



AGENDA OF A REGULAR MEETING - NATIONAL CITY CITY COUNCIL/
COMMUNITY DEVELOPMENT COMMISSION – HOUSING AUTHORITY OF
THE CITY OF NATIONAL CITY
ONLINE ONLY MEETING

<https://www.nationalcityca.gov/webcast>

LIVE WEBCAST
COUNCIL CHAMBERS
CIVIC CENTER

1243 NATIONAL CITY BOULEVARD
NATIONAL CITY, CALIFORNIA
TUESDAY, SEPTEMBER 7, 2021 – 6:00 PM

ALEJANDRA SOTELO-SOLIS
Mayor

JOSE RODRIGUEZ
Vice Mayor

MARCUS BUSH
Councilmember

RON MORRISON
Councilmember

MONA RIOS
Councilmember

NOTICE: The health and well-being of National City residents, visitors, and employees during the COVID-19 outbreak remains our top priority. The City of National City is coordinating with the County of San Diego Health Human Services Agency, and other agencies to take measures to monitor and reduce the spread of the novel coronavirus (COVID-19). **The World Health Organization has declared the outbreak a global pandemic and local and state emergencies have been declared providing reprieve from certain public meeting laws such as the Brown Act.**

As a result, the City Council Meeting will occur only online to ensure the safety of City residents, employees and the communities we serve. A live webcast of the meeting may be viewed on the city's website at www.nationalcityca.gov. For Public Comments see "PUBLIC COMMENTS" section below

ORDER OF BUSINESS: Public sessions of all Regular Meetings of the City Council / Community Development Commission - Housing Authority (hereafter referred to as Elected Body) begin at 6:00 p.m. on the first and third Tuesday of each month. Public Hearings begin at 6:00 p.m. unless otherwise noted. Closed Meetings begin in Open Session at 5:00 p.m. or such other time as noted, and after announcing closed session items, convenes into a Closed Meeting. If a workshop is scheduled, the subject and time of the workshop will appear on the agenda. The Mayor and Council members also sit as the Chairperson and Members of the Board of the Community Development Commission (CDC).

REPORTS: All open session agenda items and reports as well as all documents and writings distributed to the Elected Body less than 72 hours prior to the meeting, are available for review on the City's website at www.nationalcityca.gov. Regular Meetings of the Elected Body are webcast and archived on the City's website at www.nationalcityca.gov.

PUBLIC COMMENTS: There are multiple ways you can make sure your opinions are heard and considered by our City Council as outlined below:

Submit your public comment prior to the meeting: To submit a comment in writing, email PublicComment@nationalcityca.gov, provide the agenda item number and title of the item in the subject line of your email. Public comments or testimony is limited to up to three (3) minutes. If the comment is not related to a specific agenda item,

1243 National City Blvd.
National City, CA 91950
619-336-4240

Meeting agendas and
minutes available on the
City's website at
WWW.NATIONALCITYCA.GOV

indicate General Public Comment in the subject line. All email comments received by 4:00 p.m. on the day of the meeting will be emailed to the City Council Members and made a part of the official record.

Register online and participate in live public comment during the meeting: To provide live public comment during the meeting, you must pre-register on the City's website at <https://www.nationalcityca.gov/publiccomment> by 4:00 p.m. on the day of the regular meeting to join the City Council Meeting.

***Please note that you do not need to pre-register to watch the meeting online, but you must pre-register if you wish to speak.

Once registered, you will receive an email with a link from Zoom to join the live meeting. You can participate by phone or by computer. Please allow yourself time to log into Zoom before the start of the meeting to ensure you do not encounter any last-minute technical difficulties.

***Please note that members of the public will not be shown on video; they will be able to watch and listen and speak when called upon. Public microphones will be muted until it is your turn to comment.

Each speaker is allowed up to three (3) minutes to address the City Council. Please be aware that the Mayor may limit the comments' length due to the number of persons wishing to speak or if comments become repetitious or unrelated.

All comments are subject to the same rules as would otherwise govern speaker comments at the meeting. Speakers are asked to be respectful and courteous. Please address your comments to the City Council as a whole and avoid personal attacks against members of the public, City Council, and city staff.

Questions about public comment or City Council protocols? Please contact the City Clerk's Office at (619) 336-4228 or via email at Clerk@nationalcityca.gov.

INTERPRETATION SERVICES: To use the Zoom interpretation feature you must first Pre-Register on Zoom. Once logged into Zoom to use the interpretation feature, please scroll to the bottom of the Zoom screen (where the meeting controls are), click on the interpretation icon (world), and select English as your language. If you are joining using the Zoom mobile app (cell phone, tablet, etc.), please press the ellipsis (...), then Interpretation, and then choose your language.

WRITTEN AGENDA: With limited exceptions, the Elected Body may take action only upon items appearing on the written agenda. Items not appearing on the agenda must be brought back on a subsequent agenda unless they are of a demonstrated emergency or urgent nature, and the need to take action on such items arose after the agenda was posted.

CONSENT CALENDAR: Consent calendar items involve matters which are of a routine or noncontroversial nature. All consent items are adopted by approval of a single motion by the City Council. Prior to such approval, any item may be removed from the consent portion of the agenda and separately considered, upon request of a Councilmember, a staff member, or a member of the public.

Upon request, this agenda can be made available in appropriate alternative formats to persons with a disability in compliance with the Americans with Disabilities Act. Please

contact the City Clerk's Office at (619) 336-4228 to request a disability-related modification or accommodation. Notification 24-hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

AVISO: La salud y el bienestar de los residentes, visitantes y empleados de National City durante el brote de COVID-19 sigue siendo nuestra máxima prioridad. El Ayuntamiento de la Ciudad de National City se está coordinando con la Agencia de Salud y Servicios Humanos del Condado de San Diego y otras agencias para tomar medidas con el fin de monitorear y reducir la propagación del nuevo coronavirus (COVID-19). La Organización Mundial de la Salud declaró el brote como una pandemia global y se han manifestado emergencias locales y estatales que resultan en la suspensión de ciertas leyes de reuniones públicas, tal como la Ley Brown.

Como resultado de ello, la junta del Concejo Municipal del Ayuntamiento se llevará a cabo solamente en línea para garantizar la seguridad de los residentes, empleados y comunidades locales que atendemos. Se podrá ver una transmisión en vivo de la junta en el sitio web del Ayuntamiento en www.nationalcityca.gov. Para comentarios públicos, vea la sección “COMENTARIOS PÚBLICOS” más adelante.

ORDEN DEL DÍA: Las sesiones públicas de todas las juntas ordinarias del Concejo Municipal/Comisión de Desarrollo Comunitario - Autoridad de Vivienda (en lo sucesivo denominado Órgano Electo) inician a las 6:00 p.m. el primer y tercer martes de cada mes. Las audiencias públicas inician a las 6:00 p.m., a menos que se indique lo contrario. Las juntas cerradas inician en sesión abierta a las 5:00 p.m. o en cualquier otro momento que se indique, y tras anunciar los temas de la sesión cerrada, la junta se realiza como sesión cerrada. Si se programa una reunión de discusión y análisis, el tema y la hora de la misma aparecerán en la agenda. La Alcaldesa y los Concejales se reúnen por igual que el Presidente y los integrantes del Consejo de la Comisión de Desarrollo Comunitario.

INFORMES: Todos los temas e informes de la agenda de la sesión abierta, así como todos los documentos y escritos entregados al Órgano Electo menos de 72 horas antes de la sesión, aparecerán en el sitio web del Ayuntamiento. Las juntas ordinarias del Órgano Electo se transmiten por Internet y se archivan en el sitio web del Ayuntamiento en www.nationalcityca.gov.

COMENTARIOS PÚBLICOS: Hay varias formas en las que puede asegurarse de que sus opiniones sean escuchadas y consideradas por nuestro Concejo Municipal como se describe a continuación:

Envíe su comentario público antes de la sesión: Para enviar un comentario por escrito, envíe un correo electrónico a PublicComment@nationalcityca.gov, proporcione el número del tema o asunto de la agenda y el título del tema o asunto en la línea de asunto de su correo electrónico. Los comentarios o testimonios públicos se limitan a tres (3) minutos. Si el comentario no se relaciona con un tema o asunto específico de la agenda, indique Comentario Público General en la línea de asunto. Todos los comentarios por correo electrónico recibidos antes de las 4:00 p.m. del día de la sesión se enviarán por correo electrónico a los miembros del Concejo Municipal y formarán parte del acta oficial.

Regístrese en línea y participe en los comentarios públicos en vivo durante la sesión: Para proporcionar comentarios públicos en vivo durante la sesión, debe registrarse previamente en el sitio web del Ayuntamiento en

<https://www.nationalcityca.gov/publiccomment> **antes de las 4:00 p.m.** del día de la junta ordinaria para incorporarse a la sesión del Concejo Municipal.

***Tenga presente que no necesita registrarse previamente para ver la sesión en línea, pero debe registrarse previamente si desea hablar.

Una vez registrado, recibirá un correo electrónico con un enlace de Zoom para integrarse a la sesión en vivo. Puede participar por teléfono o por computadora. Tómese el tiempo necesario para iniciar la reunión en Zoom antes del inicio de la sesión para asegurarse de no encontrar dificultades técnicas de último momento.

***Tenga presente que las personas del público no se mostrarán en vídeo; podrán observar, escuchar y hablar cuando se les solicite. Los micrófonos públicos se silenciarán hasta que sea su turno de comentar.

Cada orador tiene hasta tres (3) minutos para dirigirse al Concejo Municipal. Tenga en cuenta que la Alcaldesa puede limitar la extensión de los comentarios debido a la cantidad de personas que deseen hablar o si los comentarios se vuelven repetitivos o no relacionados.

Todos los comentarios están sujetos a las mismas reglas que de otro modo regirían los comentarios de los oradores en la sesión. Se pide a los oradores que sean respetuosos y corteses. Dirija sus comentarios al Concejo Municipal en su conjunto y evite ataques personales contra personas del público, el Concejo Municipal y el personal del Ayuntamiento.

¿Preguntas sobre comentarios públicos o protocolos del Concejo Municipal?
Comuníquese con la Oficina de la Secretaria del Ayuntamiento al teléfono (619) 336-4228, o por correo electrónico a Clerk@nationalcityca.gov.

SERVICIO DE INTERPRETACIÓN: Para utilizar la función de interpretación zoom primero debe registrarse previamente en el sitio web de Zoom. Una vez que haya iniciado sesión en zoom para utilizar la función de interpretación, favor de desplazarse a la parte inferior de la pantalla de Zoom (donde aparecen los controles). Haga clic en el ícono de interpretación (globo terráqueo), y seleccione "*Spanish*" (español). Si está utilizando la aplicación móvil de Zoom (celular, tableta, etc.), presione los puntos suspensivos (...), luego "*interpretation*" y luego el idioma.

AGENDA ESCRITA: Con contadas excepciones, el Órgano Electo puede tomar medidas únicamente sobre los temas que aparecen en la agenda escrita. Los temas que no aparezcan en la agenda deben aparecer en una agenda subsecuente, a menos que sean de emergencia o urgencia demostrada, y la necesidad de tomar medidas sobre esos temas haya surgido después de haber sido publicada la agenda.

CALENDARIO DE CONSENTIMIENTO: Los temas del calendario de consentimiento implican cuestiones de naturaleza rutinaria o no controvertida. Todos los temas de consentimiento se adoptan mediante la aprobación de una sola moción del Concejo Municipal. Antes de la aprobación, cualquier tema puede eliminarse de la parte de consentimiento de la agenda y considerarse aparte, a petición de un concejal, individuo del personal del Ayuntamiento o persona del público.

Previa solicitud, esta agenda puede estar disponible en formatos alternativos apropiados para personas con discapacidades, en observancia de la Ley de Estadounidenses con Discapacidades. Llame al teléfono (619) 336-4228 de la Oficina del Secretario del Ayuntamiento para solicitar una modificación o adaptación de acceso relativa a la discapacidad. Notificar 24 horas antes de la sesión permitirá al Ayuntamiento hacer arreglos razonables para garantizar la accesibilidad a esta junta.

OPEN TO THE PUBLIC

A. CITY COUNCIL

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE TO THE FLAG

PUBLIC COMMENTS (THREE-MINUTE TIME LIMIT)

PROCLAMATIONS AND CERTIFICATES

1. [National City Celebrates San Diego Gives Day.](#)

AWARDS AND RECOGNITIONS

PRESENTATIONS (FIVE-MINUTE TIME LIMIT)

2. [Capital Improvement Program \(CIP\) Update. \(Engineering/Public Works\)](#)

INTERVIEWS / APPOINTMENTS

3. [Appointment of the City of National City District Sales Tax "Proposition D" Independent Review Committee. \(Finance\)](#)
4. [Project Labor Standards and Policies - Ad Hoc Committee Appointment. \(City Clerk\)](#)

REGIONAL BOARDS AND COMMITTEE REPORTS (FIVE-MINUTE TIME LIMIT)

CONSENT CALENDAR

5. [Motion of the City Council of the City of National City approving the waiving of the reading of the text of the Ordinances or Resolutions that are having a Public Hearing considered at this meeting and providing that such Ordinances or Resolutions shall be introduced and/or adopted after a reading of the title only. \(City Clerk\)](#)
6. [Approval of Meeting Minutes: City Council and Community Development Commission - Housing Authority: Virtual Regular Meetings: June 15, 2021, August 3, 2021, and August 17, 2021. City Council Virtual Special Closed Session Meeting June 15, 2021, Virtual Social Equity Workshop June 15, 2021, Virtual Special Closed Session Meetings July 13, August 3, and August 17, 2021, and Successor Agency Virtual Special Meeting August 3, 2021. \(City Clerk\)](#)

7. [Resolution of the City Council of the City of National city authorizing the Mayor to enter into a Revised/Amended Memorandum of Agreement with the County of San Diego by and through its Health and Human Services Agency \(HHS\) Mobile Crisis Response Team \(MCRT\) for broad range of health and social services to community residents including trauma informed behavioral health services. \(Police\)](#)
8. [Resolution of the City Council of the City of National City authorizing the acceptance of annual grant funds & the establishment of an appropriation and corresponding revenue budget for the Regional Realignment Response Group \(R3\) based upon a Memorandum of Agreement signed by the Chief of Police pursuant to Council Resolution 2020-129 between the National City Police Department, the County of San Diego \(San Diego Sheriff's Department and Probation Department\) and municipal law enforcement agencies throughout the County for support of R3G Operations in the amount of \\$67,000. \(Police\)](#)
9. [Resolution of the City Council of the City of National City approving an Affordable Housing Density Bonus Agreement with Highland Pacifica, LLC, for the development of 16 units located at 2428 Highland Avenue and restricting the rent and occupancy of two \(2\) units to very low-income households in exchange for a density bonus pursuant to California Government Code Sections 65915 - 65918. \(Housing Authority\)](#)
10. [Resolution of the City Council of the City of National City authorizing the establishment of a General Fund appropriation of \\$73,802 and use of General Fund balance in FY22 for operation of Las Palmas Pool during FY21. \(Library and Community Services\)](#)
11. [Resolution of the City Council of the City of National City awarding and authorizing the Mayor to execute agreements for Towing and Impound Services with the top two-ranked providers: A to Z Enterprises, Inc., DBA Road One Towing and Alexandra Investments, Inc., DBA Angelo's Towing and Recovery with a term of October 1, 2021 - September 30, 2023. \(Police and Finance\)](#)
12. [Resolution of the City Council of the City of National City: 1\) authorizing the Mayor to execute a three-year Agreement with Neri Landscape Architecture for a not-to-exceed amount of \\$2,000,000 to provide on-call project support services for National City's Capital Improvement Program \(CIP\), including, but not limited to, landscape architecture \(including urban planning and design\); and 2\) authorizing the City Manager to execute any project-specific supplemental agreements, as may be required for grant funded projects. \(Engineering/Public Works\)](#)
13. [Resolution of the City Council of the City of National City: 1\) authorizing the Mayor to execute a three-year Agreement with Schmidt Design Group, Inc.](#)

- for a not-to-exceed amount of \$2,000,000 to provide on-call project support services for National City's Capital Improvement Program (CIP), including, but not limited to, landscape architecture (including urban planning and design); and 2) authorizing the City Manager to execute any project-specific supplemental agreements, as may be required for grant funded projects. (Engineering/Public Works)
14. Resolution of the City Council of the City of National City authorizing the Mayor to execute a First Amendment to the Agreement with Project Professionals Corporation, increasing the not-to-exceed amount by \$1,000,000 for a total Agreement amount of \$3,000,000, to provide on-call project support services for National City's Capital Improvement Program (CIP), including, but not limited to, project management; engineering; construction management, inspections and certified payroll; plan reviews; constructability reviews; community outreach and communications. (Engineering/Public Works)
 15. Resolution of the City Council of the City of National City authorizing the Mayor to execute a First Amendment to the Agreement with Chen Ryan Associates, Inc., increasing the not-to-exceed amount by \$1,000,000 for a total Agreement amount of \$3,000,000, to provide on-call project support services for National City's Capital Improvement Program (CIP), including, but not limited to, project management; civil engineering; traffic engineering; transportation planning; plan reviews; constructability reviews; long-range planning; grants management; community outreach and communications. (Engineering/Public Works)
 16. Resolution of the City Council of the City of National City authorizing the Mayor to execute a First Amendment to the Agreement with National City Electric, increasing the not-to-exceed amount by \$40,000, for a total Agreement amount of \$100,000 and delegating the City Manager authority to approve any future extensions of this Agreement, due to the demand and continuous need for assistance with specialized electrical maintenance services. (Engineering/Public Works)
 17. Resolution of the City Council of the City of National City: 1) awarding a contract to SWCS, Inc. in the not-to-exceed amount of \$230,704.00 for the Camacho Recreation Center HVAC Replacement Project, CIP No. 20-07; 2) authorizing a 15% contingency in the amount of \$34,605.60 for any unforeseen changes; and 3) authorizing the Mayor to execute the contract. (Engineering/Public Works)
 18. Resolution of the City Council of the City of National City: 1) awarding a contract to National Electric Works, Inc. in the not-to-exceed amount of \$344,163.00 for the Civic Center Basement Power Upgrade Project, CIP No. 20-03; 2) authorizing a 15% contingency in the amount of \$51,624.45 for any

- unforeseen changes; and 3) authorizing the Mayor to execute the contract. (Engineering/Public Works)
19. Resolution of the City Council of the City of National City: 1) awarding a contract to Wright Construction Engineering Corp. in the not-to-exceed amount of \$818,733.60 for the Paradise Creek Mitigation Project at Kimball Way, CIP No. 19-35; 2) authorizing a 15% contingency in the amount of \$122,810.04 for any unforeseen changes; and 3) authorizing the Mayor to execute the contract. (Engineering/Public Works)
 20. Resolution of the City Council of the City of National City: 1) authorizing the Mayor to execute the First Amendment to the Agreement by and between the City of National City and Hinderliter De Llamas & Associates for tax and fee administrative services, extending the Agreement to December 31, 2021, with the option to extend year to year thereafter, and adding compliance services; 2) authorizing a General Fund appropriation of \$67,000 and corresponding revenue budget for the contracted services. (Finance)
 21. Resolution of the City Council of the City of National City waiving the formal bid process pursuant to National City Municipal Code Section 2.60.222 regarding open market procedure and authorizing the purchase and build-out of one (1) R 1250 RT-P Motorcycle in an amount not-to-exceed \$34,995.15 from sole source vendor BMW of Escondido. (Engineering/Public Works)
 22. Resolution of the City Council of the City of National City authorizing the installation of 80 feet of “No Parking for vehicles over 6 feet high” signage and 10 feet of red curb “No Parking” on the north side of E. 16th Street, west of “K” Avenue, to improve visibility at the intersection. (TSC No. 2021-15). (Engineering/Public Works)
 23. Resolution of the City Council of the City of National City authorizing the installation of red curb “No Parking” at the intersection of E. 22nd Street and “B” Avenue and the intersection of E. 22nd Street and “C” Avenue in order to improve visibility at the intersection. (TSC No. 2021-16). (Engineering/Public Works)
 24. Warrant Register #3 for the period of 7/14/21 through 7/20/21 in the amount of \$1,460,028.90. (Finance)
 25. Warrant Register #4 for the period of 7/21/21 through 7/27/21 in the amount of \$2,246,558.11. (Finance)

PUBLIC HEARINGS: ORDINANCES AND RESOLUTIONS

26. Public Hearing and Introduction of an Ordinance of the City Council of the City of National City amending Sections 18.20.020, 18.21.040, 18.21.050, 18.45, and 18.50, and addition of Sections 18.30.380 and 18.30.390 of Title

[18 \(Zoning\) of the National City Municipal Code. \(Applicant: City-Initiated\) \(Case File 2021-18 A\) \(Planning\)](#)

NON CONSENT RESOLUTIONS

27. [Resolution of the City Council of the City of National City ratifying and authorizing the Mayor to execute a one-year agreement between the City of National City and McAlister Institute for Treatment and Education, Incorporated \("McAlister"\) for the provision of homeless case management and supportive services for an amount not to exceed \\$313,532. \(Housing Authority\)](#)

NEW BUSINESS

28. [Notice of Decision – Planning Commission approval of a Conditional Use Permit for the addition of live entertainment and expansion of approved operating hours for alcohol sales at an existing restaurant \(Gerry's Grill\) located at 3030 Plaza Bonita Road, Suite 2510. \(Applicant: Steve Rawlings\) \(Case File 2021-12 CUP\) \(Planning\)](#)
29. [Discussion and direction pertaining to amending the National City Municipal Code Title 2 - Administration by adding Chapter 2.02 - City Attorney. \(City Attorney\)](#)

B. COMMUNITY DEVELOPMENT COMMISSION - HOUSING AUTHORITY

CONSENT RESOLUTIONS - HOUSING AUTHORITY

PUBLIC HEARINGS: RESOLUTIONS - HOUSING AUTHORITY

NON CONSENT RESOLUTIONS - HOUSING AUTHORITY

NEW BUSINESS - HOUSING AUTHORITY

C. REPORTS

STAFF REPORTS

30. [City Manager Report. \(City Manager\)](#)

MAYOR AND CITY COUNCIL

31. [Community Benefit Agreements/Project Labor Standards and Policies.](#)

CLOSED SESSION

CLOSED SESSION REPORT

ADJOURNMENT

Regular Meeting of the City Council and Community Development Commission - Housing Authority of the City of National City - Tuesday - September 21, 2021 - 6:00 p.m. - Council Chambers - National City, California.

