processing of an application for the proposed land use change and associated development. Staff recommends that the City Council provide direction as to whether to proceed with a General Plan Amendment request to implement the "High Density Residential" land use for the subject property, and other associated entitlements. If the City Council allows the project to proceed to an entitlement application, submittal of applications for a General Plan Amendment, Zoning Code Amendment, Density Bonus, Design Review, and Tentative Tract Map, would be processed. Entitlement processing would also include a comprehensive environmental review with associated technical studies such as infrastructure studies, noise study, water supply study, and a fiscal analysis. Lastly, staff will work with the City Attorney and the applicant to prepare the necessary affordable housing documents for the affordable units which set maximum income for the respective owners and affordability terms.



July, 2,2024

Chris Yeager
Associate Planner
Development Services Department
77 Fair Drive, Costa Mesa, CA 92626
(714) 754-4883

RE: 3150 Bear Street (APN 141-521-48) - General Plan Amendment Screening application

Dear Mr. Yeager,

MLC Holdings, a wholly owned subsidiary of Meritage Homes, is pleased to submit a General Plan Amendment Screening application for the property located at 3150 Bear Street. Meritage Homes has entered into a contract with The Koshbin Companies, the current property owner, for an option to purchase the property and submits this application with their consent as indicate in the Authorization Letter furnished under separate cover. The proposed amendment will allow for the redevelopment of the 6.11-acre property with 146 for-sale residential homes for at density of 23.9 dwelling units per acre (du/ac). The site is within walking distance to Shiffer Park, South Coast Plaza, Metro Point, and an abundance of other shopping, dining, entertainment, and recreational opportunities, making this site an ideal location for infill residential development.

The site is currently designated in the General Plan as "General Commercial" and is zoned "Administrative and Professional (AP)." As such, the project proposes to amend the General Plan designation to "High Density Residential" and rezone the property to "Multiple-Family Residential (R-3)," which both permit a density of up to 20 du/ac. The project will also include 5% Very-Low" deed restricted affordable homes (8 homes), allowing a 20% density increase through the State's Density Bonus Law. The proposed project consists of two types of new for-sale homes, detached and attached, as described herein.

The 20 two-story, for-sale detached homes line the southern and eastern edges of the property to buffer adjacent single-family neighborhoods with a complementary housing type. These detached homes will range from approximately 1440-1891 square feet and 3-4 bedrooms. Each home includes a 2-car garage in a side-by side configuration. Existing walls along these property lines will be protected in place. The mature Ficus trees that existing along the southern boundary will also be preserved, if possible, or replaced with similar screen trees to preserve existing neighbor privacy. New landscape screening will be planted along the easterly property line to protect privacy for neighbors along this edge as well.

The 126 attached homes will consist of stacked flat homes within eight separate building. Buildings are three stories with a fourth story pop-up to reduce massing while providing the ability to offer a range of floor plans that include 2-4 bedrooms and approximately 1065-2218 square feet. These homes include a two-car tandem garage for each home on the first level with direct access to each home; two single-level floor plan options (2-3 bedrooms) on the second floor, and two two-story floor plan options (2-4 bedrooms) on the upper floors. Attached homes will also include 5% "Very-Low" deed restricted affordable homes (8 homes) within this community. The affordable component of the community

allows for increased density; reduced parking; and concessions and waivers for reduced private open space (55-85 square foot upper story decks) to achieve the proposed residential density.

Open space amenities include a tot lot, barbecues, seating, and open lawn areas for residents to relax, socialize, and play. The existing Emergency Vehicle Access Gate that connects to Olympic Avenue will remain to prevent any new vehicular traffic from spilling into the adjacent neighborhood while still providing adequate access for Fire and other emergency services. This access point will be redesigned with a new pedestrian gate on a timer to accommodate pedestrian access during park hours, allowing existing neighbors a more direct walking path to Schiffer Park. This new pedestrian connection will be accompanied by a new signalized crosswalk at the new community's Bear Street entrance. This signal will bring the added community benefit of improved traffic flows along Bear Street.

Meritage Homes believes that the housing proposed by this new community delivers the type of housing that is desperately needed in the region and throughout the state. We are very excited for the opportunity to bring this proposal to the City of Costa Mesa and look forward to your comments.

Sincerely,

A handwritten signature in black ink that reads "Johanna Crooker". The signature is fluid and cursive, with the first name "Johanna" being larger and more prominent than the last name "Crooker".

Johanna Crooker

Director of Forward Planning - Entitlements

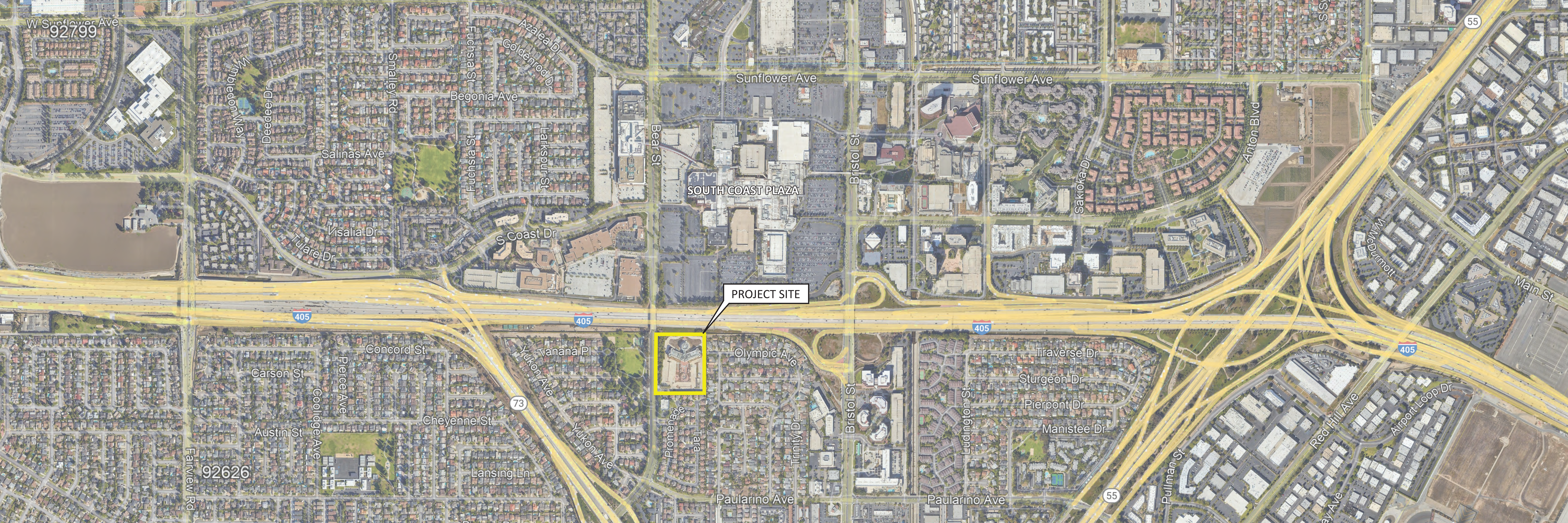
MLC Holdings, Inc.



3150 BEAR STREET



City of Costa Mesa, CA
General Plan Amendment Preview
July 2024



Site Location Map
(Not to Scale)

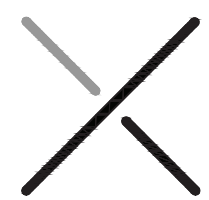


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- 6. Floor Plans - Stacked Flats
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- 8. Detached Homes
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- 10. Common Recreation Area



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6 Hutton Centre Drive, Suite 650
Santa Ana, California 92707
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3150 Bear Street
Costa Mesa, California

July 2024



Neighborhood Context

3150 Bear Street

Costa Mesa, California

July 2024





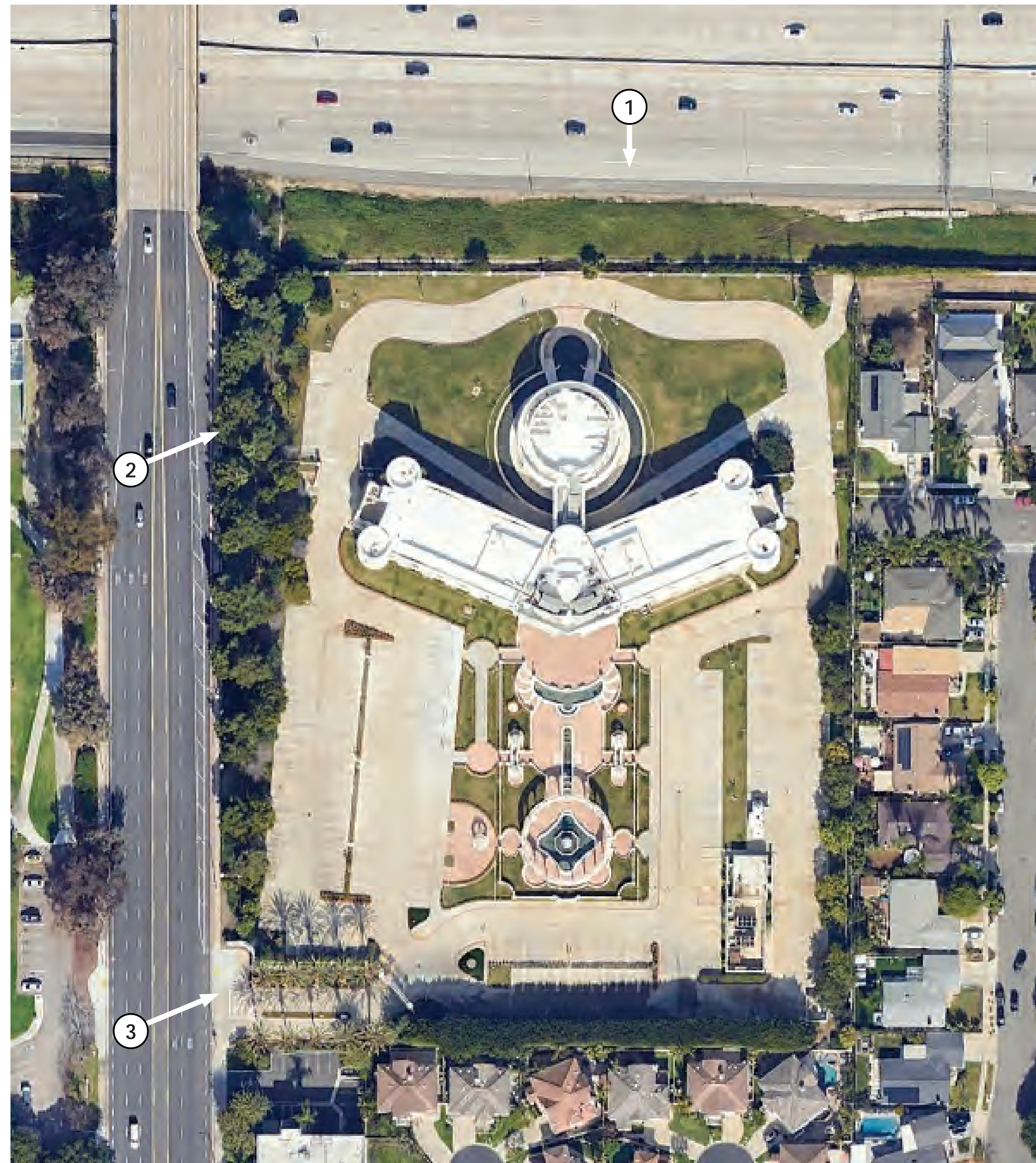
1. View from From 405 Freeway



2. View from Bear Street



2. View from Bear Street



Existing Streetscape Photos

3150 Bear Street

Costa Mesa, California

July 2024



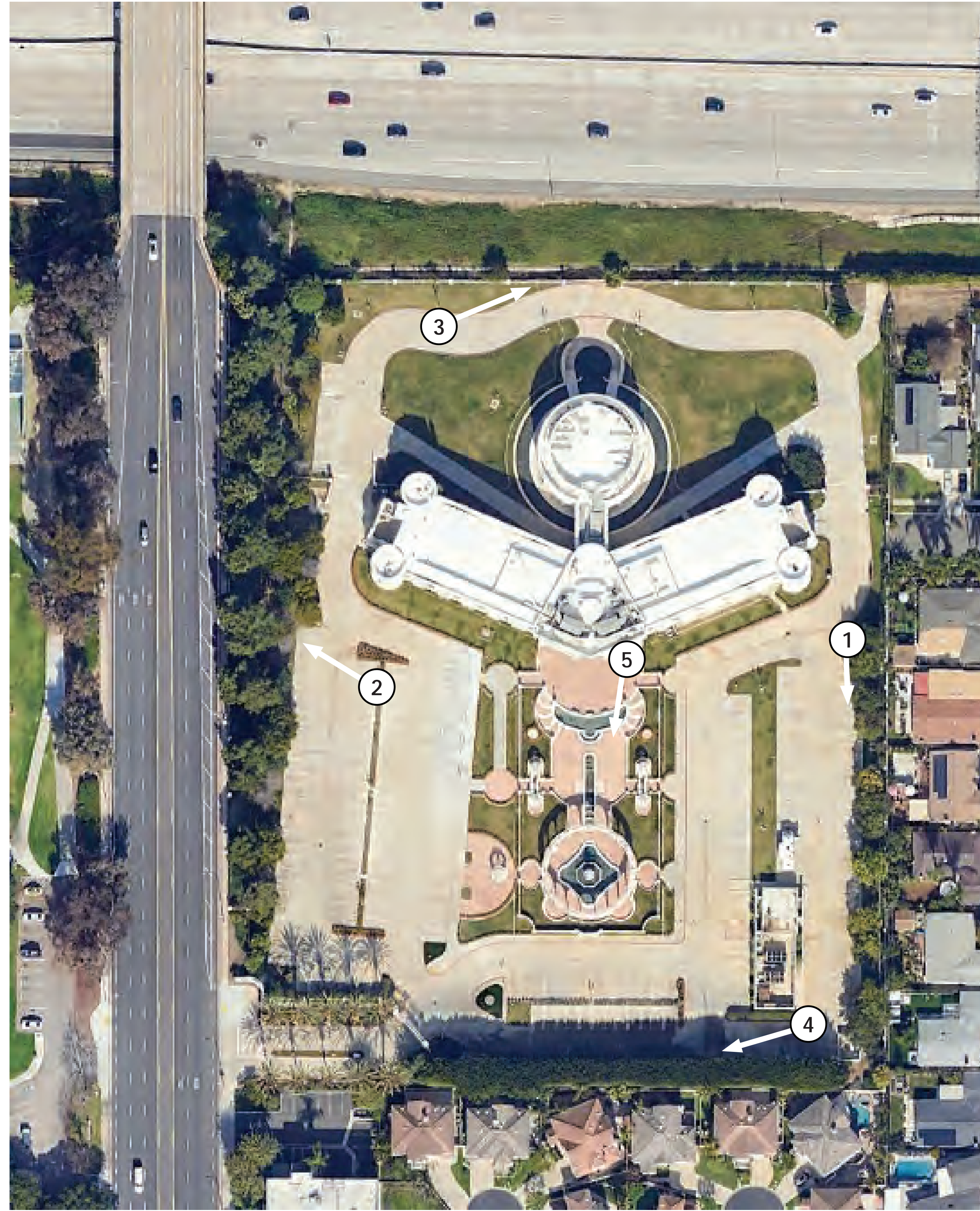
1. Eastern Edge



2. Western Edge



3. Northern Edge



4. Southern Edge



5. Center of Site from Upper Floor

Existing Site Photos

3150 Bear Street

Costa Mesa, California

July 2024

OCSAN Access

- Provides improved access to OCSAN Sewer Trunk Line

Stacked Flats

- Three story building with a fourth story pop-up
- 2-3 bedroom condominiums with private tandem garage
- ±1065-2218 Sq.Ft.
- Private open space in the form of a porch and/or deck

Bear Street Frontage

- Existing slope and mature trees to be preserved
- Tubular steel fence to remain in place to maintain visibility of trees and a "green" frontage
- Stucco pilasters and fence will be painted and powder coated to renew and refresh it's appearance
- City property located behind the existing fence will be maintained by the HOA pursuant to the existing maintenance agreement
- Flat areas may be used for passive recreation
- New striping and other improvements installed to promote bicycle and pedestrian comfort

Single Family Homes

- Detached two-story homes with traditional 15-foot rear yards provide a compatible interface to adjacent single family homes
- 3-4 bedrooms homes
- ± 1,440 - 1,891 Sq.Ft.
- 2-car garage in a side-by-side configuration

Community Entry

- New Signalized intersection with continental style crosswalk and yield line (shark's teeth) to provide improved pedestrian access to Shiffer Park
- Entry enhanced with textured paving, accent trees and landscaping, and project signage
- Currently proposed as ungated to promote walkability and a welcoming community



Utilities

- Protect and improve OCSAN access to existing 33-inch sewer
- Realign Costa Mesa Sanitation District sewer in private streets
- Reroute existing Mesa Water line within loop road

Private Drive

- 25-foot Private Street provides vehicular access to all homes
- 5-foot sidewalk on one side to promote walkability
- Parking distributed throughout
- Landscaping on both sides to provide shade and an improved streetscape

Emergency Access Only

- Maintain existing emergency vehicle access
- Meets Costa Mesa Fire Dept Turning Radii requirements
- Optional pedestrian gate to allow existing neighborhood more direct route to Shiffer Park

Neighborhood Interface

- Protect existing wall in place
- Protect overhead SCE utilities and poles in place (Rule 16)
- Install screening hedge as permitted by SCE
- 15-foot private rear yard and detached two-story homes used to provide a complementary edge condition

Main Recreation Area

- ± 12,370
- Landscaped paseos and sidewalks connect all homes to central recreation area
- Potential programming such as pool with restroom, BBQ with shade structure and seating, turf area for passive lawn play or similar.