The following page(s) contain the backup material for Agenda Item: [National City Celebrates San Diego Gives Day.](#)

Please scroll down to view the backup material.

Item # ____
09/07/21

National City Celebrates San Diego Gives Day

The following page(s) contain the backup material for Agenda Item: [Capital Improvement Program \(CIP\) Update. \(Engineering/Public Works\)](#)
Please scroll down to view the backup material.

Item # ____
09/07/21

Capital Improvement Program (CIP) Update

Engineering/Public Works

The following page(s) contain the backup material for Agenda Item: [Appointment of the City of National City District Sales Tax "Proposition D" Independent Review Committee.](#)
[\(Finance\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.:

ITEM TITLE:

Appointment of the City of National City District Sales Tax "Proposition D" Independent Review Committee.

PREPARED BY: Molly Brennan, Administrative Services
Director

PHONE: 619-336-4265

DEPARTMENT: Finance

APPROVED BY: 

EXPLANATION:

See attached.

FINANCIAL STATEMENT:

There is no fiscal impact associated with this item.

APPROVED:  **FINANCE**

APPROVED: _____ **MIS**

ENVIRONMENTAL REVIEW:

This is not a project and, therefore, not subject to environmental review.

ORDINANCE: INTRODUCTION FINAL ADOPTION

STAFF RECOMMENDATION:

Confirm appointments of three individuals with expertise in public finance to serve on the 2021 Proposition "D" independent review committee.

BOARD / COMMISSION RECOMMENDATION:

ATTACHMENTS:

1. Staff Report
2. Ordinance 2006-2278, Section 4.60.180 defines the committee



City Council Staff Report

September 7, 2021

AGENDA ITEM:

Appointment of the City of National City District Sales Tax “Proposition D” Independent Review Committee.

EXPLANATION:

On June 6, 2006, National City voters passed Proposition “D”, a one percent (1%) district sales and use tax for a period of ten years. The Proposition, as passed, includes a provision requiring the Mayor, with City Council approval, to appoint a three person independent review committee of financial experts every five (5) years. The committee’s role is to make a recommendation to City Council to either: continue the district sales tax at the current rate of one percent (1%), reduce the rate of the district sales tax, or terminate the district sales tax.

On November 4, 2014, National City voters passed a twenty (20) year extension of Proposition “D”. The extension maintains the requirement to convene an independent review committee every five years. The last Proposition “D” review committee was convened and submitted recommendations to City Council in 2016, therefore five years have passed since the previous committee and a 2021 committee is required to comply with the ordinance of district sales tax.

The Mayor is recommending appointment of the following three individuals with expertise in financial matters to serve on the 2021 Proposition “D” independent review committee:

- Dr. Sherry Ryan, Director & Professor, San Diego State University School of Public Affairs
 - Dr. Ryan is the Director of the School of Public Affairs and a Professor of city planning at San Diego State University. Dr. Ryan is an accomplished published researcher and brings significant practice experience to the committee. She has served as project manager for multiple local and regional projects with San Diego area cities.
- Ray Major, Chief Economist, San Diego Association of Governments (SANDAG)
 - Ray Major has worked for SANDAG since 2015 and served on the previous National City Proposition “D” committee in 2016-2017. As the Chief Economist, Mr. Major is responsible for developing and translating economic data and trends into accurate and relevant insights. Mr. Major has advanced degrees in

Economics and is knowledgeable about regional short and long-term economic forecasts.

- Meya Alomar, Revenue Manager, City of Chula Vista
 - Meya Alomar brings a decade of civil service experience in public finance to the committee. In her current role as Chula Vista Revenue Manager, Mrs. Alomar is well-informed on the revenue sources and uses available to California municipalities, the operations of a South Bay city, and regional revenue trends.

The independent review committee is expected to complete their review process over three one-two hour meetings with National City staff between October and December. The initial meeting of the committee will likely take place the first week of October 2021. All committee meetings will be publically noticed in accordance with the Brown Act. The final report summarizing the committee's findings and recommendation will be brought to City Council at a public meeting in early 2022.

ORDINANCE NO. 2006 – 2278

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF NATIONAL CITY ADDING
CHAPTER 4.60 TO THE NATIONAL CITY MUNICIPAL CODE
TO IMPOSE A TRANSACTIONS AND USE TAX TO BE
ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

BE IT ORDAINED by the People of the City of National City as follows:

Section 1. That Title 4 of the National City Municipal Code is hereby amended by adding Chapter 4.60 to read as follows:

Chapter 4.60

TRANSACTIONS AND USE TAX

Sections:

4.60.010	Title
4.60.020	Definitions
4.60.030	Operative date
4.60.040	Purpose
4.60.050	Contract with State Board of Equalization
4.60.060	Transactions tax rate
4.60.070	Place of sale
4.60.080	Use tax rate
4.60.090	Adoption of provisions of state law
4.60.100	Limitations on adoption of State law and collection of use taxes
4.60.110	Permit not required
4.60.120	Exclusion; exemptions
4.60.130	Permissible uses
4.60.140	Amendments
4.60.150	Enjoining collection forbidden
4.60.160	Severability
4.60.170	Expiration
4.60.180	Independent committee

4.60.010 Title. This chapter shall be known as the "City of National City Transactions and Use Tax Ordinance". This ordinance shall be applicable in the incorporated territory of the City.

4.60.020 Definitions. As used in this chapter, "City" means the City of National City and "tax" means the transactions and use taxes, sometimes also referred to as "sales tax", imposed under the provisions of this ordinance; "tax revenue" and "tax revenues" mean all proceeds of the tax received by the City from the State Board of Equalization.

4.60.030 Operative date. "Operative date" means the first day that the tax is imposed and collected. The operative date shall be October 1, 2006, unless a later operative date becomes effective under the provisions of Section 4.60.050.

4.60.040 Purpose. This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority vote of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

4.60.050 Contract with State Board of Equalization. Prior to the operative date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

4.60.060 Transactions tax rate. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 1% (one percent) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

4.60.070 Place of sale. For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

4.60.080 Use tax rate. An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 1% (one percent) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

4.60.090 Adoption of provisions of state law. Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

4.60.100 Limitations on adoption of state law and collection of use taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

4.60.110 Permit not required. If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

4.60.120 Exclusion; exemptions. A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-

Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs 3 and 4 of this subsection B, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs 3 and 4 of this subsection C, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph 7 of this subsection C, a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

4.60.130 Permissible uses. The revenues of the tax shall be deposited in the City's general fund and may be used for any legal municipal purpose.

4.60.140 Amendments. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

4.60.150 Enjoining collection forbidden. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

4.60.160 Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

4.60.170 Expiration. The authority to levy the tax imposed by this Chapter shall expire ten (10) years from the Operative Date, unless the City Council prior to that date determines that the levy and collection of the tax is no longer necessary, in which case the City Council has the authority to reduce the rate of tax, or to terminate the imposition of the tax. The City shall immediately notify the State Board of Equalization in writing in the event that the tax is reduced or terminated. The operative date of such rate reduction or termination shall be the first (1st) day of the first (1st) calendar quarter commencing more than one hundred and ten (110) days after the Board of Equalization receives such notice of termination.

4.60.180 Independent committee. Every five (5) years the Mayor, with approval of the City Council, shall appoint an independent committee comprised of three (3) experts in financial matters, who will report their recommendations to the Mayor and City Council as to whether the transaction and use tax should remain in effect at the rate of one percent (1%), or whether the City Council should reduce the rate of tax or terminate the imposition of the tax pursuant to Section 4.60.170.

Section 2. This ordinance, following its adoption by at least 4 affirmative votes of the City Council and its publication, shall become effective upon the approval of the tax imposed hereunder by a majority of the voters of the City voting thereon at an election called for that purpose. The "operative date" of the tax imposed hereunder shall be as provided in Section 4.60.030.

PASSED and ADOPTED this 7th day of February, 2006.




Nick Inzunza, Mayor

ATTEST:



Michael R. Dalla, City Clerk

APPROVED AS TO FORM:



George H. Eiser, III
City Attorney

Passed and adopted by the Council of the City of National City, California, on February 7, 2006, by the following vote, to-wit:

Ayes: Councilmembers Inzunza, Morrison, Natividad, Parra, Zarate.

Nays: None.

Absent: None.

Abstain: None.

AUTHENTICATED BY:

NICK INZUNZA

Mayor of the City of National City, California



[Handwritten Signature]

City Clerk of the City of National City, California

By: _____

Deputy

I HEREBY CERTIFY that the foregoing ordinance was adopted on February 7, 2006, under the provisions of Section 36937 of the California Government Code.

I FURTHER CERTIFY THAT said ordinance was read in full prior to its final passage or that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

I FURTHER CERTIFY that the above and foregoing is a full, true and correct copy of ORDINANCE NO. 2006-2278 of the City Council of the City of National City, passed and adopted by the Council of said City on February 7, 2006.

City Clerk of the City of National City, California

By: _____

Deputy

The following page(s) contain the backup material for Agenda Item: [Project Labor Standards and Policies - Ad Hoc Committee Appointment. \(City Clerk\)](#)
Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO. |

ITEM TITLE:

Project Labor Standards and Policies – Ad Hoc Committee Appointment (City Clerk’s Office).

PREPARED BY: Shelley Chapel, MMC, Deputy City Clerk | **DEPARTMENT:** City Clerk’s Office

PHONE: (619) 336-7328 | **APPROVED BY:** *Shelley Chapel*

EXPLANATION:

At the August 17, 2021, City Council Meeting the Mayor proposed to create an Ad Hoc Committee entitled the Project Labor Standards and Policies Ad-Hoc Committee, with appointment of two (2) City Councilmembers to the Committee. The Committee will meet for a limited term of less than one year and for a specified topic only. The topic would include discussion of community benefit agreements.

Mayor Sotelo-Solis made the motion to appoint Councilmember Rios, and did not name a second. Prior to the vote Vice-Mayor Rodriguez requested the motion for clarification. City Clerk Molina stated the motion incorrectly, she stated per the recording of meeting, “Form an Ad Hoc Committee to discuss Project Labor Standards and Policies with Councilmember Rios as forming part of the alongside the Mayor.” The Mayor was not appointed to that committee and this should be clarified. Only one member of the City Council was appointed, that member being Councilmember Rios.

Staff recommends the Mayor restate the appointment and City Council vote again on the item.

FINANCIAL STATEMENT:

APPROVED: _____ **Finance**

ACCOUNT NO. |

APPROVED: _____ **MIS**

|N/A |

ENVIRONMENTAL REVIEW:

|This is not a project and, therefore, not subject to environmental review |

ORDINANCE: **INTRODUCTION:** **FINAL ADOPTION:**

STAFF RECOMMENDATION:

Mayor to appoint with City Council concurrence.

BOARD / COMMISSION RECOMMENDATION:

|n/a |

ATTACHMENTS:

|None. |

The following page(s) contain the backup material for Agenda Item: [Motion of the City Council of the City of National City approving the waiving of the reading of the text of the Ordinances or Resolutions that are having a Public Hearing considered at this meeting and providing that such Ordinances or Resolutions shall be introduced and/or adopted after a reading of the title only. \(City Clerk\)](#)

Please scroll down to view the backup material.

Item # ____
09/07/21

MOTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY APPROVING THE WAIVING OF THE READING OF THE TEXT OF THE ORDINANCES OR RESOLUTIONS THAT ARE HAVING A PUBLIC HEARING CONSIDERED AT THIS MEETING AND PROVIDING THAT SUCH ORDINANCES OR RESOLUTIONS SHALL BE INTRODUCED AND/OR ADOPTED AFTER A READING OF THE TITLE ONLY.

(City Clerk)

The following page(s) contain the backup material for Agenda Item: [Approval of Meeting Minutes: City Council and Community Development Commission - Housing Authority: Virtual Regular Meetings: June 15, 2021, August 3, 2021, and August 17, 2021. City Council Virtual Special Closed Session Meeting June 15, 2021, Virtual Social Equity Workshop June 15, 2021, Virtual Special Closed Session Meetings July 13, August 3, and August 17, 2021, and Successor Agency Virtual Special Meeting August 3, 2021. \(City Clerk\)](#)

Please scroll down to view the backup material.

APPROVAL OF MEETING MINUTES

CITY COUNCIL AND COMMUNITY DEVELOPMENT COMMISSION - HOUSING AUTHORITY OF THE CITY OF NATIONAL CITY:

Virtual Regular Meeting: June 15, 2021

Virtual Regular Meeting: August 3, 2021

Virtual Regular Meeting: August 17, 2021

CITY COUNCIL OF THE CITY OF NATIONAL CITY:

Virtual Special Closed Session Meeting: June 15, 2021

Virtual Social Equity Workshop: June 15, 2021

Virtual Special Closed Session Meeting: July 13, 2021

Virtual Special Closed Session Meeting: August 3, 2021

Virtual Special Closed Session Meeting: August 17, 2021

SUCCESSOR AGENCY:

Virtual Special Meeting: August 3, 2021

(City Clerk)



**MINUTES OF THE VIRTUAL REGULAR MEETING
OF THE CITY COUNCIL AND COMMUNITY DEVELOPMENT
COMMISSION – HOUSING AUTHORITY
OF THE CITY OF NATIONAL CITY**

June 15, 2021

This meeting was conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID-19 pandemic.

The City Council minutes are prepared and ordered to correspond to the City Council Agenda. Agenda Items can be taken out of order during the meeting. The Agenda Items were considered in the order presented.

A. CITY COUNCIL

CALL TO ORDER

The meeting was called to order at 6:08 p.m. by Mayor Sotelo-Solis.

ROLL CALL

Deputy City Clerk Chapel called the Roll:

Councilmembers present: Bush, Morrison, Rios, Rodriguez, Sotelo-Solis

Other Elected Officials present: Beauchamp, Molina (arrived 6:12 p.m.)

Administrative Officials present: Raulston, Winney, Bell, Chapel, Torres, Williams, Davis, Meteau, Denham, Drew, Duong, Gamwell, Gilman, Maxilom, Vergara, Aguirre, Olson, Yano, Parra, Barrera, Valdez, and Tellez.

Interpretation in Spanish provided by Carlos Diaz and Luisa Diaz de Leon.

PLEDGE OF ALLEGIANCE TO THE FLAG

Deputy City Clerk Chapel led the Pledge of Allegiance.

PUBLIC COMMENTS

Mayor Sotelo-Solis summarized the process for acceptance of live public comment.

Seven (7) spoken public comments were heard: Karla Apalategui (Introduced New MEA President), Carol Green (Equity - Cannabis), Terri-Ann Skelly (Cannabis), Becky Rapp (Cannabis), Valeria Hernandez (Environmental Storage), Peggy Walker (Cannabis), and Judi Strang (Cannabis).

One (1) written comment was received and read into the record: Ted Godshalk (Meetings).

PROCLAMATIONS AND CERTIFICATES

1. National City Celebrates 2021 Pride Month.

Mayor Sotelo-Solis presented the Proclamation to Henry Barasi, Gay Straight Alliance (GSA) student leader and Sweetwater High School graduate, and Michael Garcia, GSA advisor and teacher at Sweetwater High School.

2. National City Recognizes City Librarian, Minh Duong on her Retirement.

Mayor Sotelo-Solis presented City Librarian Minh Duong a proclamation recognizing her 15 years of service to the Community.

3. National City Recognizes the USS Rushmore for 30 Years of Service.

Mayor Sotelo-Solis presented the Proclamation to John Acosta.

4. National City Recognizes Rem Club at Sweetwater High School and National City Middle School.

Mayor Sotelo-Solis presented a Proclamation to Lucia Calderon Alvarez, volunteer at National City Middle School, Melvin Andres, volunteer at SUHI, Isai Aaron Huitron-Alvarez, volunteer with Urban Youth Collaborative, and Nancy Alvarez, volunteer, for their collection of donations and goods for the migrant children housed at the San Diego Convention Center.

AWARDS AND RECOGNITIONS

5. Employee of the Quarter 2021 - Corporal Javier Cornejo.

Mayor Sotelo-Solis introduced Police Chief Jose Tellez, who presented the Employee of the Quarter to Corporal Javier Cornejo.

PRESENTATIONS

6. 2021 Regional Plan: Draft for Public Review.

Mayor Sotelo-Solis introduced SANDAG Executive Director Hasan Ikhata, Director of Regional Planning Coleen Clementson, and Principal Regional Planner Jennifer Williamson. Ms. Clementson provided the 2021 Regional Plan and presentation.

Public Comment: None

7. Drought Preparedness: Water Supply Reliability and Resilience in National City.

This item was continued to a future meeting.

8. Economic Development Data Dashboard.

Mayor Sotelo-Solis introduced Megan Gamwell, Economic Development Specialist II who provided the report and PowerPoint presentation titled “Economic Development Data Dashboard”.

Public Comment: None

INTERVIEWS / APPOINTMENTS - No agenda items.

REGIONAL BOARDS AND COMMITTEE REPORTS - No reports were given.

CONSENT CALENDER

Mayor Sotelo-Solis announced that Item 18 was pulled for public comment. Councilmember Rios pulled Items 10, 21, 28, and 35 for discussion.

Public Comment for Items 9, 11 – 17, 19 – 20, 22 – 27, 29 – 34, and 36: None.

ACTION: Motion by Councilmember Morrison, seconded by Vice-Mayor Rodriguez, to approve the Consent Calendar Items 9, 11 – 17, 19 – 20, 22 – 27, 29 – 34, and 36.