Neighborhood Interface

- Protect existing wall in place
- Protect existing ficus trees if possible or install new screening trees to preserve neighbor privacy
- 15-foot private rear yard and detached two-story homes used to provide a complementary edge condition

Existing Sewer Line

- Preserve existing connection
- Reroute to private street

Project Summary

Project Area: 6.11 acres

Total Homes: 146 Homes

- (20) Two Story Detached Condos
 - (11) Plan D1: 1440 SF, 3 Bed, 2.5 Bath
 - (9) Plan D2: 1891 SF, 4 Bed, 3 Bath
- (126) Four Story Stacked Flats¹
 - (47) Plan S1: 1,065 SF, 2 Bed, 2 Bath
 - (16) Plan S2: 1,379 SF, 3 Bed, 2.5 Bath
 - (47) Plan S3: 1,753 SF, 3 Bed, 3 Bath
 - (16) Plan S4: 2,218 SF, 4 Bed, 3 Bath

Density: 23.9¹ du/ac

Parking Spaces Required²: 228 Spaces

- 2-3 Bedroom: 1.5 Spaces x 137 = 205.5
- 4 Bedroom: 2.5 Spaces x 9 = 22.5
- Guest: N/A

Parking Spaces Provided³: 372

- Garages: 292 (2 per unit):
- Guest: 80 Spaces (0.5 per unit)

Open Spaces Required⁴: ±111,784 SF

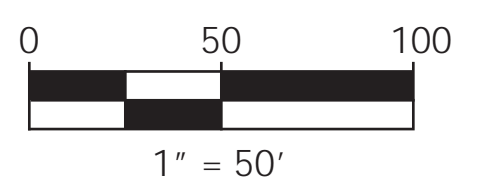
- 42% of total site area
- At least 50% shall be designed as common (±55,892 SF)

Open Space Provided: ±78,392 SF

- Common Areas: ±56,593 SF
- Private Area: ±21,799 SF
 - Rear Yards: 12,675 SF
 - Porches & Decks⁶: ±9,124 SF

Notes:

1. Assumes 5% very low income affordable units for a 20% density bonus allowance
2. Required parking per Density Bonus Law
3. Guest spaces are 8.5' x 18'
4. Required open space to be adjusted through State density bonus waiver
5. Private open space minimum dimension of 5'
6. Existing General Plan: General Commercial
7. Proposed General Plan: High Density Residential
8. Multiple-Family Residential (R3) Zoning District.
9. Existing Zoning: AP - Administrative & Professional
10. Proposed Zoning: Multiple-Family Residential (R3)
11. Assessor's Parcel Numbers: 141-521-48



Illustrative Site Plan

3150 Bear Street
Costa Mesa, California

July 2024



1 - FRONT



2 - REAR

Stacked Flat Renderings

3150 Bear Street

Costa Mesa, California

July 2024



4 - LEFT



2 - RIGHT



3 - REAR



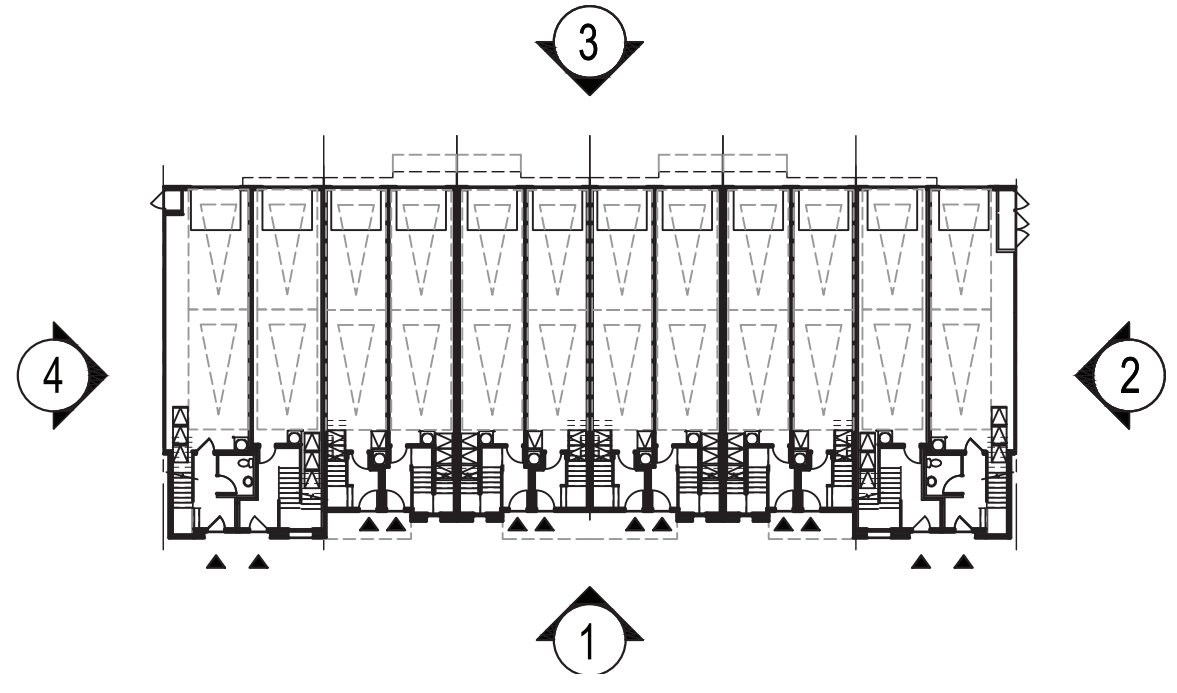
1 - FRONT

MATERIAL LEGEND

- | | | |
|----------------------------|-----------------------------|--------------------|
| 1. FLAT TILE ROOFING | 7. TRELLIS | 13. UTILITY CLOSET |
| 2. STUCCO | 8. METAL RAILING | 14. FIRE RISER |
| 3. BOARD AND BATTEN SIDING | 9. SECTIONAL GARAGE DOOR | |
| 4. TRIM | 10. WALL LIGHT WITH SIGNAGE | |
| 5. FAUX VENT | 11. ENTRY DOOR | |
| 6. DECORATIVE AWNING | 12. VINYL WINDOW | |

SCALE: 1/8" = 1'-0"

0 8 16 32



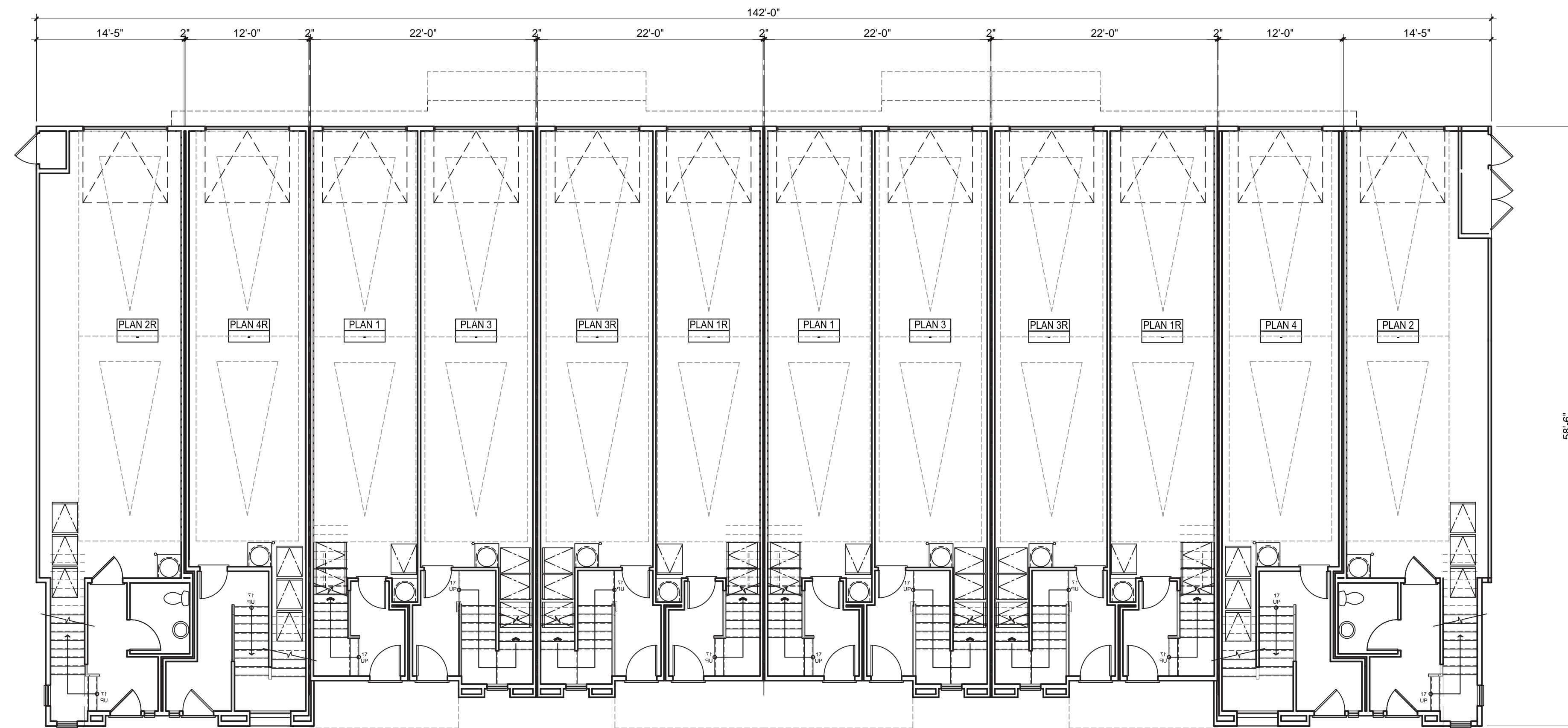
Stacked Flat Elevations

3150 Bear Street

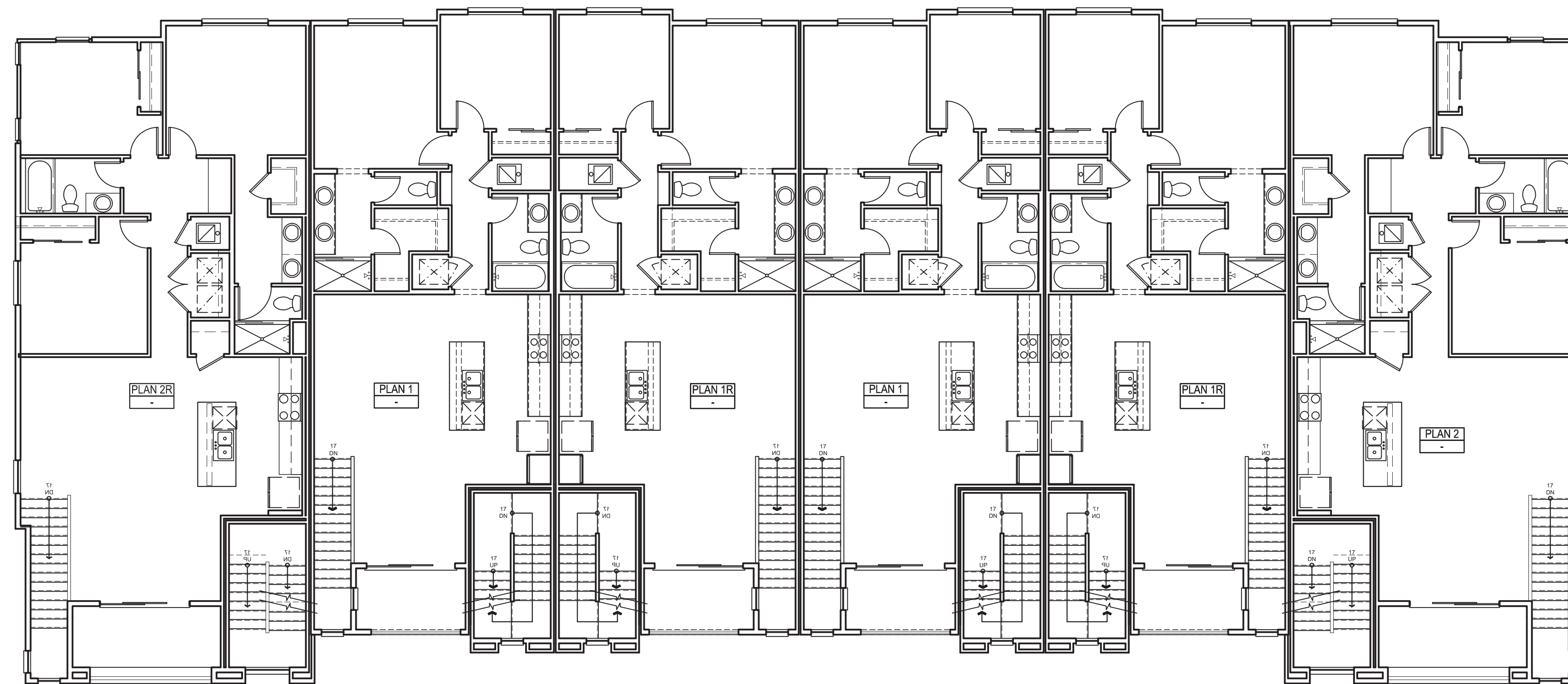
Costa Mesa, California

July 2024





First Floor



Second Floor

Stacked Flat Floor Plans

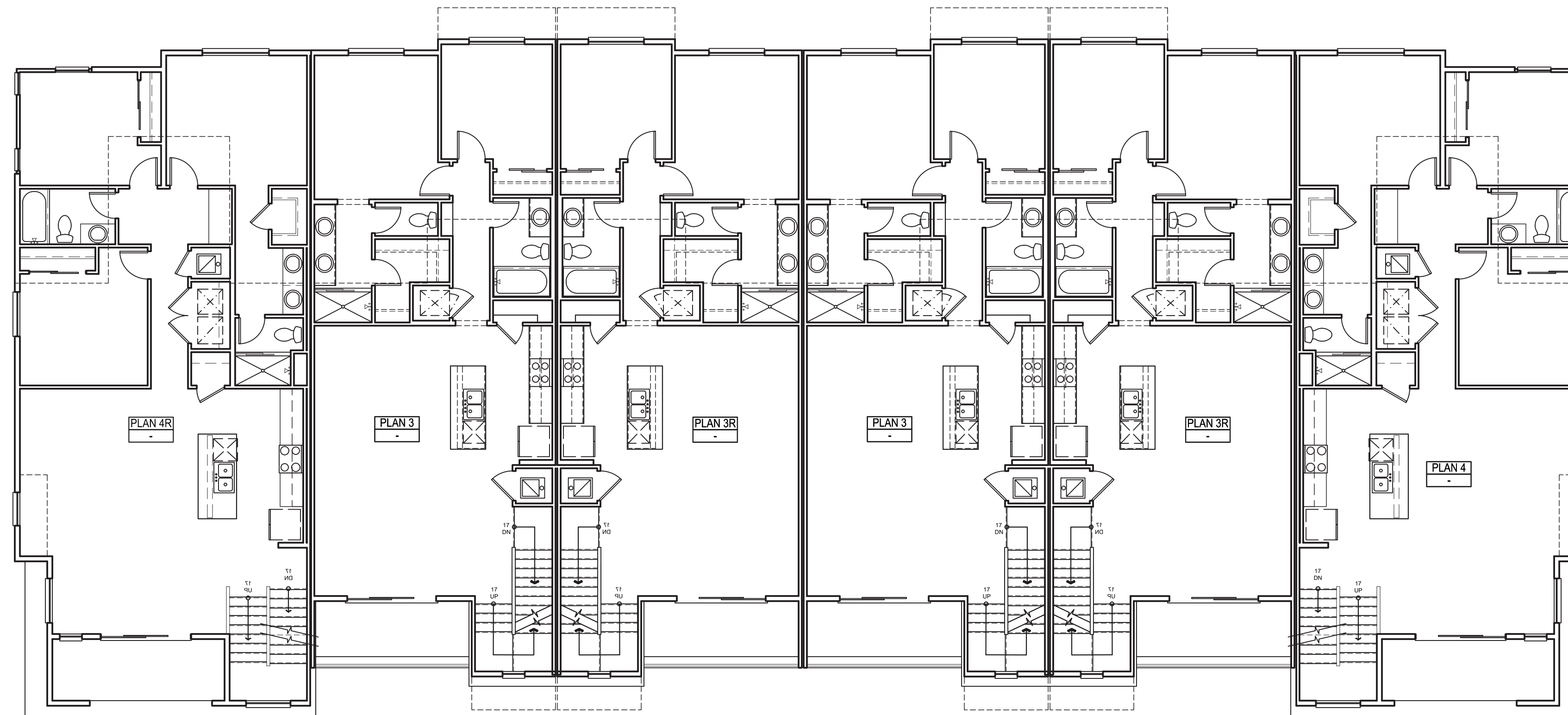
3150 Bear Street
Costa Mesa, California

July 2024

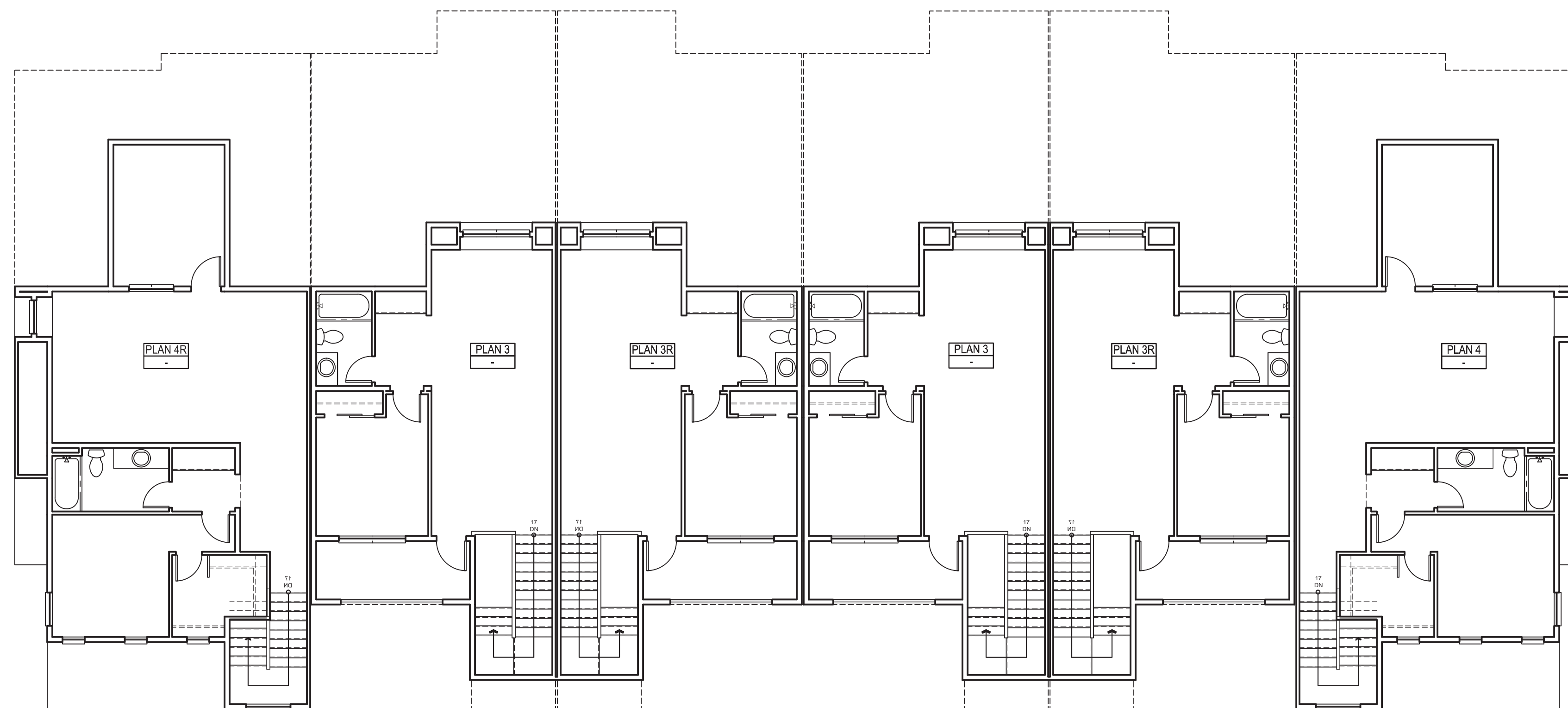
PLAN S3 (3 BED / 3 BATH)		PLAN S1 (2 BED / 2 BATH)	
FIRST FLOOR	125 SQ. FT.	FIRST FLOOR	101 SQ. FT.
SECOND FLOOR	92 SQ. FT.	SECOND FLOOR	964 SQ. FT.
THIRD FLOOR	1024 SQ. FT.	THIRD FLOOR	0
FOURTH FLOOR	513 SQ. FT.	FOURTH FLOOR	0
TOTAL NET	1,753 SQ. FT.	TOTAL NET	1,065 SQ. FT.
DECK	158 SQ. FT.	DECK	55 SQ. FT.
GARAGE	488 SQ. FT.	GARAGE	456 SQ. FT.