Motion carried by unanimous vote.

9. Motion of the City Council of the City of National City approving the waiving of the reading of the text of the Ordinances or Resolutions that are having a Public Hearing considered at this meeting and providing that such Ordinances or Resolutions shall be introduced and/or adopted after a reading of the title only.
10. Pulled for discussion.
11. Adopted Resolution 2021-70. Resolution of the City Council of the City of National City approving the first amendment to an agreement between the City of National City and Kreisberg Law Firm LLP for legal services in the specialized area of labor law for the not to exceed amount of \$150,000.
12. Adopted Resolution 2021-71. Resolution of the City Council of the City of National City approving the agreement between the City of National City and the Center for Public Safety Management for on-call and as-needed operational/workload analysis services in the specialized area of public safety for the not to exceed amount of \$150,000.
13. Adopted Resolution 2021-72. Resolution of the City Council of the City of National City approving the agreement between the City of National City and the San Diego Unified Port District for Police, Fire and Emergency Medical Services.
14. Adopted Resolution 2021-73. Resolution of the City Council of the City of National City approving a Subordination Agreement with C Avenue 10Plex, LLC, a California limited liability company, and Pacific Premier Bank, subordinating the Deed of Trust securing the performance of an Affordable Housing Density Bonus Agreement entered into on September 25, 2019.
15. Adopted Resolution 2021-74. Resolution of the City Council of the City of National City approving an Affordable Housing Density Bonus Agreement with 129 NCB, LLC, for the development of 14 units located at 129 National City Boulevard and restricting the rent and occupancy of two (2) units to very low-income households in exchange for a density bonus pursuant to California Government Code Sections 65915 - 65918.
16. Adopted Resolution 2021-75. Resolution of the City Council of the City of National City authorizing the Housing Authority to enter into a Memorandum of Understanding with the County of San Diego for data sharing relating to the administration of COVID-19

- emergency rental assistance programs to avoid duplication of benefits to ensure federal, state or local assistance will not be provided for the same costs.
17. Adopted Resolution 2021-76 Resolution of the City Council of the City of National City approving the one (1) year ratified Agreement and Authorizing the Mayor to execute the ratified Agreement with the Sweetwater Union High School District for partial funding of the School Resource Officer Program for FY 2021. The City of National City will be reimbursed \$105,000 for FY 2021.
 18. Pulled for discussion.
 19. Adopted Resolution 2021-78. Resolution of the City Council of the City of National City approving authorizing the sale of one surplus police motorcycle to the San Diego State University Police Department in compliance with City Council Policy and National City Municipal Code.
 20. Adopted Resolution 2021-79. Resolution of the City Council of the City of National City authorizing the Mayor to execute the Second Amendment to the Agreement by and between the City of National City and NHA Advisors, LLC for municipal advisory services, extending the Agreement to December 31, 2021.
 21. Pulled for discussion.
 22. Adopted Resolution 2021-81. Resolution of the City Council of the City of National City: 1) accepting the work performed by Basile Construction, Inc. for the P-1 Sewer Upsize for Sweetwater High School Project, CIP No. 19-43; 2) approving the final contract amount of \$1,761,833.05; 3) ratifying the release of retention in the amount of \$88,091.65; and 4) authorizing the Mayor to sign the Notice of Completion for the project.
 23. Adopted Resolution No. 2021-82. Resolution of the City Council of the City of National City: 1) accepting the work performed by Dick Miller Inc. for the Paradise Creek Water Quality and Community Enhancements Project, CIP No. 18-11; 2) approving the final contract amount of \$1,150,018.95; 3) ratifying the release of retention in the amount of \$57,500.95; and 4) authorizing the Mayor to sign the Notice of Completion for the project.
 24. Adopted Resolution No. 2021-83. Resolution of the City Council of the City of National City: 1) awarding a contract to Blue Pacific Engineering & Construction, Inc. in the not-to-exceed amount of \$184,586.00 for the Civic Center ADA Accessibility Project, CIP No. 19-45; 2) authorizing a 15% contingency in the amount of \$27,687.90 for any unforeseen changes; and 3) authorizing the Mayor to execute the contract.
 25. Adopted Resolution No. 2021-84. Resolution of the City Council of the City of National City authorizing the Mayor to execute a two-year Agreement with Southwest Traffic Signal Service, Inc. for a not-to-exceed amount of \$1,400,000 to provide on-call and as-needed Traffic Signal and Streetlight Maintenance & Repair Services including, but not limited to, services, installations, maintenance, and repairs of the traffic signal systems, lighting systems, flashing crosswalks, battery backup systems, and related equipment and services citywide.
 26. Adopted Resolution No. 2021-85. Resolution of the City Council of the City of National City authorizing the Mayor to execute a two-year Agreement with San Diego Mechanical & Energy, Inc. for a not-to-exceed amount of \$1,400,000 to provide on-call and as-needed

Facilities Maintenance Support Services including, but not limited to, designs, installs and service of commercial and industrial HVAC systems and equipment, pump stations, and related equipment and services citywide.

27. Adopted Resolution No. 2021-86. Resolution of the City Council of the City of National City authorizing the issuance of a special driveway permit at 614 "B" Avenue.
28. Pulled for discussion.
29. Temporary Use Permit — Request from Good Ranchers, LLC to conduct the Good Ranchers Food Sale at Westfield Plaza Bonita from July 15, 2021 thru August 9, 2021 with no waiver of fees.
30. Temporary Use Permit – Rosarito Motorcycle Run hosted by Coronado Beach Harley Davidson on September 17, 2021 from 7:30 a.m. to 12:30 p.m. at 3201 Hoover Avenue with no waiver of fees.
31. Temporary Use Permit — Request from Homestead Steaks, LLC to conduct the Homestead Steaks Sale at 1536 Sweetwater Road from June 16, 2021 thru July 6, 2021 with no waiver of fees.
32. Investment Report for the quarter ended March 31, 2021.
33. Investment transactions for the month ended April 30, 2021.
34. Warrant Register #44 for the period of 4/28/21 through 5/04/21 in the amount of \$2,430,569.71.
35. Pulled for discussion.
36. Warrant Register #46 for the period of 5/12/21 through 5/18/21 in the amount of \$1,576,772.17.

ITEMS PULLED FROM CONSENT CALENDER

10. Adopted Resolution 2021-69. Resolution of the City Council of the City of National City authorizing the Mayor to execute an agreement with AdminSure, Inc., effective August 1, 2021, for Workers' Compensation Third Party administration and claims review in the initial amount of \$97,305 period of one year; and authorizing the City Manager to execute future amendments extending the term of the agreement by one year increments for up to an additional four years.

Public Comment: None.

Motion by Councilmember Rios to amend contract to a period of one (1) year, with a one (1) year extension, seconded by Councilmember Bush. Motion carried by unanimous vote.

ACTION: Motion by Councilmember Rios, seconded by Councilmember Bush, to amend the agreement to authorize City Manager to execute only a one-year extension.

Motion carried by unanimous vote.

18. Adopted Resolution 2021-77. Resolution of the City Council of the City of National City approving the one (1) year ratified Agreement and Authorizing the Mayor to execute the ratified Agreement with the National School District for partial funding of the School Resource Officer Program for FY 2021. The City of National City will be reimbursed \$77,068 for FY 2021.

Public Comment:

One (1) written comment was received and read into the record: Coyote Moon.

Councilmembers provided comments and City Manager Raulston addressed comments.

ACTION: Motion by Councilmember Morrison, seconded by Councilmember Bush, to approve the Resolution, Item 18.

Motion carried by unanimous vote.

21. Adopted Resolution 2021-80. Resolution of the City Council of the City of National City authorizing the Mayor to execute a First Amendment to the Service Agreement between the City of National City and EXOS Community Services, LLC, extending the term of the agreement to June 30, 2022, with the option to extend the Service Agreement for two additional one year terms to provide aquatic programs and services at Las Palmas Pool located at 1800 East 22nd Street.

Public Comment: None.

ACTION: Motion by Councilmember Rios, seconded by Councilmember Morrison, to adopt the Resolution, Item 21, with the caveat that Staff provide a report and update on the investment within 6 months.

Motion carried by unanimous vote.

28. Adopted Resolution 2021-87. Resolution of the City Council of the City of National City authorizing various Fiscal Year 2021 3rd Quarter Budget Adjustments.

Councilmember Rios asked clarifying questions. Responses were provided by City Manager Raulston.

Public Comment: None.

ACTION: Motion by Councilmember Rios, seconded by Councilmember Bush, to adopt the Resolution, Item 28.

Motion carried by unanimous vote.

35. Warrant Register #45 for the period of 5/05/21 through 5/11/21 in the amount of \$257,272.31.

Councilmember Rios asked clarifying questions. Responses were provided by City Manager Raulston.

Public Comment: None.

ACTION: Motion by Councilmember Rios, seconded by Councilmember Morrison, to approve Item 35, with a request that Staff provide a report regarding animal control services and schedule.

Motion carried by unanimous vote.

PUBLIC HEARINGS: ORDINANCES AND RESOLUTIONS

37. Adopted Resolution No. 2021-88. Public Hearing and Adoption of a Resolution of the City Council of the City of National City authorizing an increase of \$514,491 to the Community Development Block Grant (CDBG) Fund appropriation and corresponding revenue budget for CARES Act round three CDBG-CV activities and authorizing the submission of the Third Amendment to the 2019-2020 Action Plan that incorporates revised funded activities for the MLK Jr. Community Center into said Action Plan for acceptance by U.S. Department of Housing and Urban Development (HUD).

City Clerk Molina read the title of the Resolution into the record.

Director of Housing Authority Aguirre introduced Housing Programs Manager Palma who provided the report and PowerPoint presentation titled “Funding Recommendations for the Third Amendment to the 2019-2020 Action Plan”.

Councilmembers asked clarifying questions. Staff provided responses.

Mayor Sotelo-Solis declared the Public Hearing open at 7:57 p.m.

Public Comment:

One (1) written comment was received and read into the record: Joan Rincon.

ACTION: Motion by Councilmember Rios, seconded by Councilmember Bush, to close the Public Hearing at 7:59 p.m.

Motion passed by unanimous vote.

ACTION: Motion by Councilmember Rios, seconded by Vice-Mayor Rodriguez, to adopt the Resolution.

Motion passed by unanimous vote.

38. Adopted Resolution No. 2021-89. Public Hearing and Adoption of a Resolution of the City Council of the City of National City accepting the National City 2021/2022 Tax Roll Sewer Service Fees report, which identifies by parcel number, each parcel of real property receiving sewer services and the amount of sewer charges for each parcel for FY 2021-22 as required by the California Health and Safety Code Section 5473, et Seq., pertaining to collection of sewer charges on the tax roll, directing the City Clerk to file the report with the San Diego County Auditor, and directing the City Engineer to file a certification of the sewer service charges with the San Diego County Auditor.

City Clerk Molina read the title of the Resolution into the record.

Mayor Sotelo-Solis introduced Director of Public Works Yano who summarized the report and was available for questions.

Councilmembers asked clarifying questions. Staff provided responses.

Mayor Sotelo-Solis opened the Public Hearing at 8:04 p.m.

Public Comment: None.

City Clerk Molina read the protest procedure for opposition. No statements in opposition were received.

ACTION: Motion by Councilmember Bush, seconded by Councilmember Rios, to close the Public Hearing at 8:05 p.m.

Motion passed by unanimous vote.

ACTION: Motion by Councilmember Rios, seconded by Councilmember Morrison, to adopt the Resolution.

Motion passed by unanimous vote.

39. Adopted Resolution No. 2021-90. Public Hearing and Resolution of the City Council of the City of National City (1) adopting the First Amendment to the Permanent Local Housing Allocation (PLHA) Program Plan approved by the California Department of Housing and Community Development to incorporate outreach, case management, rapid, emergency housing, and other housing services for homeless individuals and families or those at risk of becoming homeless; (2) establishing budget appropriations and the corresponding revenue budget in the amount of \$393,191 for the first PLHA program year; and (3) approving a spending plan for said PLHA funding in Fiscal Year 2022.

City Clerk Molina read the title of the Resolution into the record.

Mayor Sotelo-Solis introduced Director of Housing Authority Aguirre who provided the report and PowerPoint presentation titled "Permanent Local Housing Allocation (PLHA)".

Councilmembers asked clarifying questions. Staff provided responses.

Mayor Sotelo-Solis declared the Public Hearing open at 8:22 p.m.

Public Comments: None.

ACTION: Motion by Councilmember Rios, seconded by Councilmember Morrison, to close the Public Hearing at 8:22 p.m.

Motion passed by unanimous vote.

ACTION: Motion by Councilmember Bush, seconded by Councilmember Morrison, to adopt the Resolution.

Motion passed by unanimous vote.

NON CONSENT RESOLUTIONS

40. Adopted Resolution No. 2021-91. Resolution of the City Council of the City of National City approving and adopting the annual appropriations limit for fiscal year 2022 in the amount of \$71,573,263.

City Clerk Molina read the title of the Resolution into the record.

Public Comments: None.

ACTION: Motion by Councilmember Morrison, seconded by Councilmember Rios, to adopt the Resolution.

Motion passed by unanimous vote.

41. Adopted Resolution No. 2021-92. Resolution of the City Council of the City of National City Authorizing the transfer of funds from the General Fund Unassigned Fund Balance Reserve to the General Fund's Committed Fund Balance Components named the Economic Contingency Reserve and the Facilities Maintenance Reserve and the elimination of the Debt Service Reserve and transfer of its balance to the Unassigned Fund Balance Reserve.

City Clerk Molina read the title of the Resolution into the record.

Public Comment: None.

ACTION: Motion by Councilmember Rios, seconded by Councilmember Morrison, to adopt the Resolution.

Motion passed by unanimous vote.

42. Adopted Resolution No. 2021-93. Resolution of the City Council of the City of National City amending City Council Policy 110 entitled "Display of Flags".

City Clerk Molina read the title of the Resolution into the record.

Mayor Sotelo-Solis introduced Assistant City Manager Winney who provided the report.

Public Comment:

Three (3) written comments were received and read into the record: Erica Pinto, Chula Vista Democratic Club Executive Board, and Nadia Kean-Ayub.

ACTION: Motion by Councilmember Bush, seconded by Vice-Mayor Rodriguez, to adopt the Resolution with an amendment to add that the Kumeyaay Flag be flown for the entire month of November for Native American month.

Ayes: Bush, Rios, Rodriguez, Sotelo-Solis

Nays: Morrison

Motion carried by 4 to 1 votes.

NEW BUSINESS - No agenda items.

B. COMMUNITY DEVELOPMENT COMMISSION – HOUSING AUTHORITY

No agenda items.

C. REPORTS

STAFF REPORTS

43. Update on Housing Element and Housing Strategic Plan.

Mayor Sotelo-Solis introduced Director of Housing Authority Aguirre who provided the report and PowerPoint presentation titled "Housing Element, Housing Strategic Plan, and Focused General Plan Update".

Public Comments: None.

Received and filed report.

44. City Manager Report.

City Manager Raulston provided an update on the future opening of facilities and lifting restrictions. Assistant City Manager Winney provided a PowerPoint presentation titled “COVID-19 Pandemic Response By The Numbers,” and an update on the outreach conducted by City staff for businesses and community.

Public Comments: None.

Received and filed report.

MAYOR AND CITY COUNCIL

City Clerk Molina announced that the application period is open for commissioners wishing to fill the vacancies in the Civil Service Commission and the Traffic Safety Committee. She recognized Juneteenth.

City Treasurer Beauchamp thanked the City Council for approving the reserve accounts.

Councilmember Morrison had nothing to report.

Councilmember Bush provided details on Juneteenth as a Federal holiday and planned events.

Councilmember Rios announced that Metropolitan Water District selected Adel Hagekhalil to serve as the district’s next General Manager. She also mentioned the excessive heat warning issued today and that the National City Library is a cool zone.

Vice-Mayor Rodriguez provided comments on Filipino Independence and Juneteenth.

Mayor Sotelo-Solis expressed gratitude to City staff for their work. She invited the community to the flag raising events planned for this week.

CLOSED SESSION**CLOSED SESSION REPORT**

City Attorney Bell reported that there was no action or direction provided by City Council.

ADJOURNMENT

Mayor Sotelo-Solis adjourned the meeting to the next Virtual Regular Meeting of the City Council and Community Development Commission – Housing Authority of the City of National City, California to be held Tuesday, August 3, 2021, at 6:00 p.m. via teleconference.

The meeting adjourned at 9:14 p.m.

Luz Molina, City Clerk

The foregoing minutes were approved at the Regular Meeting of September 7, 2021.

Alejandra Sotelo-Solis, Mayor



**MINUTES OF THE VIRTUAL SPECIAL MEETING
OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY**

June 15, 2021

The meeting was conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID-19 pandemic.

OPEN SESSION

CALL TO ORDER

The meeting was called to order at 3:03 p.m. by Mayor Sotelo-Solis.

ROLL CALL

Councilmembers present: Bush, Morrison, Rios, Rodriguez, Sotelo-Solis

Administrative Officials present: Raulston, Winney, Bell, Chapel, Meteau, and Valdez.

Others: Kriesberg (Labor Negotiator)

PUBLIC COMMENT

None

City Attorney Bell adjourned the meeting into Closed Session. The meeting recording was paused while City Councilmembers were in Closed Session.

CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATORS (Government Code Section 54957.6)

Employee Organizations:

Municipal Employees' Association (SEIU, Local 221), National City Firefighters Association (Local 2744), Police Officers Association (POA), Unrepresented Groups: Executive, Confidential, and Management.

Agency Designated Representatives: Eddie Kreisberg (Labor Negotiator), Brad Raulston (City Manager), Tony Winney (Assistant City Manager), Paul Valdez (Budget Manager - Finance), Robert Meteau (Human Resources Director)

City Councilmembers reconvened the meeting at 3:53 p.m. with all members present and the meeting recording was continued.

CLOSED SESSION REPORT PROVIDED AT END OF REGULAR MEETING

City Attorney Bell stated that he would provide the report at the Regular City Council Meeting.

ADJOURNMENT

Mayor Sotelo-Solis adjourned the meeting to the next Virtual Regular City Council meeting to be held Tuesday, June 15, 2021, at 6:00 p.m. via teleconference.

The meeting adjourned at 3:59 p.m.

Shelley Chapel, MMC, Deputy City Clerk

The foregoing minutes were approved at the Regular Meeting of August 3, 2021

Alejandra Sotelo-Solis, Mayor

DRAFT



MINUTES OF THE VIRTUAL SOCIAL EQUITY WORKSHOP OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY

June 15, 2021

The meeting was conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID-19 pandemic.

OPEN SESSION

City Attorney Bell referred the Workshop to begin and Mayor Sotelo-Solis.

CALL TO ORDER

The meeting was called to order at 4:00 p.m. by Mayor Sotelo-Solis.

ROLL CALL

Councilmembers present: Bush, Morrison, Rios, Rodriguez, Sotelo-Solis

Administrative Officials present: Raulston, Winney, Bell, Chapel, Gilman, Gomez, Gamwell, Torres, and Molina.

Interpretation in Spanish provided by Carlos Diaz.

PUBLIC COMMENT

None

COMMERCIAL CANNABIS AND LOCAL/SOCIAL EQUITY WORKSHOP

- a. Workshop Guidelines
- b. Presentation

City Attorney Bell, and Economic Development Specialist Gamwell gave the introduction to the Workshop and an Overview of the process that will be followed.

- c. Breakout Rooms

Meeting participants were given a choice of the breakout room topic they would like to discuss. Those topics were:

1. Economic Empowerment
2. Community Reinvestment
3. Restorative Justice
4. Education and Research

Economic Development Specialist Gamwell explained how the breakout room process would be open for twenty (20) minutes and provided the three (3) questions that would be discussed in the breakout rooms.