PLAN S4 (4 BED / 3 BATH)		PLAN S2 (3 BED / 2.5 BATH)	
FIRST FLOOR	169 SQ. FT.	FIRST FLOOR	168 SQ. FT.
SECOND FLOOR	90 SQ. FT.	SECOND FLOOR	1211 SQ. FT.
THIRD FLOOR	1267 SQ. FT.	THIRD FLOOR	0
FOURTH FLOOR	691 SQ. FT.	FOURTH FLOOR	0
TOTAL NET	2,218 SQ. FT.	TOTAL NET	1,379 SQ. FT.
DECK	213 SQ. FT.	DECK	74 SQ. FT.
GARAGE	510 SQ. FT.	GARAGE	615 SQ. FT.

SCALE: 1/8" = 1'-0"



Third Floor



Fourth Floor

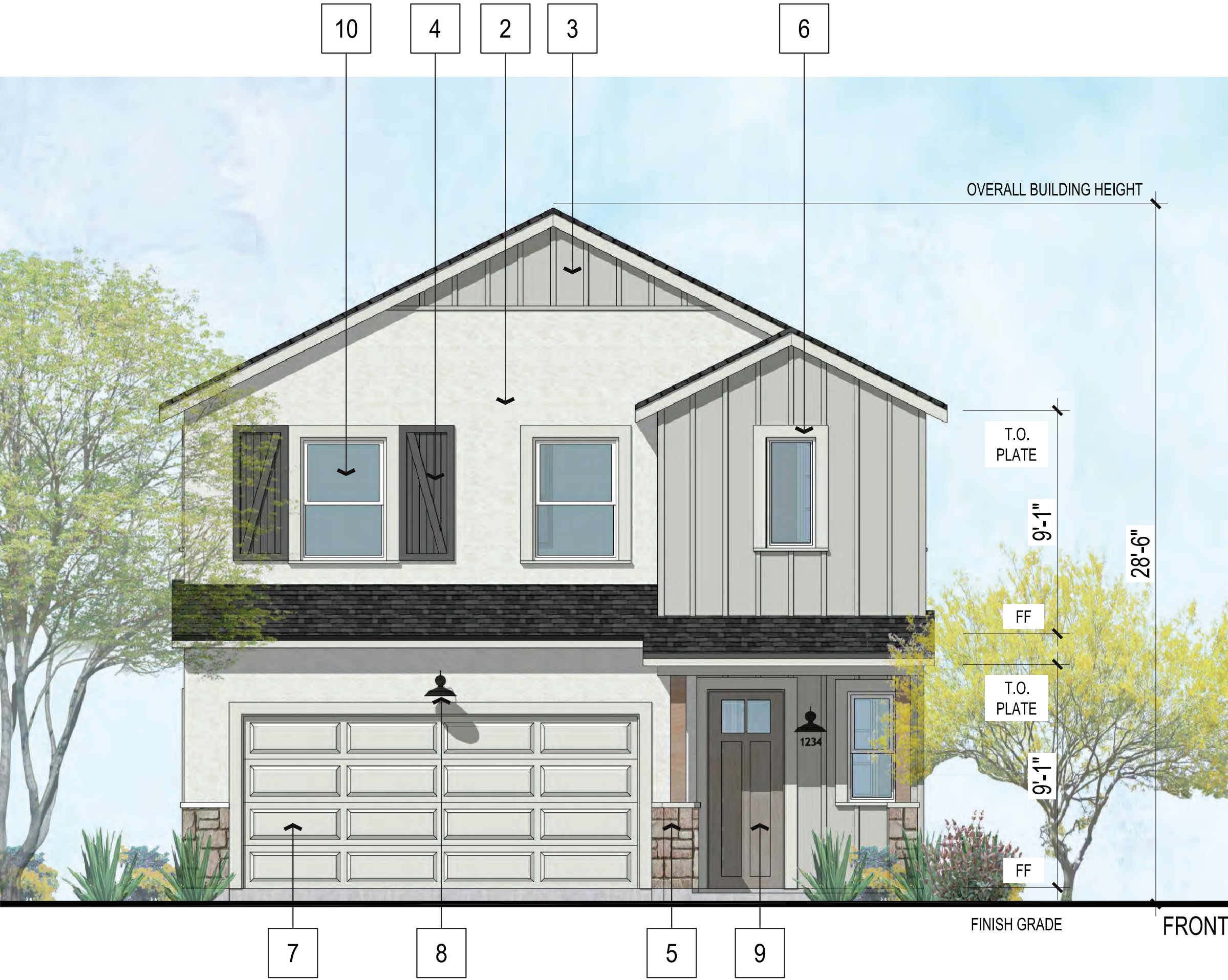
SCALE: 1/8" = 1'-0"