1. What does your breakout room topic mean to you?
2. Do you think funds generated from Cannabis businesses should directly benefit local social equity within the Cannabis industry or should they be used to fund other?
3. What programs do you think Cannabis funds go toward in our community?

Five (5) minutes will be given on each question per participant. City Attorney Bell provided direction to the City Councilmembers. They are allowed to join the breakout rooms, but are advised not to participate in the discussions or dialogue.

- d. Report on Community Discussions and Community Input
City Attorney Bell provided time for each room moderator to report out on their session.
Gabriel Torres, Deputy City Attorney – Community Reinvestment
Mike Gomez, Risk Manager – Restorative Justice
Jennifer Gilman, Deputy City Attorney – Economic Empowerment
Charles Bell – Education and Research
- e. Council Direction / Comments

ADJOURNMENT

Mayor Sotelo-Solis adjourned the meeting to the next Virtual City Council and Community Development Commission – Housing Authority, and Successor Agency to the Community Development Commission as the National City Redevelopment Agency of the City of National City meeting to be held Tuesday, June 15, 2021, at 6:00 p.m. via teleconference.

The meeting adjourned at 5:55 p.m.

Shelley Chapel, MMC, Deputy City Clerk

The foregoing minutes were approved at the Regular Meeting of August 3, 2021

Alejandra Sotelo-Solis, Mayor



MINUTES OF THE VIRTUAL SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY

July 13, 2021

The meeting was conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID-19 pandemic.

OPEN SESSION

CALL TO ORDER

The meeting was called to order at 4:02 p.m. by Mayor Sotelo-Solis.

ROLL CALL

Councilmembers present: Bush, Morrison, Rios, Rodriguez, Sotelo-Solis
Administrative Officials present: Raulston, Bell, Chapel, Meteau, and Valdez.
Others: Kriesberg (Labor Negotiator)

PUBLIC COMMENT

Two Written Comment Received (2): Moon Coyote and H. Bradley Bang

Mayor Sotelo-Solis adjourned the meeting into Closed Session. The meeting recording was paused while City Councilmembers were in Closed Session.

CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATORS (Government Code Section 54957.6)

Employee Organizations:

Municipal Employees' Association (SEIU, Local 221), National City Firefighters Association (Local 2744), Police Officers Association (POA),

Unrepresented Groups: Executive, Confidential, and Management.

Agency Designated Representatives: Eddie Kreisberg (Labor Negotiator), Brad Raulston (City Manager), Tony Winney (Assistant City Manager), Paul Valdez (Budget Manager - Finance), Robert Meteau (Human Resources Director)

City Councilmembers reconvened the meeting at 3:53 p.m. with all members present and the meeting recording was continued.

CLOSED SESSION REPORT PROVIDED AT END OF REGULAR MEETING

City Attorney Bell stated that he would provide the report at the Regular City Council Meeting.

ADJOURNMENT

The meeting adjourned at 6:00 p.m.

Shelley Chapel, MMC, Deputy City Clerk

The foregoing minutes were approved at the Regular Meeting of August 3, 2021

Alejandra Sotelo-Solis, Mayor

DRAFT



**MINUTES OF THE VIRTUAL REGULAR MEETING
OF THE CITY COUNCIL AND COMMUNITY DEVELOPMENT
COMMISSION – HOUSING AUTHORITY
OF THE CITY OF NATIONAL CITY**

August 3, 2021

This meeting was conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID-19 pandemic.

The City Council minutes are prepared and ordered to correspond to the City Council Agenda. Agenda Items can be taken out of order during the meeting. The Agenda Items were considered in the order presented.

A. CITY COUNCIL

CALL TO ORDER

The meeting was called to order at 6:06 p.m. by Mayor Sotelo-Solis.

ROLL CALL

Councilmembers present: Bush, Morrison (joined at 6:38 p.m.), Rios, Rodriguez, Sotelo-Solis
Other Elected Officials present: Beauchamp, Molina

Administrative Officials present: Raulston, Winney, Bell, Chapel, Torres, Gilman, Williams, Davis, Brennan, Meteau, Denham, Drew, Duong, Gamwell, Gilman, Maxilom, Vergara, Aguirre, Olson, Yano, Parra, Barrera, Valdez, and Tellez.

Interpretation in Spanish provided by Claudia Valencia and Luisa Diaz de Leon.

PLEDGE OF ALLEGIANCE TO THE FLAG

Vice-Mayor Rodriguez led the Pledge of Allegiance.

PUBLIC COMMENTS

Mayor Sotelo-Solis summarized the process for acceptance of live public comment.

Three (3) spoken public comments were heard: Peggy Walker (Cannabis), Kelly McCormick (Cannabis), and Becky Rapp (Cannabis).

Two (2) written comments were received and read into the record: Cassandra Martinez (Dog Parks and Alleyways), and Ana Morales (Gerry's Grill).

PROCLAMATIONS AND CERTIFICATES – No agenda items.

AWARDS AND RECOGNITIONS – No agenda items.

PRESENTATIONS

1. Drought Preparedness: Water Supply Reliability and Resilience in National City

Mayor Sotelo-Solis introduced Assistant City Manager Winney, and Jennifer Sabine, Interim General Manager, Sweetwater Authority who provided the report and a PowerPoint Presentation titled “Drought Preparedness: Water Reliability and Resilience in National City”.

Public Comment: None

Received and filed.

INTERVIEWS / APPOINTMENTS

2. Appointments: City Boards, Commissions and Committees - City Council Appointment.

Mayor Sotelo-Solis introduced City Clerk Molina recited City Council Policy #107 Section D8 regarding the interview process.

Deputy City Clerk Chapel provided the Staff report.

Civil Service Commission: Fulfill the remainder of the terms for Commissioner Fred Puhn who resigned on April 7, 2021, and Commissioner Lissette Miramontes who resigned on May 24, 2021.

One (1) vacancy for a term through September 30, 2022.

One (1) vacancy for a term through September 30, 2024.

The City Council considered two (2) applicants for these positions.

City Council conducted a public interview of applicant Thomas Luna, via telephone. The other applicant, Javier Alvarado, was not available for interview, but had been previously interviewed on June 1, 2021.

Public Comment: None

ACTION: Motion by Councilmember Rios, seconded by Councilmember Bush, to appoint Mr. Luna to the Civil Service Commission seat with term ending September 30, 2024.

Councilmembers cast their vote virtually by holding up the name of the applicant who received their vote.

Councilmember Bush voted for Mr. Luna.

Councilmember Morrison voted for Mr. Alvarado.

Councilmember Rios voted for Mr. Luna.

Vice-Mayor Rodriguez voted for Mr. Alvarado.

Mayor Sotelo-Solis voted for Mr. Luna.

Mr. Luna was appointed to Civil Service Commission seat with term ending September 30, 2024 by 3-2 vote.

ACTION: Motion by Councilmember Rios, seconded by Councilmember Bush, to not appoint at this time for the Civil Service Commission seat with term ending September 30, 2022.

Ayes: Bush, Rios, Sotelo-Solis

Nays: Morrison, Rodriguez

Motion carried by 3 to 2 votes.

This vacancy will be noticed during the month of August, and return to Council for interviews and appointment on September 21, 2021.

REGIONAL BOARDS AND COMMITTEE REPORTS

Port Commissioner Sandy Naranjo provided a report on the business of the Port of San Diego.

Councilmember Rios reported on San Diego County Water Authority announced that they will be participating on the Department of Defense SkillBridge Program to offer career-track jobs in the water industry.

Councilmember Morrison reported that the finances for The Regional Solid Waste Association will be managed by the City of National City at \$10,000 per year for the next five years.

Councilmember Bush reported on updates for the Air Pollution Control District and the South County Economic Development Council and the Metropolitan Transit System.

Vice-Mayor Rodriguez announced that the next Wastewater JPA meeting is planned for Thursday.

Mayor Sotelo-Solis reported on SANDAG and the project labor agreement discussions that are ongoing. She recognized the 40th anniversary of the Metropolitan Transit System and provided updates on transportation.

CONSENT CALENDER

Mayor Sotelo-Solis requested City Clerk Molina read any public comment received into the record.

Public Comment:

Item 9 – Two (2) written comments were received from Joan Rincon and Ted Godshalk.

Item 20 – One (1) spoken public comment was received from Joan Rincon.

ACTION: Motion by Councilmember Rios, seconded by Mayor Sotelo-Solis, to approve the Consent Calendar Items 3 through 21.

Motion carried by unanimous vote.

3. Motion of the City Council of the City of National City approving the waiving of the reading of the text of the Ordinances or Resolutions that are having a Public Hearing considered at this meeting and providing that such Ordinances or Resolutions shall be introduced and/or adopted after a reading of the title only.
4. Approval of City Council, Community Development and Housing Authority of the City of National City: Virtual Regular Meeting Minutes: April 6, 2021, April 20, 2021, May 4, 2021, and May 18, 2021; Virtual Special Budget Workshop Minutes: April 20, 2021; Virtual

Special Closed Session Meeting Minutes: April 20, 2021, and May 18, 2021; and, Virtual Special Budget Meeting Minutes: May 18, 2021.

5. Adopted Resolution 2021-94. Resolution of the City Council of the City of National City approving and authorizing the Mayor to sign the Sixth Amendment to the Agreement by and between the City of National City and American Medical Response Ambulance Service, Inc. to continue to provide basic and advanced life support ambulance transportation services effective July 1, 2021, for a period of two years.
6. Adopted Resolution 2021-95. Resolution of the City Council of the City of National City accepting funds in the amount of \$2,500 from the San Diego Gas & Electric (SDG&E) 2021 SAFE San Diego Grant Program through the Burn Institute, a 501(c)(3) non-profit organization, for the National City Community Emergency Response Team (CERT) to recruit, administer, and promote CERT training in National City, and authorizing the establishment of a Reimbursable Grants City-Wide Fund appropriation and corresponding revenue budget.
7. Adopted Resolution 2021-96. Resolution of the City Council of the City of National City to authorize the Chief of Police to enter into an Agreement with Richard J. Donovan Correctional Facility for the Temporary Right of Entry and License Agreement for Firing Range Use for the National City Police Department.
8. Adopted Resolution 2021-97. Resolution of the City Council of the City of National City authorizing the Mayor to execute the Second Amendment to the agreement by and between the City of National City and Chandler Asset Management, Inc. for investment management and investment advisory services, extending the agreement to November 15, 2021.
9. Adopted Resolution 2021-98. Resolution of the City Council of the City of National City: 1) authorizing the appropriation of \$1,659,680.00 for the West 19th Street Greenway project, reimbursable through the State of California Natural Resources Agency; 2) establishing corresponding revenue and expenditure accounts; and 3) committing to providing a local match of \$100,000.00.
10. Adopted Resolution 2021-99. Resolution of the City Council of the City of National City authorizing the installation of a blue curb disabled persons parking space with sign in front of the residence located at 321 E. 1st Street (TSC No. 2021-11).
11. Adopted Resolution 2021-100. Resolution of the City Council of the City of National City authorizing the installation of two (2) marked parallel “30-minute” parking spaces in front of the property located at 1120-1130 E. 8th Street to increase parking turnover for customers (TSC No. 2021-12).
12. Adopted Resolution 2021-101. Resolution of the City Council of the City of National City authorizing the installation of a blue curb disabled persons parking space with sign in front of the residence located at 643 E. 28th Street (TSC No. 2021-13).
13. Temporary Use Permit – Spirit Halloween retail tent store hosted by Spirit Halloween at Westfield Plaza Bonita Mall from September 4, 2021 thru November 15, 2021 with no waiver of fees.

14. Temporary Use Permit – 2nd Annual End of Summer Car Show hosted by the Lowrider Coalition at Kimball Park on Saturday, September 18, 2021 from 11 a.m. to 5 p.m. with no waiver of fees.
15. Investment transactions for the month ended May 31, 2021.
16. Ratified Warrant Register #47 for the period of 5/19/21 through 5/25/21 in the amount of \$212,952.03.
17. Ratified Warrant Register #48 for the period of 5/26/21 through 6/01/21 in the amount of \$3,591,735.08.
18. Ratified Warrant Register #49 for the period of 6/02/21 through 6/08/21 in the amount of \$1,121,053.21.
19. Ratified Warrant Register #50 for the period of 6/09/21 through 6/15/21 in the amount of \$1,663,462.84.
20. Ratified Warrant Register #51 for the period of 6/16/21 through 6/22/21 in the amount of \$1,151,164.26.
21. Ratified Warrant Register #52 for the period of 6/23/21 through 6/29/21 in the amount of \$1,629,000.27.

PUBLIC HEARINGS: ORDINANCES AND RESOLUTIONS

22. Adopted Resolution No. 2021-102. Public Hearing and Resolution of the City Council of the City of National City approving an amendment to the General Plan to adopt the 2021-2029 Housing Element (Case No. 2021 – 14GP), pursuant to Article 10.6 of the Government Code (Sections 65880 et al), which provides a comprehensive strategy for promoting the production, preservation, and maintenance of housing to meet current and future community housing needs in the City of National City; and adopting the Negative Declaration for the 2021-2029 Housing Element.

City Clerk Molina read the title of the Resolution into the record.

Mayor Sotelo-Solis introduced Director of Housing and Economic Development Aguirre and Housing Element Project Manager Tara Lake, WSP, who provided the report and PowerPoint Presentation titled “2021-2019 Housing Element and Negative Declaration”.

Councilmembers asked clarifying questions. Staff provided responses.

Mayor Sotelo-Solis declared the Public Hearing open at 8:02 p.m.

Public Comment: None.

ACTION: Motion by Councilmember Morrison, seconded by Councilmember Bush, to close the Public Hearing at 8:03 p.m.

Motion passed by unanimous vote.

ACTION: Motion by Councilmember Bush, seconded by Councilmember Rios, to adopt the Resolution.

Motion passed by unanimous vote.

NON CONSENT RESOLUTIONS

23. Adopted Resolution No. 2021-103. Resolution of the City Council of the City of National City: 1) authorizing the Mayor to adopt the 2019 San Diego Integrated Regional Water Management (IRWM) Plan; 2) authorizing the City Manager to execute the Proposition 1 IRWM Implementation Grant Agreement for the Paradise Creek Water Quality and Community Enhancement – Phase II project; and 3) establishing corresponding revenue and expenditure accounts.

City Clerk Molina read the title of the Resolution into the record.

Mayor Sotelo-Solis introduced Director of Public Works / City Engineer Yano, who provided the report and PowerPoint presentation titled “Paradise Creek Water Quality & Community Enhancement Project”.

Public Comment: None.

ACTION: Motion by Councilmember Rios, seconded by Councilmember Morrison, to adopt the Resolution.

Motion passed by unanimous vote.

24. Adopted Resolution No. 2021-104 Resolution of the City Council of the City of National City, California: (1) approving participation in the Clean Mobility Options (CMO) voucher pilot program from the California air resources board for the Free Ride Around National City (FRANC) Neighborhood Electric Vehicle (NEV) system and (2) authorizing the city manager to execute the approval of CMO voucher funds, reiterate CMO program commitment, and compliance with CMO program requirements to the CMO program administrator team.

City Clerk Molina read the title of the Resolution into the record.

Mayor Sotelo-Solis introduced Director of Public Works / City Engineer Yano, who provided the report and PowerPoint presentation titled “FRANC Free Ride Around National City”.

Public Comment: None.

ACTION: Motion by Mayor Sotelo-Solis, seconded by Councilmember Bush, to adopt the Resolution.

Motion passed by unanimous vote.

Mayor Sotelo-Solis called for recess at 9:01, returning at 9:07 p.m. with all members present.

NEW BUSINESS

25. Discuss and provide direction to staff on the American Rescue Plan Act expenditure plan.

Mayor Sotelo-Solis introduced City Manager Raulston, who provided the report and PowerPoint presentation titled “American Rescue Act (ARPA) Overview”.

Received and filed.

B. COMMUNITY DEVELOPMENT COMMISSION – HOUSING AUTHORITY

CONSENT RESOLUTIONS - HOUSING AUTHORITY – No agenda items.

PUBLIC HEARINGS: RESOLUTIONS - HOUSING AUTHORITY – No agenda items.

NON CONSENT RESOLUTIONS - HOUSING AUTHORITY

26. Adopted Resolution No. 2021-105. Resolution of the Community Development Commission-Housing Authority of the City of National City (“Housing Authority”) adopting the National City Housing Authority 2021-2025 Housing Strategic Plan to establish guidance for the Housing Authority to utilize City-owned real estate and financial assets for housing purposes.

City Clerk Molina read the title of the Resolution into the record.

Mayor Sotelo-Solis introduced Director of Housing and Economic Development Aguirre provided the report and PowerPoint Presentation titled “Housing Strategic Plan”.

Public Comment: None.

ACTION: Motion by Councilmember Rios, seconded by Councilmember Morrison, to adopt the Resolution.

Motion passed by unanimous vote.

NEW BUSINESS - HOUSING AUTHORITY – No agenda items.

C. REPORTS

STAFF REPORTS

27. City Manager Report.

City Manager Raulston provided an update on the changes made considering the COVID-19 delta variant surge. He commented on the Federal infrastructure bill and the State budget and the funding that is coming to the City for various services. He recognized the group of National City Firefighters that are deployed to fight the Dixie fire in Chico, CA. He welcomed new Library & Community Services Director Joyce Ryan.

MAYOR AND CITY COUNCIL

City Clerk Molina announced that there will be at least eleven (11) vacancies on the City’s Boards, Committees, and Commissions and encouraged Councilmembers to advocate for applicants to submit applications by the September 2, 2021 deadline.

Councilmember Bush had nothing to report.

Councilmember Morrison commented on the potential for restaurants to use permanent or semi-permanent outdoor space.

Councilmember Rios asked Staff to review the request for Gerry's Grill.

Vice-Mayor Rodriguez mentioned a need for a community benefits agreement for public works projects.

ACTION: Motion by Vice-Mayor Rodriguez, seconded by Councilmember Morrison, to add to the September 7, 2021 City Council regular meeting agenda an item to discuss moving forward with negotiation of a community benefits agreement with the San Diego County Building and Construction Trades Council.

Ayes: Bush, Morrison, Rodriguez

Nays: Rios, Sotelo-Solis

Motion carried by 3 to 2 votes.

Mayor Sotelo-Solis proposed the need to form a sub-committee composed of herself and Vice-Mayor Rodriguez to discuss a community benefit agreement.

ACTION: Motion by Mayor Sotelo-Solis, seconded by Councilmember Rios, to form an ad-hoc sub-committee composed of the Mayor and Vice-Mayor to discuss a community benefits agreement.

Ayes: Bush, Rios, Sotelo-Solis

Nays: Morrison, Rodriguez

Motion carried by 3 to 2 votes.

Mayor Sotelo-Solis announced that a new Miss National City was crowned and invites her to join the next City Council meeting for an introduction. Also, she thanked Staff for their ability to pivot in response to the COVID-19 delta variant threat.

Councilmember Morrison asked City Attorney Bell for clarification on the motion to form an ad-hoc sub-committee. City Attorney Bell will review the matter and provide a response based on City Council policy.

CLOSED SESSION

CLOSED SESSION REPORT

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Government Code § 54956.9(d)(1)

Name of Case: *Mario Toledo Bedolla, et al. v. City of National City*

San Diego Superior Court – Central Division Case No. 37-2019-00054733-CU-PO-CTL

City Attorney Bell reported that City Council provided direction by unanimous vote.

2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Government Code Section 54956.9(d)(1)

Name of Case: *Cheryl Newell v. City of National City*

Workers' Compensation Appeal Board Case No. Claim # 19-144956 – WCAB #

ADJ13235277

City Attorney Bell reported that City Council provided direction by unanimous vote.

3. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Government Code Section 54956.9(d)(1)

Name of Case: *Denise Barahura v. City of National City*

Workers' Compensation Appeal Board Case No. *Claim # 18-135716 – WCAB # ADJ11820311*

City Attorney Bell reported that there was no action or direction provided by City Council.

ADJOURNMENT

ACTION: Motion by Councilmember Morrison, seconded by Councilmember Rios, to adjourn the meeting to the Special Meeting – Successor Agency to The Community Development Commission as the National City Redevelopment Agency being held upon adjournment of this meeting.

Motion passed by unanimous vote.

Mayor Sotelo-Solis adjourned to the Special Meeting – Successor Agency to The Community Development Commission as the National City Redevelopment Agency.

The meeting adjourned at 10:39 p.m.

Luz Molina, City Clerk

The foregoing minutes were approved at the Regular Meeting of September 7, 2021.

Alejandra Sotelo-Solis, Mayor



**MINUTES OF THE VIRTUAL SPECIAL MEETING
OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY**

August 3, 2021

The meeting was conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID-19 pandemic.

OPEN SESSION

CALL TO ORDER

The meeting was called to order at 3:05 p.m. by Mayor Sotelo-Solis.

ROLL CALL

Councilmembers present: Bush, Morrison, Rios, Rodriguez, Sotelo-Solis
Administrative Officials present: Raulston, Winney, Bell Jr., Yanno, Brennan, Meteau
Consultants: Coppedge

PUBLIC COMMENT – None.

CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Government Code § 54956.9(d)(1)

Name of Case: *Mario Toledo Bedolla, et al. v. City of National City*

San Diego Superior Court – Central Division Case No. 37-2019-00054733-CU-PO-CTL

Members retired into Closed Session at 3:11 p.m. and returned at 3:18 p.m. with all members present in attendance: Bush, Morrison, Rios, Rodriguez, Sotelo-Solis, Raulston, Winney, Bell Jr., and Yano.

2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Government Code Section 54956.9(d)(1)

Name of Case: *Cheryl Newell v. City of National City*

Workers' Compensation Appeal Board Case No. Claim # 19-144956 – WCAB #
ADJ13235277

Members retired into Closed Session at 3:18 p.m. and returned at 3:33 p.m. with all members present in attendance: Bush, Morrison, Rios, Rodriguez, Sotelo-Solis, Raulston, Winney, Bell Jr., Brennan, and Consultant Coopedge.

3. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Government Code Section 54956.9(d)(1)

Name of Case: *Denise Barahura v. City of National City*

Workers' Compensation Appeal Board Case No. Claim # 18-135716 – WCAB #
ADJ11820311

Members retired into Closed Session at 3:18 p.m. and returned at 3:33 p.m. with all members present in attendance: Bush, Morrison, Rios, Rodriguez, Sotelo-Solis, Raulston, Winney, Bell Jr., Brennan, and Consultant Coopedge.

CLOSED SESSION REPORT PROVIDED AT END OF REGULAR MEETING

ADJOURNMENT

Mayor Sotelo-Solis adjourned the meeting at 3:34 p.m. to the next Virtual Regular City Council meeting to be held immediately following via teleconference.

Shelley Chapel, Deputy City Clerk

The foregoing minutes were approved at the Regular Meeting of August 17, 2021

Alejandra Sotelo-Solis, Mayor

DRAFT



**MINUTES OF THE VIRTUAL SPECIAL MEETING
SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT COMMISSION
AS THE NATIONAL CITY REDEVELOPMENT AGENCY**

August 3, 2021

This meeting was conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID-19 pandemic.

The City Council minutes are prepared and ordered to correspond to the City Council Agenda. Agenda Items can be taken out of order during the meeting. The Agenda Items were considered in the order presented.

CALL TO ORDER

The meeting was called to order at 10:39 p.m. by Mayor Sotelo-Solis.

ROLL CALL

Councilmembers present: Bush, Morrison, Rios, Rodriguez, Sotelo-Solis

Other Elected Officials present: Molina

Administrative Officials present: Raulston, Winney, Bell, Chapel, Torres, Gilman, Williams, Davis, Meteau, Denham, Drew, Duong, Gamwell, Gilman, Maxilom, Vergara, Aguirre, Olson, Yano, Parra, Barrera, Valdez, and Tellez.

Interpretation in Spanish provided by Claudia Valencia and Luisa Diaz de Leon.

PUBLIC COMMENTS- None.

CONSENT CALENDER

1. Approval of Meeting Minutes of the Regular Meeting of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency of June 16, 2020, August 18, 2020, and September 15, 2020.

Public Comment: None.

ACTION: Motion by Councilmember Morrison, seconded by Councilmember Rios, to approve the Consent Calendar Item 1.

Motion carried by unanimous vote.

PUBLIC HEARINGS – No agenda items.

NON CONSENT RESOLUTIONS

2. Adopted Resolution No. 2021-110. Resolution of the Board of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency Adopting a Budget of \$4,400,238 for Fiscal Year 2021-22.

City Clerk Molina read the title of the Resolution into the record.

Public Comment: None.

ACTION: Motion by Councilmember Morrison, seconded by Councilmember Rios, to adopt the Resolution.

Motion passed by unanimous vote.

NEW BUSINESS – No agenda items.

STAFF REPORTS – No agenda items.

MEMBER REPORTS – No agenda items.

CLOSED SESSION REPORT – No agenda items.

ADJOURNMENT

Mayor Sotelo-Solis adjourned the meeting to the next Virtual Regular Meeting of the Successor Agency to the Community Development Commission as the National City Redevelopment Agency, to be held Tuesday, September 21, 2021, at 6:00 p.m. via teleconference.

The meeting adjourned at 10:42 p.m.

Luz Molina, City Clerk

The foregoing minutes were approved at the Regular Meeting of September 7, 2021.

Alejandra Sotelo-Solis, Mayor



**MINUTES OF THE VIRTUAL REGULAR MEETING
OF THE CITY COUNCIL AND COMMUNITY DEVELOPMENT
COMMISSION – HOUSING AUTHORITY
OF THE CITY OF NATIONAL CITY**

August 17, 2021

This meeting was conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID-19 pandemic.

The City Council minutes are prepared and ordered to correspond to the City Council Agenda. Agenda Items can be taken out of order during the meeting. The Agenda Items were considered in the order presented.

A. CITY COUNCIL

CALL TO ORDER

The meeting was called to order at 6:10 p.m. by Mayor Sotelo-Solis.

ROLL CALL

Councilmembers present: Bush, Morrison, Rios, Rodriguez, Sotelo-Solis
Other Elected Officials present: Beauchamp, Molina

Administrative Officials present: Raulston, Winney, Bell, Chapel, Gilman, Williams, Denham, Meteau, Aguirre, Olson, Yano, Parra, Barrera, Valdez, Ryan, Brennan, Martinez, and Tellez.

Interpretation in Spanish provided by Carlos Diaz and Claudio Valencia.

PLEDGE OF ALLEGIANCE TO THE FLAG

Assistant City Manager Winney led the Pledge of Allegiance.

PUBLIC COMMENTS

Mayor Sotelo-Solis summarized the process for acceptance of live public comment and introduced City Clerk Molina.

Spoken public comments: None.

Written public comments received: None.

PROCLAMATIONS AND CERTIFICATES

Mayor Sotelo-Solis announced the meeting will be adjourned in memory of Russell “Russ” Eugene Washington, former San Diego Charger and National City business owner and resident. Mr. Hank Bauer was introduced to share some history on Mr. Washington, also known as Big Rue.

AWARDS AND RECOGNITIONS – No agenda items.

PRESENTATIONS

1. Introduction of 2021-2022 Miss National City Court.

Mayor Sotelo-Solis introduced Recreation Superintendent Denham who provided a video presentation and introduced National City Queen Ulyssa Easley.

2. Introducing and Welcoming Dr. Mark Sanchez, New Superintendent / President of Southwestern College.

Mayor Sotelo-Solis introduced Dr. Sanchez who provided updates from Southwestern College.

3. Sweetwater Union High School Mock Trial Program.

Mayor Sotelo-Solis introduced City Attorney Bell who provided the overview of the program and introduced Mentors Hector Jimenez and Michelle Luna Reynoso.

4. Summary of May 2021 Workshop on Pepper Park Expansion.

Mayor Sotelo-Solis introduced Port of San Diego Planning Director Lesley Nishihira and Planning Program Manager Anna Buzaitis, and National City Port Commissioner Sandy Naranjo who provided the report and a PowerPoint Presentation titled “Summary of May 6th Workshop on Pepper Park Expansion”.

INTERVIEWS / APPOINTMENTS

5. Rescinding prior City Council action regarding formation of an Ad-Hoc Sub-Committee taken at the August 3, 2021 City Council Meeting.

Mayor Sotelo-Solis introduced the item.

Public Comment:

One (1) written comment received: Eric Christen (Oppose)

ACTION: Motion by Mayor Sotelo-Solis, seconded by Councilmember Rios, to rescind prior City Council action taken at the August 3, 2021 City Council meeting.

Motion carried by unanimous vote.

6. Project Labor Standards and Policies – Ad Hoc Committee Appointment.

Mayor Sotelo-Solis introduced the item.

Public Comment:

One (1) written comment received: Joan Rincon (Oppose)

ACTION: Motion by Mayor Sotelo-Solis, seconded by Councilmember Rios, to appoint Mayor Sotelo-Solis and Councilmember Rios to the Ad Hoc Committee.

Ayes: Bush, Rios, Sotelo-Solis

Nays: Morrison, Rodriguez

Motion carried by 3 to 2 votes.

REGIONAL BOARDS AND COMMITTEE REPORTS

Councilmember Morrison had no report.

Councilmember Bush reported on the Air Pollution Control District permit process and a tour of a concrete recycling center processing plant.

Councilmember Rios reported on the historic low water level (Level 1) for Lake Mead.

Vice-Mayor Rodriguez reported on a presentation for future investments in wastewater systems.

Mayor Sotelo-Solis reported on the Council of Water Utilities and the recycled water program.

CONSENT CALENDER

Mayor Sotelo-Solis requested City Clerk Molina read any public comment received into the record.

Public Comment: None.

ACTION: Motion by Councilmember Bush, seconded by Vice-Mayor Rodriguez, to approve the Consent Calendar Items 7 through 18.

Motion carried by unanimous vote.

7. Motion of the City Council of the City of National City approving the waiving of the reading of the text of the Ordinances or Resolutions that are having a Public Hearing considered at this meeting and providing that such Ordinances or Resolutions shall be introduced and/or adopted after a reading of the title only.
8. Approval of City Council, Community Development and Housing Authority of the City of National City: Virtual Regular Meeting Minutes: June 1, 2021; and City Council of the City of National City Virtual Special Meeting Minutes: June 1, 2021.
9. Adopted Resolution 2021-105. Resolution of the City Council of the City of National City: 1) waiving the formal bid process pursuant to National City Municipal Code Section 2.60.220(B) regarding sole source purchasing and authorizing the Mayor to execute a City of San Diego Office of Homeland Security Grant Subaward Amendment for the purchase of a FLIR Skywatch Tower for the Police Department; and 2) approving the establishment of appropriations and corresponding revenue budget in the amount of \$220,000 for a new total of \$230,000 to the Reimbursable Grant Citywide account for the FY19 Urban Area Security Initiative (UASI) Grant.
10. Adopted Resolution 2021-106. Resolution of the City Council of the City of National City approving the Mayor to execute an Agreement between the City of San Diego Office of Homeland Security and the City of National City, and authorizing the establishment of an appropriation and corresponding revenue budget in the amount of \$18,188 from the FY20 Urban Area Security Initiative (UASI) Grant Funds for the reimbursable grant purchase of training, exercises, and conferences for the Police and Fire Department.
11. Adopted Resolution 2021-107. Resolution of the City Council of the City of National City: 1) ratifying acceptance of funds in the total amount of \$15,539 awarded to the City of National City from the Beverage Container Recycling City/County Payment Program from the California Department of Resources Recycling and Recovery (CalRecycle) for FY21

- to implement recycling projects and programs such as beverage recycling containers in city parks, clean-up activities, and educational materials; 2) authorizing the acceptance of the Beverage Container Recycling City/County Payment Program funds for \$15,539 and the establishment of the Trash Rate Stabilization Fund appropriation of \$15,539 and corresponding revenue budget for the implementation of recycling projects and programs.
12. Adopted Resolution 2021-108. Resolution of the City Council of the City of National City, waiving the formal bid process pursuant to National City Municipal Code Section 2.60.260 regarding cooperative purchasing and authorizing the City to piggyback onto Sourcewell (formerly “National Joint Powers Alliance”) Contract #122017-FSC with Haaker Equipment Company for the purchase and build-out of one (1) Vactor 2110 Plus Sewer Cleaner Vactor Truck in an amount not-to-exceed \$450,219.56.
 13. Adopted Resolution 2021-109. Resolution of the City Council of the City of National City waiving the bid process pursuant to section 2.60.260 of the National City Municipal Code and authorizing the Mayor to execute a three year agreement with eSCRIBE Software Ltd. in the total not-to-exceed amount of \$96,045 to procure and support eSCRIBE Agenda Management Software.
 14. Adopted Resolution 2021-110. Resolution of the City Council of the City of National City amending City Council Policy 110 entitled "Display of Flags".
 15. Temporary Use Permit – Pumpkin Station hosted by Pinery Christmas Trees, Inc. at Westfield Plaza Bonita Mall from October 1, 2021 thru October 31, 2021 with no waiver of fees.
 16. Investment Report for the quarter ended June 30, 2021.
 17. Ratified Warrant Register #1 for the period of 6/30/21 through 7/6/21 in the amount of \$1,458,359.66.
 18. Ratified Warrant Register #2 for the period of 7/7/21 through 7/13/21 in the amount of \$1,643,847.55.

PUBLIC HEARINGS: ORDINANCES AND RESOLUTIONS – No agenda items.

NON CONSENT RESOLUTIONS

19. Adopted Resolution No. 2021-111. Resolution of the City Council of the City of National City setting the property tax rate for the Library General Obligation Bonds for fiscal year 2022. The rate remains the same as previous year at 0.59 cent per \$100 of assessed valuation.

City Clerk Molina read the title of the Resolution into the record.

No report was presented.

Public Comment: None.

ACTION: Motion by Councilmember Rios, seconded by Councilmember Morrison, to adopt the Resolution.

Motion passed by unanimous vote.

NEW BUSINESS

20. Adopted Resolution No. 2021-112. Resolution of the City Council of the City of National City approving the National City Age-Friendly Action Plan.

City Clerk Molina read the title of the Resolution into the record.

Mayor Sotelo-Solis introduced Carlos Aguirre, Director of Housing Authority, Myra Martinez, Housing Programs Specialist, and Jana Schwartz, County of San Diego Age Well Team who provided the report and a PowerPoint presentation titled “Age Friendly National City”.

Councilmembers asked clarifying questions. Staff provided responses.

Public Comment: None.

ACTION: Motion by Councilmember Rios, seconded by Mayor Sotelo-Solis, to adopt the Resolution.

Motion passed by unanimous vote.

21. Report on the Balanced Plan, the Maritime Clean Air Strategy (MCAS), and other Port District matters related to National City. Staff recommends sending the attached letter to the San Diego Board of Port Commissioners (BPC) to make a formal request for American Rescue Plan Act (ARPA) funds to support the Balanced Plan and MCAS.

Mayor Sotelo-Solis introduced City Manager Raulston, who provided the report.

Public Comment:

One (1) written comment received: Danny Serrano (Support).

ACTION: Motion by Councilmember Morrison, seconded by Councilmember Bush, to include the Timeline (Attachment B to staff report) with the letter, and the addition of the words “past decades” at the end of first paragraph.

Motion passed by unanimous vote.

B. COMMUNITY DEVELOPMENT COMMISSION – HOUSING AUTHORITY

CONSENT RESOLUTIONS - HOUSING AUTHORITY – No agenda items.

PUBLIC HEARINGS: RESOLUTIONS - HOUSING AUTHORITY – No agenda items.

NON CONSENT RESOLUTIONS - HOUSING AUTHORITY – No agenda items.

NEW BUSINESS - HOUSING AUTHORITY – No agenda items.

C. REPORTS

STAFF REPORTS

22. City Manager Report.

Assistant City Manager Winney provided a report on COVID-19 efforts, the revised Caltrans policy regarding homeless encampments, and the federal infrastructure bill.

MAYOR AND CITY COUNCIL

City Clerk Molina announced that applications are being accepted for the vacancies on the City's Boards, Committees, and Commissions, through September 2, 2021 at 5 pm. She also provided details for voting in the California Gubernatorial Recall Election.

Councilmember Bush announced that JARO project is providing free surf lessons to local youth.

Councilmember Rios reminded residents that they may vote at three voting locations in National City.

Councilmember Morrison commented on Caltrans actions for dealing with the homelessness problem. He also expressed

Vice-Mayor Rodriguez commented on the special election and encouraged residents to vote. He also commented on the federal infrastructure bill.

Mayor Sotelo-Solis announced that election day is September 14, 2021 and directed residents to the City Clerk's website for details. She commented on the available vaccination resources, and the information provided by the Port of San Diego representatives.

CLOSED SESSION CLOSED SESSION REPORT

City Attorney Bell reported that there was no action or direction provided by City Council.

ADJOURNMENT

The meeting adjourned in memory of Russ Washington also known as Big Rue.

Mayor Sotelo-Solis adjourned to the Regular Meeting of the City Council and Community Development Commission - Housing Authority of the City of National City to be held Tuesday, September 7, 2021 at 6:00 p.m. via teleconference.

The meeting adjourned at 8:29 p.m.

Luz Molina, City Clerk

The foregoing minutes were approved at the Regular Meeting of September 7, 2021.

Alejandra Sotelo-Solis, Mayor



**MINUTES OF A SPECIAL MEETING
OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY**

August 17, 2021

This meeting was conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID-19 pandemic.

OPEN SESSION

CALL TO ORDER

The meeting was called to order at 3:02 p.m. by Mayor Sotelo-Solis.

ROLL CALL

Councilmembers present: Bush, Morrison, Rios, Rodriguez, Sotelo-Solis
Administrative Officials present: Raulston, Winney, Bell, Chapel, Gilman

PUBLIC COMMENTS

None

Members retired into Closed Session at 3:08 p. m.

CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATORS
(Government Code Section 54957.6)
Employee Organizations: Municipal Employees' Association (SEIU, Local 221), National City Firefighters Association (Local 2744), Police Officers Association (POA)
Unrepresented Groups: Executive, Confidential, and Management
Agency Designated Representatives: Eddie Kreisberg (Labor Negotiator), Brad Raulston (City Manager), Tony Winney (Assistant City Manager), Molly Brennan (Administrative Services Director), Paul Valadez (Budget Manager - Finance), Lilia Munoz (Human Resources Manager)

CLOSED SESSION REPORT PROVIDED AT END OF REGULAR MEETING

Members returned from Closed Session at 5:57 p.m. with all members present.

ADJOURNMENT

Mayor Sotelo-Solis adjourned the meeting to the Regular Meeting of the City Council and Community Development Commission - Housing Authority of the City of National City held Tuesday, August 17, 2021 at 6:00 p.m. via teleconference.

The meeting adjourned at 5:57 p.m.

Luz Molina, City Clerk

The foregoing minutes were approved at the Regular Meeting of September 7, 2021.

Alejandra Sotelo-Solis, Mayor

DRAFT

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National city authorizing the Mayor to enter into a Revised/Amended Memorandum of Agreement with the County of San Diego by and through its Health and Human Services Agency \(HHS\) Mobile Crisis Response Team \(MCRT\) for broad range of health and social services to community residents including trauma informed behavioral health services. \(Police\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.:

ITEM TITLE:

Resolution of the City Council of the City of National city authorizing the Mayor to enter into a Revised/Amended Memorandum of Agreement with the County of San Diego by and through its Health and Human Services Agency (HHSA) Mobile Crisis Response Team (MCRT) for broad range of health and social services to community residents including trauma informed behavioral health services.