0 4 8 16

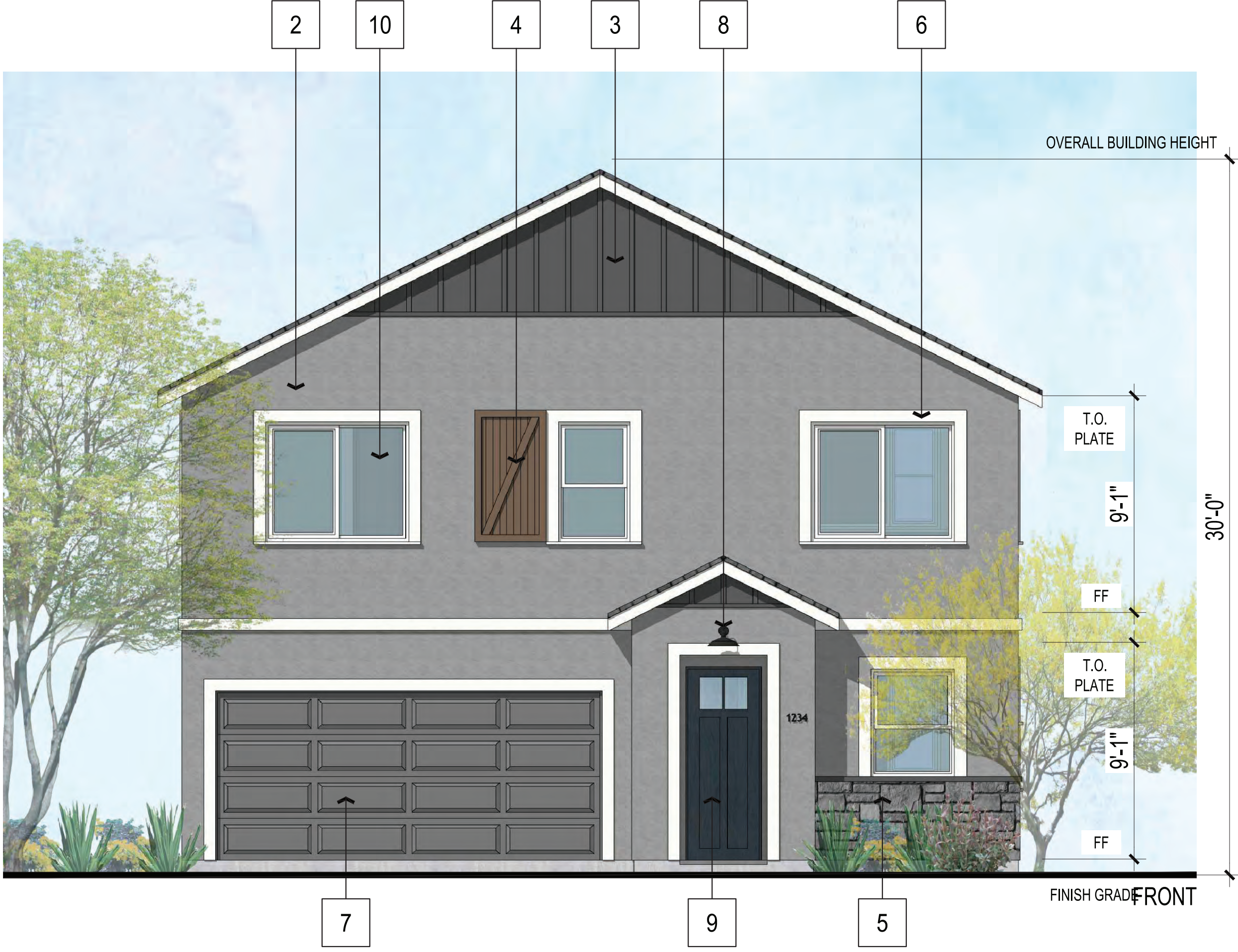
Stacked Flat Floor Plans

3150 Bear Street
Costa Mesa, California

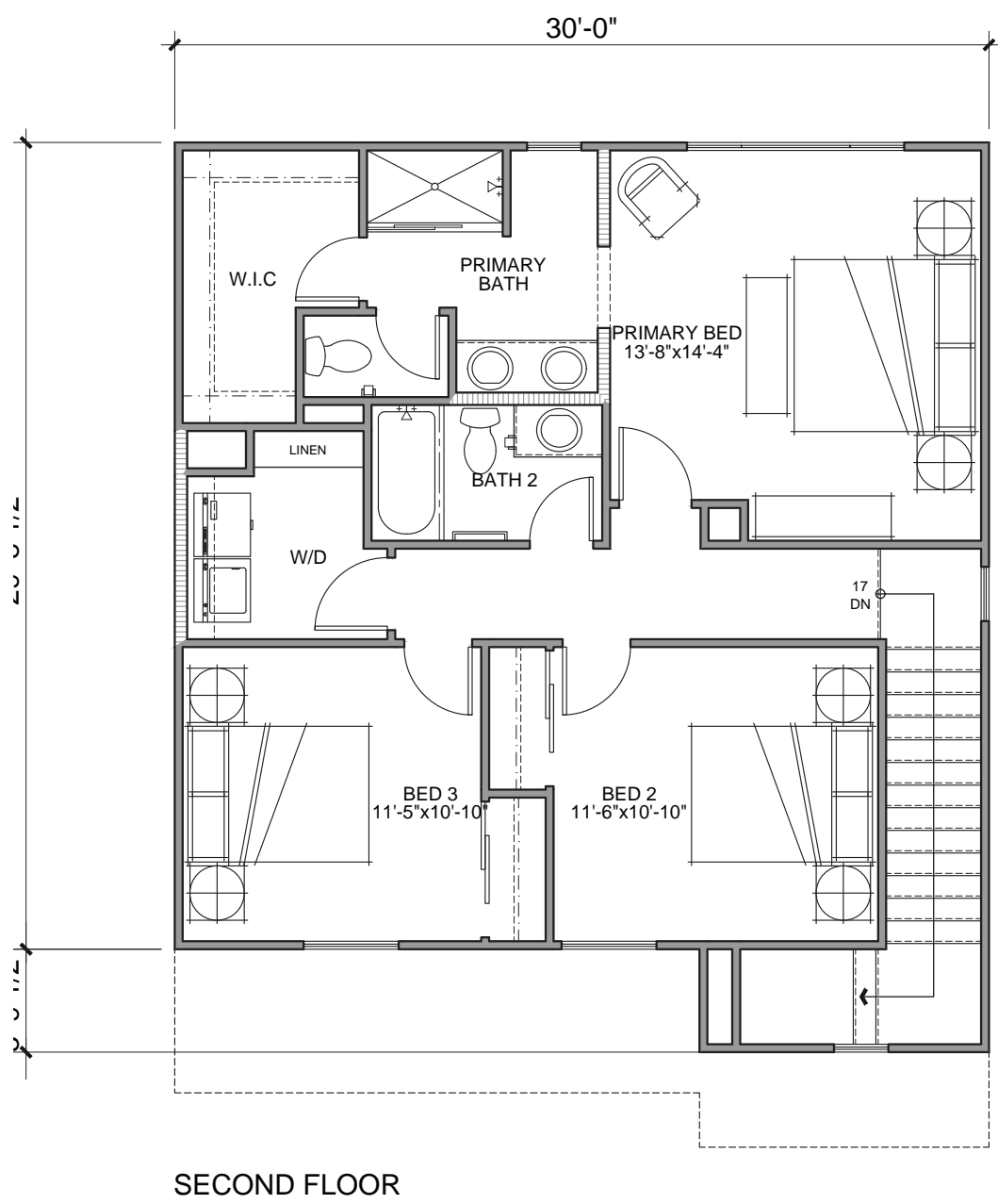
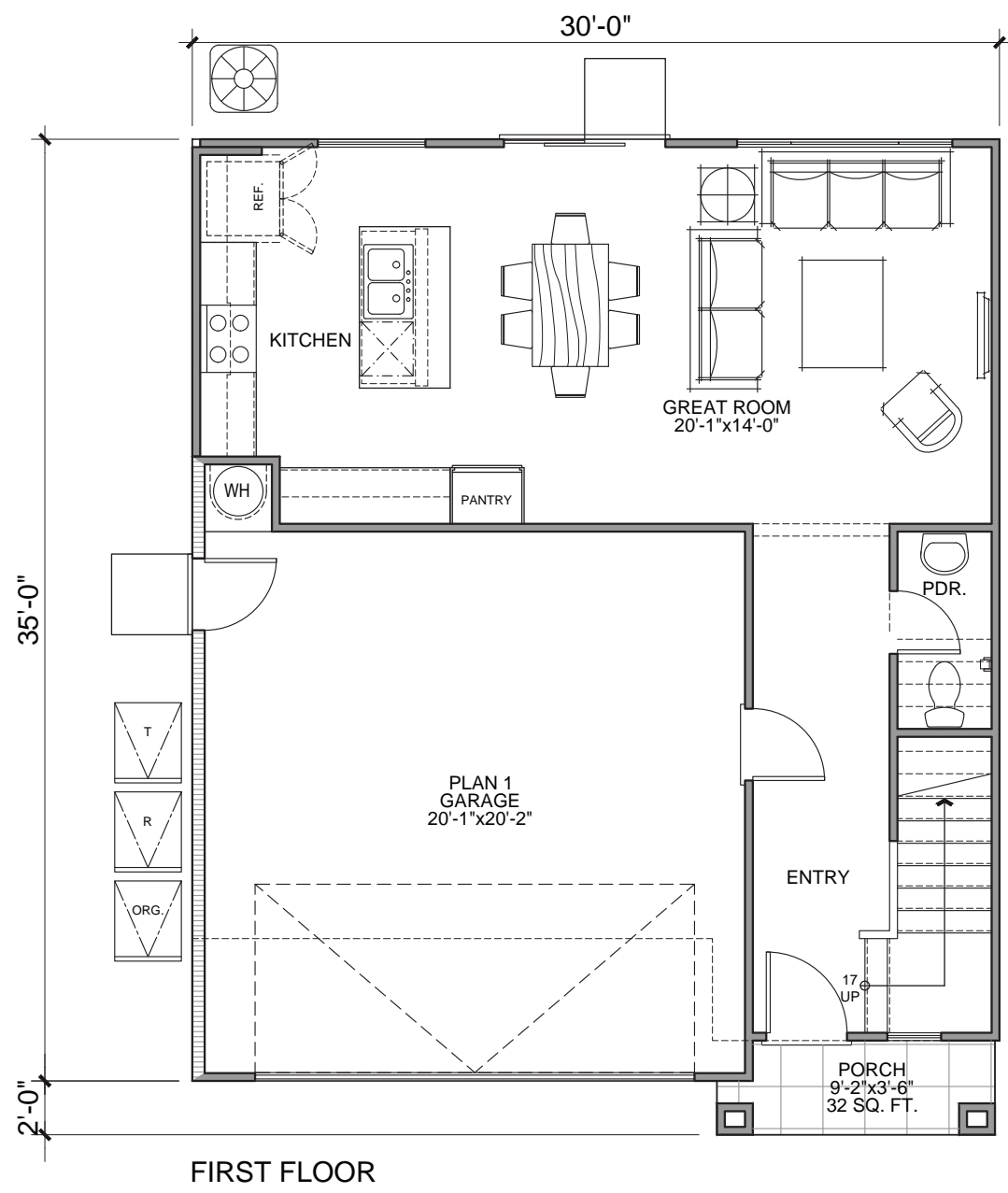
July 2024