PREPARED BY: Jose Tellez, Chief

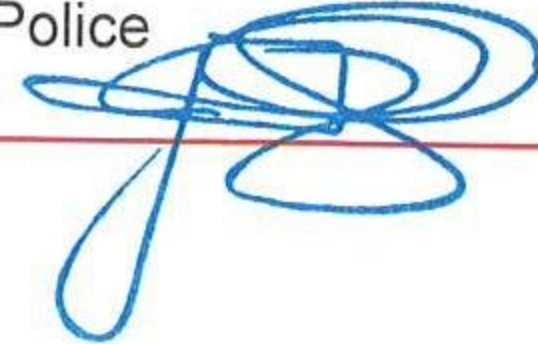
PHONE: X4511

EXPLANATION:

Refer to Staff Report

DEPARTMENT: Police

APPROVED BY: _____



FINANCIAL STATEMENT:

ACCOUNT NO.

[

APPROVED: _____

FINANCE

APPROVED: _____

MIS

ENVIRONMENTAL REVIEW:

N/A

ORDINANCE: INTRODUCTION FINAL ADOPTION

STAFF RECOMMENDATION:

Resolution of the City Council of the City of National city authorizing the Mayor to enter into a Revised/Amended Memorandum of Agreement with the County of San Diego by and through its Health and Human Services Agency (HHSA) Mobile Crisis Response Team (MCRT).

BOARD / COMMISSION RECOMMENDATION:

ATTACHMENTS:

Staff Report

HHSA MOA and Exhibit A



NATIONAL CITY POLICE DEPARTMENT

Staff Report

DATE: September 7, 2021

AGENDA ITEM: Mobile Crisis Response Team (MCRT) MOA

Background

On June 1, 2021, the City Council reviewed a tentative agreement from the County of San Diego for the Health and Human Services Agency (HHS) Mobile Crisis Response Team (MCRT). MCRT will provide a broad range of health and social services to the community including trauma-informed behavioral services.

In order to continue to promote best practices, the National City Police Department and the City Manager's Office worked with HHS to establish a Memorandum of Agreement to establish a Mobile Crisis Response Team (MCRT) in National City. MCRT will provide non-law enforcement behavioral health intervention services for individuals and connect them to the most appropriate level of health care. It is the first program of its kind in San Diego County in that MCRT will respond to certain mental health calls in place of police officers. When this program is in place, National City police dispatchers will dispatch MCRT to respond to mental health incidents, if it meets MCRT criteria. The goal of the MCRT program to redirect mental health calls to behavioral health clinicians, provide timely services to those in need, and re-direct calls away from a law enforcement, as most mental health calls are not criminal in nature.

Memorandum of Agreement Review

An updated / amended agreement is being submitted for approval. Listed below are the primary changes:

- The County awarded the MCRT contract to Telecare Corp (Service Provider)
- The Contractor(s) will respond to calls that have been screened utilizing the agreed upon referral criteria for urgent and emergency (not requiring National City to manage the call) calls via the Access and Crisis Line and/or participating law enforcement agencies in order for contractor (s) to provide mobile crisis interventions to individuals experiencing a behavioral health crisis and connect them to the most appropriate level of care.
 - Referral Criteria for MCRT Response:
 - No injuries to any person that would require medical response.

- No deadly weapons involved in the incident or known to be in the possession of the person in crisis.
 - The person is not suspected or involved in serious criminal activity related to this call, which would warrant immediate law enforcement action.
 - The involved person does not have a current felony warrant for their arrest or is not known to be wanted in connection with an ongoing law enforcement investigation. (*Misdemeanor domestic violence or weapons warrants should also be deemed as law enforcement response*)
 - No threat of immediate violence, reasonable potential for immediate violence, or use of violence against any person, including the person in crisis, MCRT members, or any other person. (this includes threats of immediate self-inflicted violence by the patient, such as a threat of a violent suicide)
 - Law enforcement not specifically requested
- MCRT will consist of a Behavioral Health Clinician, Case Manager, and/or Peer Staff
 - The National City Police Department will refer appropriate calls and MCRT response operating within National City's jurisdiction with the identified county contractor in accordance with their defined roles and responsibilities for MCRT services, the agreed upon referral criteria for urgent and emergency (not requiring LEA response) calls, and all other program requirements.
 - Term: This MOA shall become effective on the date all parties have signed this MOA and be in force until it expires when the Multi-Jurisdictional MOA is effective or on 5/31/2026, whichever dates precedes the other.

Staff Recommendation

Adopt a resolution to authorize the Mayor to enter into a revised / amended Memorandum of Agreement with the County of San Diego for the Mobile Crisis Response Team Program (MCRT).

*Office of the Chief of Police
1200 National City Boulevard
National City, CA 91950
(619) 336-4511/Fax (619) 336-4525
www.nationalcitypd.org*



MEMORANDUM OF AGREEMENT

Parties

This Memorandum of Agreement (MOA) is made on September 8, 2021 between the County of San Diego (County) by and through its **Health and Human Services Agency (HHS-A)** and the City of National City (“City”), by and through its **National City Police Department (“NCPD”)**. The parties to this MOA may be referred to herein collectively as the “parties” or individually as a “party”.

Recitals

WHEREAS, HHS-A provides a broad range of health, and social services to community residents including a broad array of trauma-informed behavioral health services based on Biopsychological and Rehabilitation (BPSR) principles that have proved effective in reducing psychiatric hospitalization and assisting individuals in accessing needed behavioral health services. The Mobile Crisis Response Team (MCRT) program is one such behavioral health program; and

WHEREAS, NCPD provides a variety of community-based public safety and emergency management services, including receipt and processing of emergency calls and emergency dispatch, and engages with a broad array of partnerships with governmental and non-governmental organizations to meet the service expectations and needs of its community; and

WHEREAS, MCRTs are designed to respond to urgent and emergency (non-911) calls in the community, provide a non-law enforcement intervention for individuals in a behavioral health crisis and to connect them to the most appropriate level of behavioral health care; and

WHEREAS, MCRT services will be funded, provided, and coordinated by HHS-A through a contracted service provider; and

WHEREAS, NCPD will coordinate with MCRT contractor(s) to define their respective roles and responsibilities for MCRT services. The MCRT contractor(s) are paid by HHS-A using County funds; and

WHEREAS, the Parties desire to partner to provide MCRT services to individuals experiencing behavioral health crisis in the community.

THEREFORE, in consideration of the foregoing recitals and the mutual covenants and promises set forth below, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. Administration of MOA:

- 1.1. Each party identifies the following individual to serve as the authorized administrative representative for that party.

<u>County</u>	<u>National City</u>
<p>HHS-A Behavioral Health Services Administration Attn: Amelia Guingab 3255 Camino del Rio South San Diego, CA 92108 Amelia.Guingab@sdcounty.ca.gov</p>	<p>Jose Tellez, Chief of Police National City Police Department 1200 National City Blvd. National City, CA 91941 jtellez@nationalcityca.gov</p>



- 1.2. Any party may change its administrative representative at any time by executing an agreement amendment. Any such change will become effective upon execution of the amendment.
2. **Parties' Responsibilities:** The Parties agree that each maintains its own existing lines of authority for activities and decisions that are distinctly its own. The Parties agree that neither will require nor demand operational modifications to activities that are rightfully the province of the other Party. The Parties also agree to the following:
 - 2.1. **County HHS-A, Behavioral Health Services (BHS), intends to:**
 - 2.1.1. Engage and fund contractor(s) to operate an MCRT program in partnership with National City, consistent with program requirements.
 - 2.1.2. Require contractor(s) to respond to calls that have been screened utilizing the agreed upon referral criteria for urgent and emergency (not requiring National City to manage the call) calls via the Access and Crisis Line and/or participating law enforcement agencies in order for contractor(s) to provide mobile crisis interventions to individuals experiencing a behavioral health crisis and connect them to the most appropriate level of care.
 - 2.1.3. Each team will consist of a Behavioral Health Clinician, Case Manager and/or Peer staff.
 - 2.1.4. Wherever deemed practicable by National City and allowable under the law, provide National City with requested de-identified data for reports related to MCRT and Behavioral Health calls and referrals.
 - 2.2. **National City intends to:**
 - 2.2.1. Refer appropriate calls and MCRT response operating within National City's jurisdiction with the identified county contractor in accordance with their defined roles and responsibilities for MCRT services, the agreed upon referral criteria for urgent and emergency (not requiring LEA response) calls, and all other program requirements.
 - 2.2.2. Wherever deemed practicable by National City and allowable under the law, provide HHS-A with requested data or reports related to MCRT and Behavioral Health calls and referrals.
 - 2.2.3. Collaborate with the County and contractor(s) on the development of law enforcement referral criteria for MCRT deployment. See Exhibit A attached to this MOA.
 - 2.2.4. Utilize the agreed upon referral criteria developed by law enforcement in collaboration with the County for MCRT deployment consistent with other law enforcement jurisdictions.
3. **Associated Contracts and Agreements:**
 - 3.1. County contract 564690 with Telecare Corp
4. **Liability:**
 - 4.1. Each Party engaging in any assistance pursuant to this MOA agrees that each Party will assume responsibility for the acts, omissions, or conduct of its employees, officers or agents. Each Party shall immediately notify the other party of any civil, administrative, or criminal claim, complaint, discovery request, or other request for information of which the agency receives notice, concerning or arising from the partnership under this MOA.
5. **Indemnity:**
 - 5.1. Claims Arising from Sole Acts or Omissions of a Party: Each party to this Agreement hereby agrees to defend and indemnify the other parties to this Agreement, their agents, officers and employees, from any claim, action or proceeding against the other parties, arising solely out of



its own acts or omissions in the performance of this Agreement. At each party's sole discretion, each party may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve any party of any obligation imposed by this Agreement. The parties shall notify each other promptly of any claim, action or proceeding and cooperate fully in the defense.

- 5.2. **Claims Arising from Concurrent Acts or Omissions:** The parties hereby agree to defend themselves from any claim, action or proceeding arising out of the concurrent acts or omissions of the parties. In such cases, the parties agree to retain their own legal counsel, bear their own defense costs, and waive their right to seek reimbursement of such costs, except as provided in paragraph 5.3 below.
- 5.3. **Joint Defense and Reimbursement and Reallocation:** Notwithstanding paragraph 5.2 above, in cases where the parties agree in writing to a joint defense, the parties may appoint joint defense counsel to defend the claim, action or proceeding arising out of the concurrent acts or omissions of parties. Joint defense counsel shall be selected by mutual agreement of parties. The parties agree to share the costs of such joint defense and any agreed settlement in equal amounts, except as follows: parties further agree that no party may bind another to a settlement agreement without the written consent of all parties. Where a trial verdict or arbitration award, in a joint defense case, allocates or determines the comparative fault of the parties, parties may seek reimbursement and/or reallocation of defense costs, judgments and awards, consistent with such comparative fault.

6. **Independent Contractor:**

- 6.1. Both Parties hereto in the performance of this MOA will be acting in an independent capacity and not as agents, employees, partners, or joint ventures with one another. Neither the HHS-A nor the HHS-A's employees are employees of the City or NCPD, and are not entitled to any of the rights, benefits, or privileges of the City's or NCPD's employees, including but not limited to retirement, medical, unemployment, or workers' compensation insurance. Neither the City or NCPD nor the City's or NCPD's employees are employees of the HHS-A, and are not entitled to any of the rights, benefits, or privileges of the HHS-A's employees, including but not limited to retirement, medical, unemployment, or workers' compensation insurance.
7. **Insurance:** National City shall obtain at its own cost and expense, and keep in force and effect during the term of this MOA, including all extensions, policies of insurance or programs of self-insurance with policy limits in sufficient amounts to cover any and all potential liability of National City hereunder. Minimum policy limits maintained by National City shall in no way limit the Party's indemnification obligations to the County.
8. **Conformance with Rules and Regulations:** All parties shall be in conformity with all applicable federal, State, County, and local laws, rules, and regulations, current and hereinafter enacted, including facility and professional licensing and/or certification laws and keep in effect any and all licenses, permits, notices, and certificates as are required. All parties shall further comply with all laws applicable to wages and hours of employment, occupational safety, and to fire safety, health, and sanitation.
9. **Permits and Licenses:** The Parties certify that they possess and shall continue to maintain or shall cause to be obtained and maintained, at no cost to the other party, all approvals, permissions, permits, licenses, and other forms of documentation required for it and its employees to comply with all existing foreign or domestic statutes, ordinances, and regulations, or other laws, that may be applicable to performance of services hereunder. Each party reserves the right to reasonably request and review all such applications, permits, and licenses prior to the commencement of any services hereunder.



10. **Governing Law:** This MOA shall be governed, interpreted, construed, and enforced in accordance with the laws of the State of California.
11. **Information Privacy and Security Provisions:** Each Party to this MOA will comply with all applicable statutes, regulations, rules, and/or policies and procedures pertaining to privacy and security including but not limited to Welfare and Institutions Code Section 5328, Civil Code Section 56.10 *et seq.* and the Health Insurance Portability and Accountability Act (HIPAA).
12. **Third Party Beneficiaries Excluded:** This MOA is intended solely for the benefit of County and National City. Any benefit to any third party is incidental and does not confer on any third party to this MOA any rights whatsoever regarding the performance of this MOA. Any attempt to enforce provisions of this MOA by third parties is specifically prohibited.
13. **Amendments to MOA:** Any party may propose amendments to this MOA by providing written notice of such amendments to the other party. This MOA may only be amended by a written amendment signed by all parties.
14. **Severability:** If any terms or provisions of this MOA or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this MOA, or the application of such term and provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and every other term and provision of this MOA shall be valid and enforced to the maximum extent permitted by law.
15. **Full Agreement:** This MOA represents the full and entire MOA between the parties and supersedes any prior written or oral agreements that may have existed.
16. **Scope of Agreement:** This MOA only applies to the program described herein and does not set forth any additional, current, or future obligations or agreements between the parties, except that the parties may by written amendment amend the scope of this MOA.
17. **Live Well San Diego Vision:** The County of San Diego, Health and Human Service Agency (HHS-A), supports the *Live Well San Diego* vision of Building Better Health, Living Safely, and Thriving. *Live Well San Diego*, developed by the County of San Diego, is a comprehensive, innovative regional vision that combines the efforts of partners inside and outside County government to help all residents be healthy, safe, and thriving. All HHS-A partners and contractors, to the extent feasible, are expected to advance this vision. Building Better Health focuses on improving the health of residents and supporting healthy choices. Living Safely seeks to ensure residents are protected from crime and abuse, neighborhoods are safe, and communities are resilient to disasters and emergencies. Thriving focuses on promoting a region in which residents can enjoy the highest quality of life. Information about the *Live Well San Diego* can be found on the County's website and a website dedicated to the vision:
 - http://www.sdcounty.ca.gov/hhsa/programs/sd/live_well_san_diego/index.html
 - <http://www.LiveWellSD.org>
18. **A Trauma-Informed System:** The County of San Diego Health and Human Services Agency (HHS-A) is committed to becoming a Trauma-Informed System as part of its effort to build a better service delivery system. All programs operated and supported by HHS-A shall be part of a Trauma-Informed System, which includes providing trauma-informed services and maintaining a trauma-informed workforce. It is an approach for engaging individuals – staff, clients, partners, and the community – and recognizing that trauma and chronic stress influence coping strategies and



behavior. Trauma-informed systems and services minimize the risk of re-traumatizing individuals and/or families, and promote safety, self-care, and resiliency. Trauma-Informed Principles include:

- Understanding trauma and its impact to individuals.
- Promoting safety.
- Awareness of cultural, historical, disability, and gender issues, and ensuring competence and responsiveness.
- Supporting consumer empowerment, control, choice, and independence.
- Sharing power and governance (e.g. including clients and staff at all levels in the development and review of policies and procedures).
- Demonstrating trustworthiness and transparency.
- Integrating services along the continuum of care.
- Believing that establishing safe, authentic, and positive relationships can be healing.
- Understanding that wellness is possible for everyone.

19. **Term:** This MOA shall become effective on the date all parties have signed this MOA and be in force until it expires when the Multi-Jurisdictional MOA is effective or on 5/31/2026, whichever date precedes the other. This MOA may be renewed for a term specified by the parties upon the written agreement of the parties.

20. **Termination for Convenience:** Either Party may terminate their participation in this MOU upon delivery of written notice to the other Participating Agency. Termination will become effective thirty (30) days from receipt of such notice.

21. **Counterparts:** This MOA may be executed in any number of separate counterparts, each of which shall be deemed an original but all of which when taken together shall constitute one and the same instrument.

Remainder of this page is intentionally left blank



County of San Diego

Dated: _____

By: _____
NICK MACCHIONE, FACHE
Agency Director
Health and Human Services Agency

City of National City

Dated: _____

By: _____
ALEJANDRA SOTELO-SOLIS
Mayor



Exhibit A: Mobile Crisis Response Team (MCRT) Law Enforcement Referral Criteria

- No injuries to any person that would require a medical response.
- No deadly weapons involved in the incident or known to be in the possession of the person in crisis.
- The person is not suspected or involved in serious criminal activity related to this call, which would warrant immediate law enforcement action.
- The involved person does not have a current felony warrant for their arrest or is not known to be wanted in connection with an ongoing law enforcement investigation. *(Misdemeanor domestic violence or weapons warrants should also be deemed as law enforcement response)*
- No threat of immediate violence, reasonable potential for immediate violence, or use of violence against any person, including the person in crisis, MCRT members, or any other person. *(This includes threats of immediate self-inflicted violence by the patient, such as a threat of a violent suicide)*
- Law enforcement not specifically requested.

RESOLUTION NO. 2021 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, AUTHORIZING THE MAYOR TO ENTER INTO A REVISED/AMENDED MEMORANDUM OF AGREEMENT WITH THE COUNTY OF SAN DIEGO BY AND THROUGH ITS HEALTH AND HUMAN SERVICES AGENCY (HHSA) MOBILE CRISIS RESPONSE TEAM (MCRT) FOR BROAD RANGE OF HEALTH AND SOCIAL SERVICES TO COMMUNITY RESIDENTS INCLUDING TRAUMA INFORMED BEHAVIORAL HEALTH SERVICES

WHEREAS, on June 1, 2021, the City of National City (“City”) City Council reviewed and approved a draft Memorandum of Agreement between the County of San Diego for the Health and Human Services Agency (“HHSA”) Mobile Crisis Response Team (“MCRT”) and the City; and

WHEREAS, on June 1, 2021, the City Council adopted Resolution No. 2021-64, authorizing the Mayor to enter into the Memorandum of Agreement between the County of San Diego for the Health and Human Services Agency (“HHSA”) Mobile Crisis Response Team (“MCRT”); and

WHEREAS, after the June 1, 2021, City Council meeting the HHSA and City staff worked together to finalize the draft Memorandum of Agreement; and

WHEREAS, the final Memorandum of Agreement has new language and revisions that were not presented for City Council review at the June 1, 2021, City Council meeting; and

WHEREAS, the City Manager and National City Police Department recommend that City Council authorize the Mayor to enter into the revised and amended Memorandum of Agreement with the HHSA MCRT for broad range of health and social services to community residents including trauma - informed behavioral health services.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: Authorizes the Mayor to to enter into a Revised/Amended Memorandum of Agreement with the County of San Diego by and through its Health and Human Services Agency (“HHSA”) Mobile Crisis Response Team (“MCRT”) for broad range of health and social services to community residents including trauma - informed behavioral health services.

///

Resolution No. 2021 –
Page Two

Section 2: The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED and ADOPTED this 7th day of September, 2021.

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City authorizing the acceptance of annual grant funds & the establishment of an appropriation and corresponding revenue budget for the Regional Realignment Response Group \(R3\) based upon a Memorandum of Agreement signed by the Chief of Police pursuant to Council Resolution 2020-129 between the National City Police Department, the County of San Diego \(San Diego Sheriff's Department and Probation Department\) and municipal law enforcement agencies throughout the County for support of R3G Operations in the amount of \\$67,000. \(Police\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO. |

ITEM TITLE:

Resolution of the City Council of the City of National City authorizing the acceptance of annual grant funds & the establishment of an appropriation and corresponding revenue budget for the Regional Realignment Response Group (R3) based upon a Memorandum of Agreement signed by the Chief of Police pursuant to Council Resolution 2020-129 between the National City Police Department, the County of San Diego (San Diego Sheriff's Department and Probation Department) and municipal law enforcement agencies throughout the County for support of R3G Operations in the amount of \$67,000.

PREPARED BY: [Wade Walters, Sergeant]

DEPARTMENT: Police

PHONE: [Ext. 4544]

APPROVED BY: 

EXPLANATION:

[Refer to Attachment.]

FINANCIAL STATEMENT:

APPROVED:  **Finance**

ACCOUNT NO.

APPROVED: _____ **MIS**

Revenue: 290-11647-3463 (Other State Grants) \$67,000
Expense: 290-411-647-1* (Personnel) \$67,000

No net financial impact. Revenues off-set expenses.

ENVIRONMENTAL REVIEW:

ORDINANCE: INTRODUCTION: FINAL ADOPTION:

STAFF RECOMMENDATION:

Resolution of the City Council of the City of National City authorizing the acceptance of annual grant funds & the establishment of an appropriation and corresponding revenue budget for the Regional Realignment Response Group (R3)

BOARD / COMMISSION RECOMMENDATION:

ATTACHMENTS:

[Staff Report
MOU]



NATIONAL CITY POLICE DEPARTMENT

STAFF REPORT

DATE: September 7, 2021

SUBJECT: Resolution of the City Council of the City of National City authorizing the acceptance of annual grant funds & the establishment of an appropriation and corresponding revenue budget for the Regional Realignment Response Group (R3) based upon a Memorandum of Agreement signed by the Chief of Police pursuant to Council Resolution 2020-129 between the National City Police Department, the County of San Diego (San Diego Sheriff's Department and Probation Department) and municipal law enforcement agencies throughout the County for support of R3 Operations in the amount of \$67,000.

BACKGROUND

The National City Council passed a resolution on August 6, 2019 (Resolution No. 2019-109) authorizing the Chief of Police to enter into a Memorandum of Agreement with the County of San Diego (San Diego Sheriff's Department and Probation Department) and municipal law enforcement agencies throughout the County for program support of the Regional Realignment Response Group (R3). The National City Police Department was allocated and received grant funds in the amount of \$65,000 in 2019.

CURRENT PROPOSAL

The current request for Council is to authorize the department to accept the annual grant funds to continue to support operations described in the Memorandum of Agreement that is in effect from July 1, 2017 through June 30, 2022 with the County of San Diego (San Diego Sheriff's Department and Probation Department) for the Regional Realignment Group. As part of this agreement, the National City Police Department will continue to receive grant funding in an amount to be determined but estimated at \$67,000.

NATIONAL CITY POLICE DEPARTMENT GRANT RESPONSIBILITIES

As part of the R3 commitment, the National City Police Department will work with regional law enforcement partners to include the Regional Law Enforcement Coordination Center (LECC), to compile information on every realigned offender from jail or prison. This information will be utilized to assist the National City Police Department and other law enforcement agencies to monitor the most serious, high risk felons in the community.

***1200 National City Boulevard
National City, CA 91950
(619) 336-4512/Fax (619) 336-4525***



R3 partners to include the National City Police Department, will incorporate multifaceted enforcement measures including, but not limited to, compliance sweeps, and directed enforcement of prolific offenders and arrest those who are committing new crimes. The National City Police Department will conduct R3 operations on an overtime basis.

IMPACT

None. No net financial impact. Revenue off-set expenses.

**AGREEMENT FOR THE
REGIONAL REALIGNMENT RESPONSE (R3) PROGRAM**

1. PARTIES TO THE AGREEMENT

This Agreement is between the COUNTY OF SAN DIEGO ("COUNTY"), the CITY OF CARLSBAD, the CITY OF CHULA VISTA, the CITY OF CORONADO, the CITY OF EL CAJON, the CITY OF ESCONDIDO, the CITY OF LA MESA, the CITY OF NATIONAL CITY, the CITY OF OCEANSIDE, the CITY OF SAN DIEGO (collectively the "CITIES"), collectively the "PARTIES", for program support of the Regional Realignment Response ("R3").

1.1 Party Departments or Agencies Participating in the Agreement

1.1.1 For the COUNTY, participating agencies are the Sheriff's Department ("SHERIFF") and the Probation Department ("PROBATION").

1.1.2 For the CITIES, participating agencies are their respective police departments.

The services and obligations of PARTIES and their participating agencies are set forth herein.

2. RECITALS

2.1 WHEREAS, in April 2011, Governor Edmund G. Brown, Jr. signed Assembly Bill (AB) 109 to help California stop the costly, ineffective, and unsafe revolving door of lower-level offenders and parole violators cycling in and out of state prisons. This legislation gives local law enforcement the right and the ability to manage offenders in smarter and cost-effective ways; and

2.2 WHEREAS, in December 2013, COUNTY through SHERIFF implemented the Regional Realignment Response (R3) program in response to the passage of AB 109 and received funds from the State of California Local Revenue Fund 2011, Community Corrections Subaccount and continues to receive funds annually to continue the R3 program; and

2.3 WHEREAS, in March 2014, PARTIES executed the Agreement for the 2013 Regional Realignment Response (R3) for the initial term of December 31, 2013 through December 31, 2014; and

2.4 WHEREAS, in January 2015, PARTIES executed Amendment No.1 where Paragraph 3.1 provides that "(t)he term of this Agreement shall be December 31, 2013 and shall continue in effect through and terminate at midnight on December 31, 2015 subject to the termination provision in sections 3.2..."; and

- 2.5** WHEREAS, in May 2015, PARTIES executed Amendment No. 2 to increase each CITY'S allocation for personnel overtime; and
- 2.6** WHEREAS, in August 2015, PARTIES executed Amendment No. 3 to extend the Agreement from December 31, 2015 to June 30, 2016; and
- 2.7** WHEREAS, in October 2016, PARTIES executed the Agreement for the 2016 Regional Realignment Response (R3) for the initial term of July 1, 2016 through December 31, 2017; and
- 2.8** WHEREAS, in June 2016, the COUNTY and the CITY OF EL CAJON executed Amendment No. 4 to increase the CITY'S allocation for personnel overtime; and
- 2.9** WHEREAS, funds shall be used to support the R3 program and its primary goal of public safety by developing and implementing a targeted, proactive, intelligence-based approach to control and counteract the risks associated with realigned offenders (which include those sentenced pursuant to California Penal Codes 1170(h)(5)(A) PC and 1170(h)(5)(B) PC and Post Release Community Supervision Offenders) released into San Diego County.
- 2.10** WHEREAS, Government Code §55632 authorizes COUNTY through SHERIFF and PARTIES, to contract with SHERIFF for provision of joint law enforcement services.
- 2.10.1** WHEREAS, COUNTY has requested PARTIES assistance in performing R3 operations and will reimburse PARTIES for overtime-only expenses incurred collectively by PARTIES in R3 program operations not to exceed \$1,000,000 during the term of the Agreement.
- 2.11** WHEREAS, PARTIES desire to enter into an agreement with provisions concerning the nature and extent of R3 collaboration, services rendered, and compensation.
- 2.12** WHEREAS, COUNTY, by action of the Board of Supervisors Minute Order No. 3 dated June 28, 2016, approved and authorized the SHERIFF to enter into expenditure contracts related to the R3 program and to reimburse overtime expenses incurred collectively by PARTIES performing R3 program Operations in fiscal year 2016 and subsequent years.
- 2.13** PARTIES agree to maintain documentation as required in paragraph 7.3 Method of Payment, supporting all expenditures reimbursed from R3 program funds, for a period of five years, with five years beginning the day after the end of the project period, e.g., if the end of the project period is June 30, 2018, five years begins July 1, 2018 and ends June 30, 2023.

#

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, PARTIES jointly intend that COUNTY through SHERIFF will reimburse, and PARTIES will provide, a level of R3 services, as set forth in this Agreement.

3. PURPOSE AND INTENT

The purpose of this Agreement is to satisfy the R3's goal of ensuring public safety in the post AB 109 environment by the continued development and implementation of a targeted, proactive, intelligence-based approach to control and counteract the risks associated with a population of offenders placed under the responsibility of the county.

4. SCOPE OF SERVICES

4.1 Method of Service Delivery

SHERIFF will maintain the R3 program funding and will be administratively responsible for coordination of PARTIES' obligations and reimbursement to PARTIES' under this Agreement.

4.2 Overview of Basic Services

PARTIES will provide R3 operations ("Operations") in their designated areas of jurisdiction and/or in coordination with other R3 PARTIES in order to counteract the risks associated with realigned offenders released into San Diego County.

4.2.1 Framework of Operations

The Regional Realignment Response Group (R3G), consisting of designated coordinators from each PARTY, as outlined in paragraph 6.2.3, will oversee R3 Operations and will meet every six (6) months to discuss and plan Operations.

4.2.2 Regional Sub-Group

Regional Sub-Groups (RSGs) are created for the Northern, Central, and Southern areas of the County. The RSGs are responsible for planning and coordinating allied or regional Operations involving two or more PARTIES. The RSGs are composed of the following:

NORTHERN: A police lieutenant from the cities of Escondido, Carlsbad, and Oceanside, a lieutenant from SHERIFF, and a supervising probation officer from PROBATION.

CENTRAL: A police lieutenant from the cities of San Diego, El Cajon, and La Mesa, a lieutenant from SHERIFF, and a supervising probation officer from PROBATION.

SOUTHERN: A police lieutenant from the cities of San Diego, National City, and Chula Vista, a lieutenant from SHERIFF, a commander from the city of Coronado, and a supervising probation officer from PROBATION.

#

5. TERM OF AGREEMENT

5.1 Initial Term

This Agreement shall be effective July 1, 2017 and shall continue in effect through and terminate at midnight on June 30, 2022, or until terminated pursuant to sections 5.2, subject to availability of funds, and 5.3 below.

5.2 Option to Extend

COUNTY shall have the option to renew this Agreement for successive one year increments beyond June 30, 2022. Renewal or extension of the Agreement beyond June 30, 2022 shall be subject to available funding.

5.3 Termination

Subject to the applicable provisions of state law, each PARTY may terminate its participation in this Agreement upon ninety (90) days minimum written notice to the other PARTIES. Lack of funding may also result in termination of this agreement pursuant to section 10.13.

6. STANDARDS OF SERVICE: OBLIGATIONS OF THE PARTIES

6.1 Anticipated Outcome

The anticipated outcome of the R3 Operations, provided by PARTIES under this Agreement, is increased law enforcement presence in each respective PARTY's designated area of jurisdiction in order to counteract the risks associated with realigned offenders released into San Diego County. The anticipated outcome will be reached by achieving the goals and accomplishing the missions set forth below by the PARTIES.

6.1.1 PARTIES will provide enhanced enforcement by increasing patrol presence in areas where realigned offenders reside, jurisdictions where they are released, and areas they are known to frequent. This patrol presence will include 4th waiver searches, probation compliance checks, directed patrol, and coordinated multi-agency sweeps. In addition, PARTIES will utilize their unique investigatory areas of expertise in Operations.

6.1.2 Increase intelligence/information sharing among PARTIES, including but not limited to the following activities:

- (a) Utilize Criminal Intelligence Analysts, dedicated to the R3 program, located at the San Diego Law Enforcement Coordination Center (SD-LECC). The SD-LECC will serve as the centralized clearinghouse for information and documentation of realigned offender post-release packets.
- (b) Conduct meetings every six (6) months with a minimum of one (1) representative from each PARTY.
- (c) Increase information sharing during Operations.

- 6.1.3** Prior to R3 Operations, an Operations Plan must be approved by the R3designated coordinators. The Operations Plan shall be submitted by the operations coordinator via email to R3@sdsheriff.org at least seventy-two (72) hours prior to the Operation.
- 6.1.4** At the conclusion of each R3 Operation, participating PARTY shall complete a Daily Activity Report (DAR). The DAR will be submitted to the PARTY'S designated coordinator.
- 6.1.5** The designated coordinator shall email the following to R3@sdsheriff.org:
- (a) A completed OVERALL Operation Statistics form
 - (b) All completed DAR forms received from personnel
 - (c) A completed Operation Roster which includes all personnel assigned to the Operation and sign in and sign out times.

6.2 Personnel Qualifications and Assignment

6.2.1 Qualifications

Each PARTY shall ensure that personnel assigned to perform Operations pursuant to this Agreement meet the minimum qualification for their specific classification.

6.2.2 Management, Direction and Supervision

The hiring, firing, management, direction, and supervision of each PARTY's personnel, the standards of performance, the discipline of each PARTY'S personnel, and all other matters incident to the performance of such services, shall be performed by and be the responsibility of each PARTY in each PARTY's sole but reasonable judgment and in accord with the provisions of applicable labor agreements. Each PARTY shall be the appointing authority for all its personnel provided to the R3 program by this Agreement. PARTIES shall have no liability for any direct payment of salary, wages, indemnity, or other compensation or benefit to any other PARTY's personnel engaged in performing this Agreement.

6.2.3 Designated Coordinators

SHERIFF shall select and designate a coordinator who shall manage and direct the R3 program. Each other PARTY shall select and designate a coordinator under this Agreement. The designated coordinators for each PARTY shall represent their agency on the R3 outlined in Section 4.2, perform the activities outlined in Section 6.1.5 and implement, as needed, appropriate procedures governing the performance of all requirements under this Agreement and shall be responsible for meeting and conferring in good faith in order to address any disputes which may arise concerning implementation of this Agreement.

6.2.4 Staffing for Basic Services

PARTIES shall ensure that adequate numbers of their qualified respective personnel are provided to R3 program Operations at all times during the term of this Agreement to meet the Basic Services, Scope of Services, and Standards of Service commitments set forth herein.

6.2.5 Equipment and Supplies

Each PARTY will supply its own personnel with all supplies and/or prescribed safety gear, body armor, and/or standard issue equipment necessary to perform R3 program Operations under this agreement.

7. COST OF SERVICES/CONSIDERATION

7.1 General

As full consideration for the satisfactory performance and completion by PARTIES of Operations set forth in this Agreement, COUNTY through SHERIFF shall reimburse PARTIES for personnel assigned to perform R3 program Operations on the basis of claims and submittals as set forth hereunder. Such payments by COUNTY through SHERIFF are dependent on the continued availability of funds from the State of California Local Revenue Fund, Community Corrections Subaccount.

7.2 Personnel Costs/Rate of Compensation

During the term of this Agreement, COUNTY through SHERIFF shall reimburse PARTIES for overtime worked by personnel assigned to perform R3 program Operations based upon available funding and the actual costs incurred by PARTIES to provide Operations under this Agreement.

7.3 Method of Payment

PARTIES shall submit correct and complete reimbursement forms, labor reports, and timesheets, as documentation that represents amounts due under this Agreement to SHERIFF no later than the final business day of the subsequent month from the month being claimed. All requests for reimbursement shall be sent to:

San Diego County Sheriff s Department
O-41 Grants Unit (R3)
P. O. Box 939062
San Diego, CA 92193-9062

7.3.1 Reimbursement forms, labor reports, and timesheets must have the signature of PARTY's designated coordinator or his or her designee, certifying that the invoice, labor reports, and timesheets are true and correct.

7.3.2 PARTIES shall provide payroll records for every person whose costs are reimbursable under this Agreement, to include, at a minimum, the person's name, classification, duty position, task, regular hourly rate, overtime-hourly rate, overtime hours worked, date overtime worked, and fringe benefit rate and cost. PARTIES shall make available to SHERIFF for inspection, upon request,

all payroll records and any other records that relate to the Basic Services provided under this Agreement.

7.3.3 Within sixty (60) business days upon receipt of valid invoice and complete documentation, SHERIFF will reimburse PARTIES for the Basic Services agreed to.

7.3.4 Each PARTY is responsible for tracking the claims submitted by their agency to ensure their total claim does not exceed the allocation for their agency.

8. INDEMNIFICATION - WORKERS COMPENSATION, EMPLOYMENT AND CLAIMS AND LIABILITY ISSUES

8.1 The COUNTY shall fully indemnify and hold harmless non-County PARTIES and their respective officers, employees, and agents, from any claims, losses, fines, expenses (including attorneys' fees and court costs and/or arbitration costs), costs, damages or liabilities arising from or related to (1) any workers' compensation claim or demand or other workers' compensation proceeding arising from or related to, or claimed to arise from or relate to, employment which is brought by an employee of the COUNTY or any contract labor provider retained by the COUNTY, or (2) any claim, demand, suit, or other proceeding arising from or related to, or claimed to arise from or relate to, the status of employment (including without limitation, compensation, demotion, promotion, discipline, termination, hiring, work assignment, transfer, disability, leave or other such matters) which is brought by an employee of the COUNTY or any contract labor provider retained by the COUNTY.

8.2 Each non-County PARTY shall fully indemnify and hold harmless the COUNTY, its officers, employees, and agents, from any claims, losses, fines, expenses (including attorneys' fees and court costs or arbitration costs), costs, damages or liabilities arising from or related to (1) any workers' compensation claim or demand or other workers' compensation proceeding arising from or related to, or claimed to arise from or relate to, employment which is brought by an employee of that respective agency or any contract labor provider retained by that respective agency, or (2) any claim, demand, suit, or other proceeding arising from or related to, or claimed to arise from or relate to, the status of employment (including without limitation, compensation, demotion, promotion, discipline, termination, hiring, work assignment, transfer, disability, leave or other such matters) which is brought by an employee of that respective agency or any contract labor provider retained by that respective agency.

8.3 Each non-County PARTY shall fully indemnify and hold harmless the other non-County PARTIES, its officers, employees, and agents, from any claims, losses, fines, expenses (including attorneys' fees and court costs or arbitration costs), costs, damages or liabilities arising from or related to (1) any workers' compensation claim or demand or other workers' compensation proceeding arising from or related to, or claimed to arise from or relate to, employment which is brought by an employee of that respective agency or any contract labor provider retained by non-County party, or (2) any claim,

demand, suit, or other proceeding arising from or related to, or claimed to arise from or relate to, the status of employment (including without limitation, compensation, demotion, promotion, discipline, termination, hiring, work assignment, transfer, disability, leave or other such matters) which is brought by an employee of that respective law enforcement agency or any contract labor provider retained by the law enforcement agency.

9. INDEMNIFICATION RELATED TO ACTS OR OMISSIONS; NEGLIGENCE

9.1 Claims Arising From Sole Acts or Omissions of a PARTY

Each PARTY to this Agreement hereby agrees to defend and indemnify the other PARTIES to this Agreement, their agents, officers, and employees, from any claim, action, or proceeding against the other PARTIES, arising solely out of its own acts or omissions in the performance of this Agreement. At each PARTY's sole discretion, each PARTY may participate at its own expense in the defense of any claim, action, or proceeding, but such participation shall not relieve any PARTY of any obligation imposed by this Agreement. PARTIES shall notify each other promptly of any claim, action, or proceeding and cooperate fully in the defense.

9.2 Claims Arising From Concurrent Acts or Omissions

The PARTIES hereby agree to defend themselves from any claim, action, or proceeding arising out of the concurrent acts or omissions of the PARTIES. In such cases, PARTIES agree to retain their own legal counsel, bear their own defense costs, and waive their right to seek reimbursement of such costs, except as provided in paragraph 9.4 below.

9.3 Joint Defense

Notwithstanding paragraph 9.2 above, in cases where PARTIES agree in writing to a joint defense, PARTIES may appoint joint defense counsel to defend the claim, action, or proceeding arising out of the concurrent acts or omissions of PARTIES. Joint defense counsel shall be selected by mutual agreement of PARTIES. PARTIES agree to share the costs of such joint defense and any agreed settlement in equal amounts, except as provided in section 9.4 below. PARTIES further agree that no PARTY may bind the others to a settlement agreement without the written consent of the others.