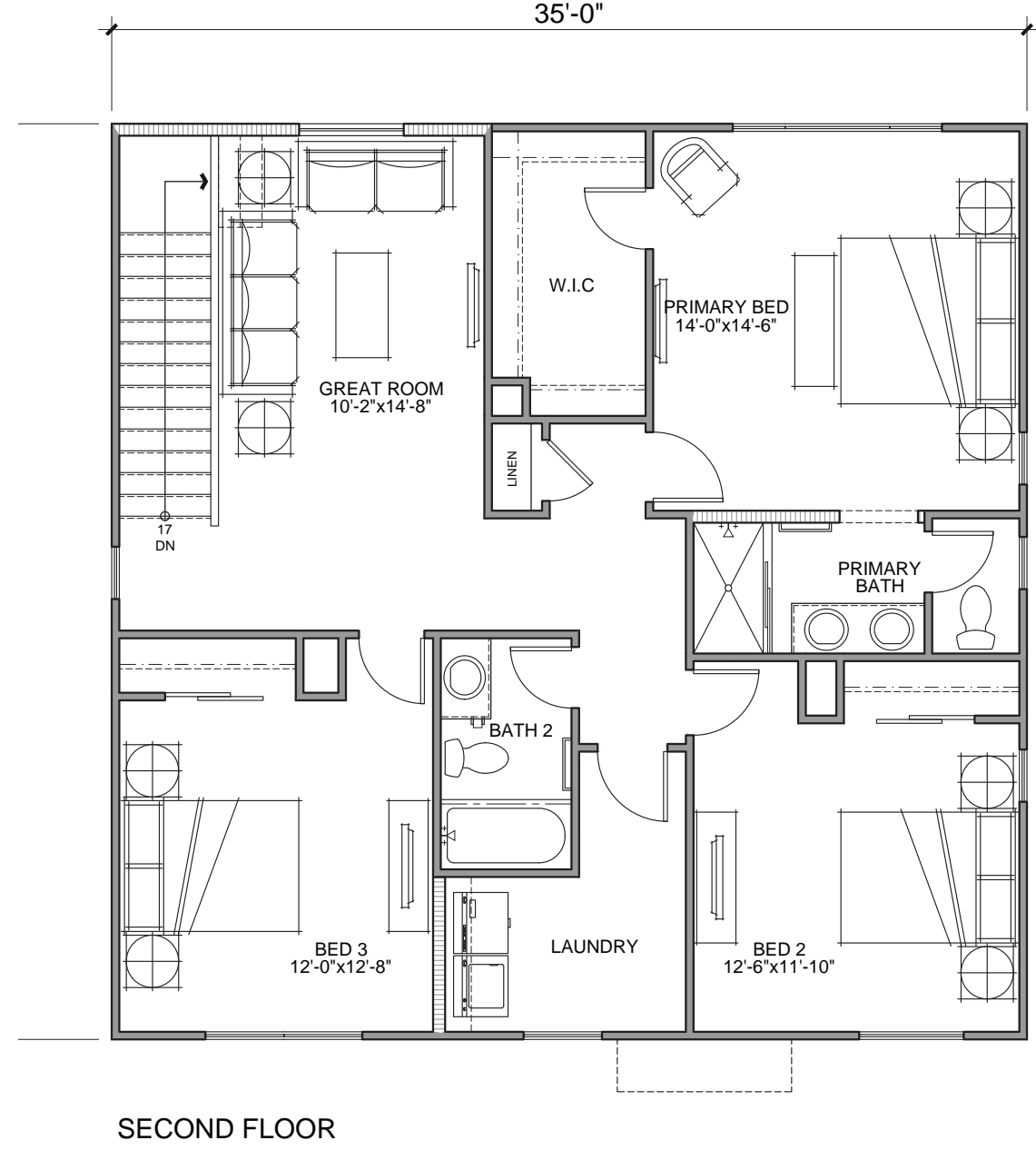
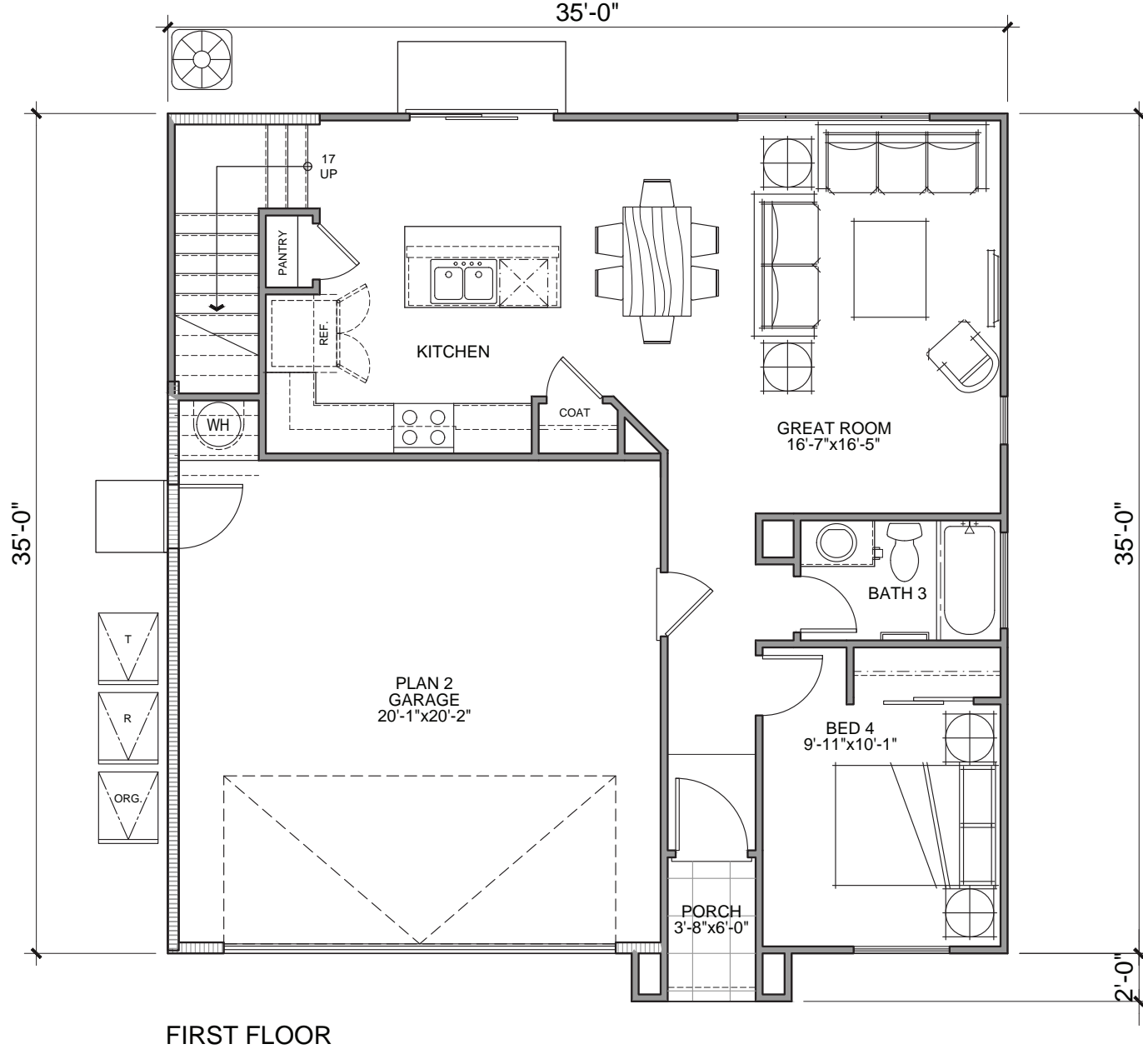
- MATERIAL LEGEND
- 1. FLAT TILE ROOFING
 - 2. STUCCO
 - 3. BOARD AND BATTEN SIDING
 - 4. DECORATIVE SHUTTERS
 - 5. STONE VENEER
 - 6. DECORATIVE TRIM
 - 7. SECTIONAL GARAGE DOOR
 - 8. LIGHT FIXTURE
 - 9. ENTRY DOOR
 - 10. VINYL WINDOW



- MATERIAL LEGEND
- 1. FLAT TILE ROOFING
 - 2. STUCCO
 - 3. BOARD AND BATTEN SIDING
 - 4. DECORATIVE SHUTTERS
 - 5. STONE VENEER
 - 6. DECORATIVE TRIM
 - 7. SECTIONAL GARAGE DOOR
 - 8. LIGHT FIXTURE
 - 9. ENTRY DOOR
 - 10. VINYL WINDOW



PLAN D1 (3 BED / 2.5 BATH)	
FIRST FLOOR	591 SQ. FT.
SECOND FLOOR	849 SQ. FT.
THIRD FLOOR	0
FOURTH FLOOR	0
TOTAL NET	1,440 SQ. FT.
DECK	0
GARAGE	404 SQ. FT.



PLAN D2 (4 BED / 3 BATH)	
FIRST FLOOR	759 SQ. FT.
SECOND FLOOR	1133 SQ. FT.
THIRD FLOOR	0
FOURTH FLOOR	0
TOTAL NET	1,891 SQ. FT.
DECK	0
GARAGE	403 SQ. FT.

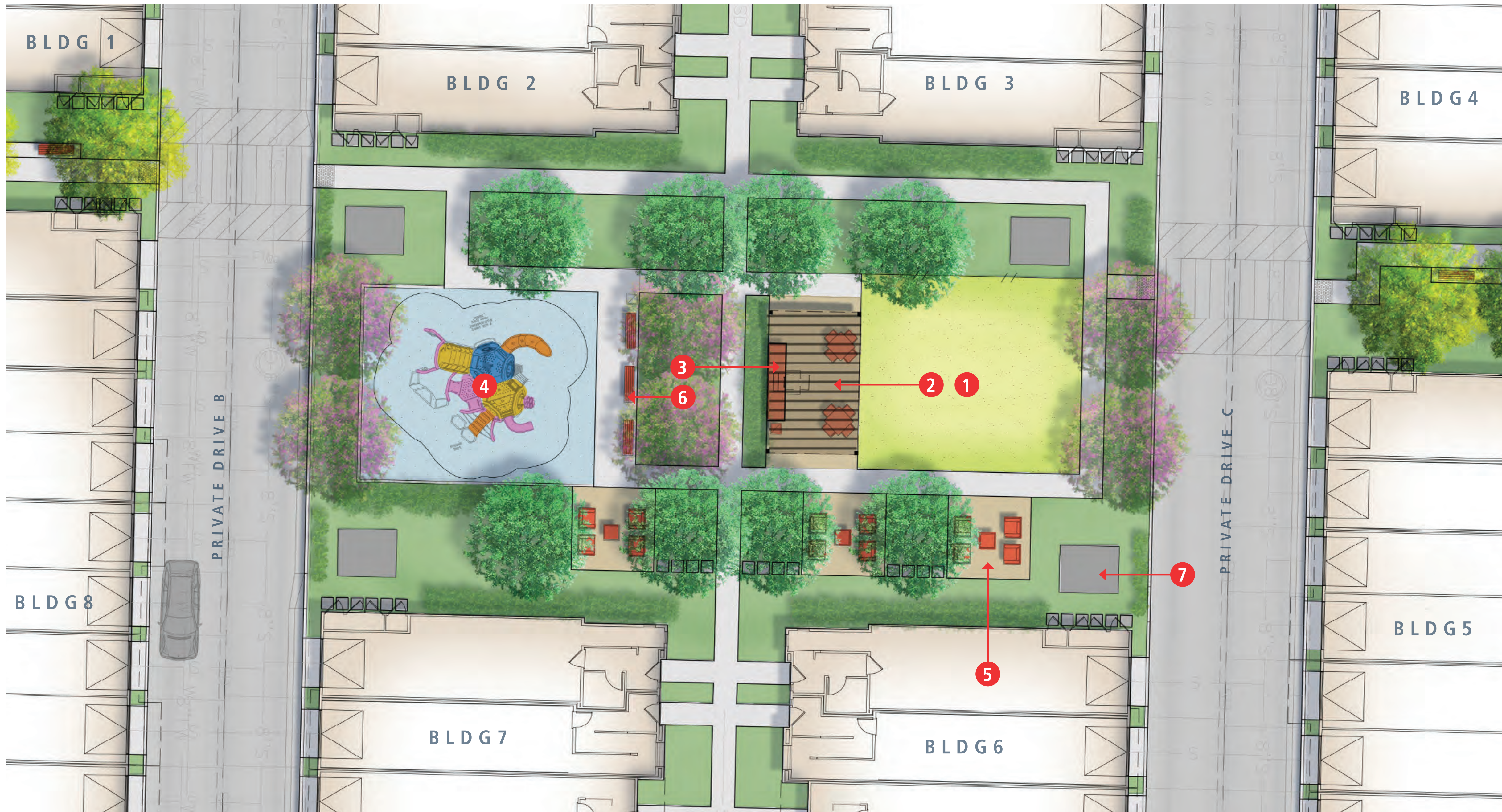
Detached Homes

3150 Bear Street
Costa Mesa, California
July 2024



LEGEND

- 1 Lawn Area
- 2 Overhead Structure
- 3 BBQ and Picnic
- 4 Play Equipment
- 5 Casual Seating
- 6 Bench
- 7 Transformer



Common Recreation Area

3150 Bear Street
Costa Mesa, California

July 2024





CITY OF COSTA MESA

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 24-323

Meeting Date: 9/3/2024

TITLE:

CITY COUNCIL FIRST READING OF ORDINANCE TO INCREASE CITY COUNCIL COMPENSATION

DEPARTMENT: CITY MANAGER'S OFFICE- HUMAN RESOURCES DIVISION

PRESENTED BY: KASAMA LEE, HUMAN RESOURCES MANAGER

CONTACT INFORMATION: KASAMA LEE, HUMAN RESOURCES MANAGER (714) 754-5169

RECOMMENDATION:

Staff recommends the City Council introduce for first reading, by title only, Ordinance No. 2024-XX increasing the City Council compensation effective after the general election, with the new City Council in December 2024.

BACKGROUND:

In January 2021, the City Council and City leadership team participated in a Strategic Planning workshop and identified Three-Year Goals and Objectives and key priorities for the subsequent six months through July 2021. The City Council developed five goals, one of which is to "Recruit and Retain High Quality Staff." On September 27, 2021, the City Council and City leadership team conducted a second workshop to revisit the Three-Year Goals and Objectives and identify the key priorities for the next six months through March 2022. The City Council Goal to "Recruit and Retain High Quality Staff" was re-affirmed and new six-month objectives were created to better achieve this goal. One of the new objectives was to "Perform a market analysis of City Council compensation for comparable agencies and special districts within the county and report results to the City Manager."

The City Council's current salary rate of \$904.40 per month was last set by Ordinance No. 09-5 in May 2009. The City Council approved a reduction in its salary by 5% in 2009 due to the impacts of the State budget on local government and economic conditions at the time.

California Government Code section 36516 was recently amended to allow city councils to enact an ordinance providing that each member of the city council receive a salary based on the population of the city. In cities with over 75,000 up to and including 150,000 in population, the city council salary may be set at up to \$1,900 per month. Prior to the amendment, this amount was set at \$600 per month. California Government Code section 36516(a)(4) previously allowed for up to a 5% increase per year from the date of the last adjustment. The code was recently amended to state:

“The salary of council members may be increased beyond the amount provided in this subdivision by an ordinance or by an amendment to an ordinance, but the amount of the increase shall not exceed the greater of either of the following:

- (A) An amount equal to 5 percent for each calendar year from the operative date of the last adjustment of the salary in effect when the ordinance or amendment is enacted.*
- (B) An amount equal to inflation since January 1, 2024, based upon the California Consumer Price Index, which shall not exceed 10 percent for each calendar year.”*

The code also states that *“No ordinance shall be enacted or amended to provide automatic future increases in salary.”*

In addition, staff conducted a market analysis of City Council compensations utilizing data from comparable agencies and special districts within the county.

ANALYSIS:

Below is a summary of salary and benefits for our five contiguous agencies:

City	Population	Police/Fire	Base Pay	Health Benefits*	Allowances (Auto/Tech/Expense)	Total
Costa Mesa	109,521	Police/Fire	\$ 904.40	\$ 2,550.00	\$ -	<u>\$ 3,454.40</u>
Fountain Valley	55,930	Police/Fire	\$ 500.00	\$ -	\$ -	\$ 500.00
Huntington Beach	194,310	Police/Fire	<u>\$ 2,055.54</u>	\$ 857.93	\$ 1,705.54	<u>\$ 4,619.01</u>
Irvine	313,685	Police (No Fire)	\$ 880.00	\$ 2,638.63	\$ 715.00	<u>\$ 4,233.63</u>
Newport Beach	83,993	Police/Fire	<u>\$ 1,605.00</u>	\$ 1,876.00	\$ -	<u>\$ 3,481.00</u>
Santa Ana	308,189	Police (No Fire)	<u>\$ 1,000.00</u>	\$ 2,080.00	\$ 550.00	<u>\$ 3,630.00</u>
Average			<u>\$ 1,157.49</u>			<u>\$ 3,319.67</u>

*Costa Mesa net value taking into account annual deferred compensation maximum allotment.

Utilizing the 5% annual calculation and based on the last adjustment of salary in May of 2009, which took effect in December 2010, would equate to an increase of \$45.22 per month (\$20.88 per payroll period) for each calendar year since 2010 (5% per year for 13 years from 2011 through 2023). This would result in an increase of \$587.86 per month for a new salary of \$1,492.26 per month.

By increasing the City Council salary to \$1,492.26 per month, the total compensation package would be closer in alignment with the Cities of Huntington Beach and Newport Beach, which are full service (Police and Fire) and more similar in structure to Costa Mesa.

City	Population	Police/Fire	Base Pay	Health Benefits	Allowances (Auto/Tech/Expense)	Total
Costa Mesa	109,521	Police/Fire	<u>\$ 1,492.26</u>	\$2,550.00	\$ -	<u>\$ 4,042.26</u>
Huntington Beach	194,310	Police/Fire	<u>\$ 2,055.54</u>	\$ 857.93	\$ 1,705.54	<u>\$ 4,619.01</u>
Newport Beach	83,993	Police/Fire	<u>\$ 1,605.00</u>	\$1,876.00	\$ -	<u>\$ 3,481.00</u>
Average			<u>\$ 1,717.60</u>			<u>\$ 4,047.42</u>

In comparison, if an employee works 22 hours per week at the current minimum wage of \$16.00 per week, they would receive an approximate monthly salary of \$1,525 per month.

Staff has prepared the necessary documents for City Council consideration of an increase to its compensation to \$1,492.26 per month. An ordinance increasing City Council compensation is attached for the first reading. If approved at this meeting, the second reading and adoption would be scheduled for the City Council meeting of September 17, 2024. California Government Code section 36156.5 states that: *“A change in compensation does not apply to a council member during the council member’s term of office. This prohibition shall not prevent the adjustment of the compensation of all members of a council serving staggered terms whenever one or more members of the city council becomes eligible for a salary increase by virtue of the council member beginning a new term of office.”* City Council compensation adjustments can only be made effective following the next general election. If approved, the new City Council salary would go into effect when the new City Council terms begin after the next general election in 2024.

ALTERNATIVES:

The City Council has the following alternatives:

1. Give first reading: The City Council may give first reading to the draft Ordinance setting City Council compensation at \$1,492.26 per month.
2. Give first reading with modifications: The City Council may modify the draft Ordinance setting City Council compensation at \$1,900 per month and give first reading.
3. Not adopt changes to City Council compensation: The City Council may choose to not adopt the proposed increase to Council Compensation.
4. Provide alternative direction to staff.

FISCAL REVIEW:

The proposed increase is estimated to be effective in December 2024, after the next general election in 2024. The pro-rated fiscal impact in FY 2024/25 is \$3,527.16 for six months per member. There are sufficient salary savings citywide to cover the increase.

LEGAL REVIEW:

The City Attorney's Office has reviewed the ordinance and the report and approved them as to form.

CITY COUNCIL GOALS AND PRIORITIES:

This item supports City Council Goal:

- Recruit and Retain High Quality Staff

CONCLUSION:

Staff recommends the City Council introduce for first reading, by title only, Ordinance No. 2024-XX increasing the City Council Compensation effective after the general election, with the new City Council in December 2024.

ORDINANCE NO. 2024-xx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 2, CHAPTER II, SECTION 2-21 OF THE COSTA MESA MUNICIPAL CODE INCREASING SALARIES OF CITY COUNCIL MEMBERS.

THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA DOES HEREBY FIND AND DECLARE AS FOLLOWS:

WHEREAS, State law allows the Council to increase its salary; and

WHEREAS, the City Council salary has not been changed since May 2009; and

WHEREAS, the City Council desires to increase the Council salary to be effective upon the time a new Council Member assumes office.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

Section 2-21 of Title 2, Chapter II, of the Costa Mesa Municipal Code is hereby amended to read as follows:

2-21 Salaries. Each member of the Council shall be paid a salary of \$1492.26 per month for serving on the Council.

Section 2. Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

Section 3. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof,

ATTACHMENT 1

irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 4. Effective Date. This Ordinance shall take effect thirty (30) days after its final passage, and will apply to all council members when the next council member is sworn into office.

Section 5. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner required by law.

PASSED AND ADOPTED this ___ day of September, 2024.

John Stephens, Mayor

ATTEST:

APPROVED AS TO FORM:

Brenda Green, City Clerk

Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing Ordinance No. 2024-xx was duly introduced for first reading at a regular meeting of the City Council held on the 3rd day of September, 2024, and that thereafter, said Ordinance was duly passed and adopted at a regular meeting of the City Council held on the ____ day of _____, 2024, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this ____ day of _____, 2024.

Brenda Green, City Clerk