9.4 Reimbursement and/or Reallocation

Where a trial verdict or arbitration award allocates or determines the comparative fault of the parties, PARTIES may seek reimbursement and/or reallocation of defense costs, settlement payments, judgments and awards, consistent with such comparative fault.

10. GENERAL PROVISIONS

10.1 Independent Contractor Status

10.1.1 In the performance of services under this Agreement, COUNTY and CITIES acknowledge and agree that COUNTY and its respective officers, agents and/or employees shall be deemed independent contractors and not officers,

agents or employees of CITIES; CITIES and their respective officers, agents and/or employees shall be deemed independent contractors and not officers, agents or employees of COUNTY. All such personnel provided by COUNTY under this Agreement are under the direct and exclusive supervision, daily direction, and control of COUNTY and COUNTY assumes full responsibility for the actions of such personnel in the performance of services hereunder; all such personnel provided by CITIES under this Agreement are under the direct and exclusive supervision, daily direction, and control of their respective agencies and each agency assumes full responsibility for the actions of such personnel in the performance of services hereunder.

10.1.2 COUNTY and CITIES acknowledge and agree that COUNTY does not control the manner and means of performing the work of CITIES' officers, agents or employees who perform R3 program Operations, nor does COUNTY have the right to hire or fire such officers, agents or employees. CITIES do not control the manner and means of performing the work of COUNTY officers, agents or employees who perform R3 program Operations, nor do CITIES have the right to hire or fire such officers, agents or employees.

10.1.3 COUNTY has no authority of any kind to bind CITIES, and CITIES have no authority to bind COUNTY in any respect whatsoever, nor shall COUNTY act or attempt to act, or represent itself directly or by implication as an agent of CITIES, or in any manner assume or create or attempt to assume or create any obligation on behalf of or in the name of CITIES. CITIES shall not act or attempt to act, or represent themselves directly or by implication as an agent of COUNTY, or in any manner assume or create or attempt to assume or create any obligation on behalf of or in the name of COUNTY.

10.2 Notices

Any notice, request, demand, or other communication required or permitted hereunder shall be in writing and may be personally delivered or given as of the date of mailing by depositing such notice in the United States mail, first-class postage prepaid and addressed as follows or, to such other place as each party may designate by subsequent written notice to each other:

To COUNTY and SHERIFF:

Sheriff
San Diego County Sheriff's Department
P. O. Box 939062
San Diego, CA 92193

Chief Probation Officer
Probation Department
9444 Balboa Avenue, Ste. 500
San Diego, CA 92123

#

To non-County PARTIES:

Chief of Police
Carlsbad Police Department
2560 Orion Way
Carlsbad, CA 92010

Chief of Police
Chula Vista Police Department
315 Fourth Avenue
Chula Vista, CA 91910

Chief of Police
Coronado Police Department
700 Orange Avenue
Coronado, CA 92118

Chief of Police
El Cajon Police Department
100 Civic Center Way
El Cajon, CA 92020

Chief of Police
Escondido Police Department
1163 North Centre City Parkway
Escondido, CA 92026

Chief of Police
La Mesa Police Department
8085 University Avenue
La Mesa, CA 91942

Chief of Police
National City Department
1200 National City Boulevard
National City, CA 91950

Chief of Police
Oceanside Police Department
3855 Mission Avenue
Oceanside, CA 92058

Chief of Police
San Diego Police Department
1401 Broadway
San Diego, CA 92101

A notice shall be effective on the date of personal delivery if personally delivered before 5:00p.m. on a business day or otherwise on the first business day following personal delivery; or two (2) business days following the date the notice is postmarked, if mailed; or on the first business day following delivery to the applicable overnight courier, if sent by overnight courier for next business day delivery and otherwise when actually received.

10.3 Amendment

This Agreement may be modified or amended only by a written document signed by the COUNTY through SHERIFF and the affected PARTY or PARTIES, and no oral understanding or agreement shall be binding on any PARTY or PARTIES.

10.4 Entire Agreement

This Agreement constitutes the complete and exclusive statement of agreement between the COUNTY and non-County PARTIES with respect to the subject matter hereto. As such, all prior written and oral understandings are superseded in total by this Agreement.

#

10.5 Construction

This Agreement will be deemed to have been made and shall be construed, interpreted, governed, and enforced pursuant to and in accordance with the laws of the State of California. The headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand, or limit the terms of the Agreement and shall not be construed against any one PARTY.

10.6 Waiver

A waiver by COUNTY or non-County PARTIES of a breach of any of the covenants to be performed by COUNTY or non-County PARTIES shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions, or conditions of this Agreement. In addition, the failure of any party to insist upon strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by COUNTY or non-County PARTIES of either performance or payment shall not be considered a waiver of PARTY's preceding breach of this Agreement.

10.7 Authority to Enter Agreement

COUNTY and non-County PARTIES have all requisite power and authority to conduct their respective business and to execute, deliver, and perform the Agreement. Each PARTY warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective PARTY.

10.8 Cooperation

COUNTY through SHERIFF and non-County PARTIES will cooperate in good faith to implement this Agreement.

10.9 Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. COUNTY through SHERIFF will provide each non-County PARTY with a copy of this Agreement once fully executed.

10.10 Severability

This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any Court or other legal authority, or is agreed upon by the PARTIES, to be in conflict with any law or regulation, then the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of this Agreement to any PARTY is lost, then the Agreement may be terminated at the option of the affected PARTY, with the notice as required in this Agreement. In all other cases, the remainder of this Agreement shall be severable and shall continue in full force and effect.

#

10.11 Representation

Each PARTIES' Chief, or their respective designee, shall represent their agency in all discussions pertaining to this Agreement. SHERIFF, or his or her designee, shall represent SHERIFF in all discussions pertaining to this Agreement.

10.12 Dispute Resolution Concerning Services and Payment

In the event of any dispute concerning services and payment arising from this Agreement, the SHERIFF, or his or her designee, and PARTIES' Chief of Police, or his or her respective designee, will meet and confer within ten (10) business days after receiving notice of the dispute to resolve the dispute.

10.13 Termination of Funding

In the event that funding for reimbursement of costs related to R3 program Operations is terminated, this Agreement in its entirety shall be considered null and void and PARTIES shall no longer be required to provide R3 program Operations as described herein. In such event, COUNTY through SHERIFF shall notify all PARTIES in writing and all PARTIES shall meet immediately, and if agreed upon by the PARTIES, mutually develop and implement within a reasonable time frame, a transition plan for the provision of R3 program Operations through alternate means.

10.14 Obligation


This Agreement shall be binding upon the successors of the PARTIES.

10.15 California Law

This Agreement is executed and delivered within the State of California and the rights and obligations of the PARTIES hereto shall be construed and enforced in accordance with, and governed by the laws of the State of California.


IN WITNESS WHEREOF, the PARTIES hereto approve and agree to the terms of this Agreement, such Agreement being effective July 1, 2017 and executed on this 27th day of APRIL, 2018.

COUNTY OF SAN DIEGO
SHERIFF'S DEPARTMENT



William D. Gore
Sheriff

COUNTY OF SAN DIEGO
PROBATION DEPARTMENT



Adolfo Gonzales
Chief

CARLSBAD POLICE DEPARTMENT

ATTACHED

Neil Gallucci
Chief

CHULA VISTA POLICE DEPARTMENT

ATTACHED

Roxana Kennedy
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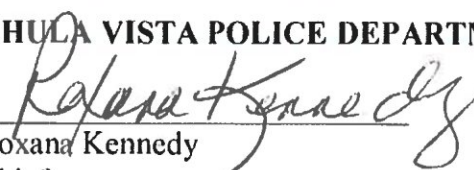
Adolfo Gonzales
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CARLSBAD POLICE DEPARTMENT

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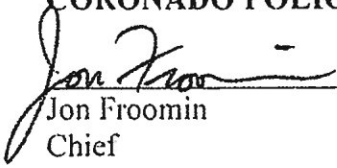
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CITY OF EL CAJON

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City Manager

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David Nisleit
Chief

CITY OF SAN DIEGO

ATTACHED

Kevin Faulconer (or designee)
Mayor

Approved as to form and legality:
SAN DIEGO COUNTY COUNSEL

Approved as to form:
**MARA W. ELLIOTT, SAN DIEGO
CITY ATTORNEY**

ATTACHED

Mark Day
Senior Deputy

ATTACHED

By Deputy City Attorney

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Chief Deputy City Attorney

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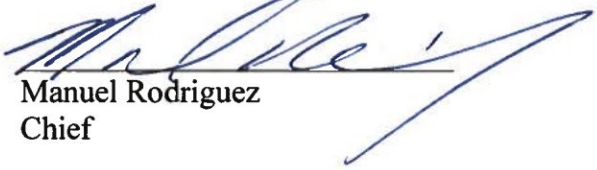
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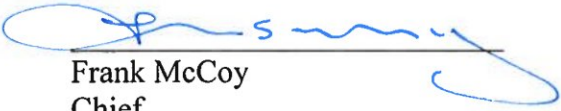
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By Deputy City Attorney

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 4/2/18

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Senior Deputy

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CITY OF SAN DIEGO

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Kevin Faulconer (or designee)
Mayor

Approved as to form:
**MARA W. ELLIOTT, SAN DIEGO
CITY ATTORNEY**

ATTACHED

By Deputy City Attorney

#

RESOLUTION NO. 2021 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, AUTHORIZING ACCEPTING ANNUAL GRANT FUNDS TO SUPPORT THE REGIONAL REALIGNMENT RESPONSE GROUP (“R3G”) OPERATIONS IN THE AMOUNT OF \$67,000 AND THE ESTABLISHMENT OF AN APPROPRIATION AND CORRESPONDING REVENUE BUDGET

WHEREAS, as part of the State of California Realignment (AB 109), San Diego County, through the Sherriff’s Department, requested funds from the Community Corrections Partnership (“CCP”) to create a Regional Realignment Response Group (“R3G”); and

WHEREAS, R3G currently consists of the County of San Diego Sheriff’s Department and Probation Department and the cities of Carlsbad, Chula Vista, Coronado, El Cajon, Escondido, La Mesa, Oceanside, San Diego, and the City of National City; and

WHEREAS, R3G utilizes the funds to support its primary goal of public safety by developing and implementing a targeted, proactive, intelligence-based approach to control and counteract the risks associated with realigned offenders and Post Release Community Supervision Offenders released into San Diego County; and

WHEREAS, City staff recommends City Council authorize (1) acceptance of annual grant funds to support of R3G operations in the amount of \$67,000 and (2) the establishment of an appropriation and corresponding revenue budget.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: Authorizes acceptance of annual grant funds for the support of Regional Realignment Response Group (“R3G”) operations in the amount of \$67,000 and the establishment of an appropriation and corresponding revenue budget.

Section 2: The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions

PASSED and ADOPTED this 7th day of September, 2021.

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City approving an Affordable Housing Density Bonus Agreement with Highland Pacifica, LLC, for the development of 16 units located at 2428 Highland Avenue and restricting the rent and occupancy of two \(2\) units to very low-income households in exchange for a density bonus pursuant to California Government Code Sections 65915 - 65918. \(Housing Authority\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO. |

ITEM TITLE:

Resolution of the City Council of the City of National City approving an Affordable Housing Density Bonus Agreement with Highland Pacifica, LLC, for the development of 16 units located at 2428 Highland Avenue and restricting the rent and occupancy of two (2) units to very low-income households in exchange for a density bonus pursuant to California Government Code Sections 65915 - 65918.

PREPARED BY:

Greg Rose, Property Agent

DEPARTMENT: Housing Authority

PHONE: 619-336-4266

APPROVED BY: 

EXPLANATION:

Highland Pacifica LLC (Developer) wants to develop their property located at 2428 Highland Avenue. Current zoning allows for the construction of 12 units by right. The Developer will restrict the rent and occupancy of two (2) units to very low-income households (below 50% of area median income) in exchange for a density bonus of 35% mandated by California Government Code Sections 65915 – 65918, which will allow the construction of an additional 4 units for a total of 16 units on the property. The Affordable Density Housing Bonus Agreement (“Agreement”) will serve to memorialize the Developer’s obligation to provide the two (2) affordable units and the restriction of the affordable units by the recordation of this Agreement assuring affordability for a total of 55 years. A Performance Deed of Trust will also be recorded to secure the Agreement on the property. The Background Report provides additional information on the Density Bonus Law.

50% Area Median Income Limits for National City effective April 1, 2021								
Family Size	1	2	3	4	5	6	7	8
	\$42,450	\$48,500	\$54,550	\$60,600	\$65,450	\$70,300	\$75,150	\$80,000

FINANCIAL STATEMENT:

APPROVED: _____

Finance

ACCOUNT NO.

APPROVED: _____

MIS

No Fiscal Impact – This report is informational only, there is no fiscal impact associated with the report.

ENVIRONMENTAL REVIEW:

The infill development project, including the density bonus incentives provided, is categorically exempt from CEQA review pursuant to Class 3 Section 15332.

ORDINANCE: **INTRODUCTION:** **FINAL ADOPTION:**

STAFF RECOMMENDATION:

Adopt the Resolution.

BOARD / COMMISSION RECOMMENDATION:

N/A

ATTACHMENTS:

1. Background Report and Site Plan
2. Affordable Housing Density Bonus Agreement
3. Performance Deed of Trust
4. Resolution

BACKGROUND REPORT

California's Density Bonus Law is a mechanism that allows developers to obtain more favorable local development requirements in exchange for offering to build or donate land for affordable or senior units. The Density Bonus Law (found in California Government Code Sections 65915 – 65918) provides developers with powerful tools to encourage the development of affordable and senior housing, including up to a 35% increase in project densities, depending on the amount of affordable housing provided. The Density Bonus Law is about more than the density bonus itself, however. It is actually a larger package of incentives intended to help make the development of affordable and senior housing economically feasible. Other tools include reduced parking requirements and incentives and concessions such as reduced setback and minimum square footage requirements. Often these other tools are even more helpful to project economics than the density bonus itself, particularly the special parking benefits. Sometimes these incentives are sufficient to make the project pencil out, but for other projects, financial assistance is necessary to make the project feasible.

In determining whether a development project would benefit from becoming a density bonus project, developers also need to be aware that:

- The density bonus is a state mandate. A developer who meets the requirements of the state law is entitled to receive the density bonus and other benefits as a matter of right. As with any state mandate, some local governments will resist complying with the state requirement. But many local governments favor the density bonus as a helpful tool to cut through their own land-use requirements and local political issues.
- Use of a density bonus may be particularly helpful in those jurisdictions that impose inclusionary housing requirements for new developments.
- Special development bonuses are available for developers of commercial projects who partner with affordable housing developers to provide onsite or offsite affordable housing. Special bonuses are also available for condominium conversion projects and projects that include child care facilities.
- The Legislature has recently added density bonuses for housing developments for foster youth, disabled veterans, homeless persons, and college students.

Cities and counties are required to grant a density bonus and other incentives or concessions to housing projects which contain one of the following:

- At least 5% of the housing units are restricted to very-low-income residents.
- At least 10% of the housing units are restricted to lower-income residents.
- At least 10% of the housing units in a for-sale common interest development are restricted to moderate-income residents.
- At least 10% of the housing units are for transitional foster youth, disabled veterans, or homeless persons, with rents restricted at the very-low-income level.
- At least 20% of the housing units are for low-income college students in housing dedicated for full-time students at accredited colleges.
- The project donates at least one acre of land to the city or county for very-low-income units, and the land has the appropriate general plan designation, zoning, permits and approvals, and access to public facilities needed for such housing.

- The project is a senior citizen housing development (no affordable units required).
- The project is a mobile home park age-restricted to senior citizens (no affordable units required).

Affordable rental units must be restricted by an agreement which sets maximum incomes and rents for those units. As of January 1, 2015, the income and rent restrictions must remain in place for a 55-year term for very low or lower income units. Rents must be restricted as follows:

- For very-low-income units, rents may not exceed 30% x 50% of the area median income for a household size suitable for the unit.
- For lower-income units, rents may not exceed 30% x 60% of the area median income for a household size suitable for the unit.
- Area median-income is determined annually by regulation of the California Department of Housing and Community Development, based upon median-income regulations adopted by the U.S. Department of Housing and Urban Development.
- Rents must include a reasonable utility allowance.
- Household size appropriate to the unit means 1 for a studio unit, 2 for a one bedroom unit, 3 for a two bedroom unit, 4 for a three bedroom unit, etc. In many cases, achieving a reduction in parking requirements may be more valuable than the additional permitted units.

The Density Bonus Law is often used by developers to obtain more housing than the local jurisdiction would ordinarily permit, it can also be a helpful land use tool. The density bonus can provide a useful mechanism for increasing allowable density without requiring local officials to approve general plan amendments and zoning changes. A project that satisfies the requirements of the Density Bonus Law often can obtain the necessary land use approvals through the award of the density bonus units and requested concessions and incentives, without having to amend the underlying land use requirements.

Although there is no specific density bonus exemption from the California Environmental Quality Act, many density bonus projects are likely candidates for urban infill and affordable housing exemptions from CEQA. One commonly invoked exemption is the Class 32 urban infill exemption found in CEQA Guidelines Section 15332. That exemption is available if the project is consistent with applicable general plan designation and zoning, the site is five acres or less and surrounded by urban uses, is not habitat for endangered, rare or threatened species, does not have any significant effects relating to traffic, noise, air quality or water quality, and is adequately served by utilities and public services. Other exemptions are available for high density housing projects near major transit stops (CEQA Guidelines Section 15195) and affordable housing projects of up to 100 units (CEQA Guidelines Section 15194).

Developer incentives are; eliminate requirement for common open space, reduce parking ratio from 0.5 spaces per bedroom to 0.5 spaces per dwelling unit, and reduce parking width for parking spaces adjacent to a wall structure from 11' to 9.5'.

The site plans for the apartment project at 2428 Highland Boulevard start on the following page.



VIEW FROM HIGHLAND AVE

AREA CALCULATIONS

FLOOR AREA CALCULATION	
1ST FLOOR	
RESIDENTIAL	546 SF
PARKING	4,941 SF
MISC. (LOBBY, STAIRS, OFFICE)	923 SF
UTILITIES / TRASH ROOM	154
TOTAL	6,564 SF
2ND FLOOR	
RESIDENTIAL	5,259 SF
3RD FLOOR	
RESIDENTIAL	5,041 SF
TOTAL FLOOR AREA	16,864 SF
MAX ALLOWED (2.5 FAR FOR SINGLE USE)	18,201.97 SF
EXTERIOR AREA CALCULATIONS	
1ST FLOOR	
HARDSCAPE / LANDSCAPE	659 SF
2ND FLOOR	
DECKS & EXT. CORRIDORS	1,132 SF
3RD FLOOR	
DECKS & EXT. CORRIDORS	710 SF

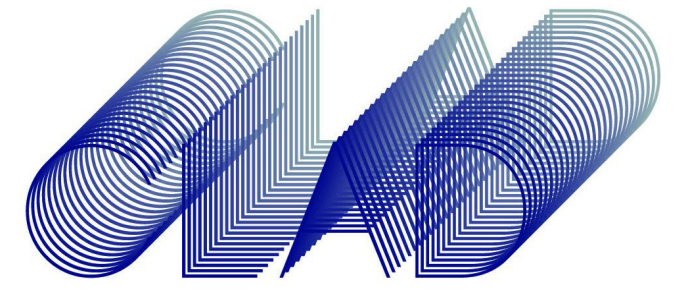
DEFERRED SUBMITTALS

1. AUTOMATIC FIRE SPRINKLER SYSTEM
2. FIRE ALARM SYSTEM
3. TRUSSES

DEFERRED SUBMITTAL NOTE:
 SUBMITTAL DOCUMENTS FOR DEFERRED SUBMITTAL ITEMS SHALL BE SUBMITTED TO THE REGISTERED DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE, WHO SHALL REVIEW THEM AND FORWARD THEM TO THE BUILDING OFFICIAL WITH A NOTATION INDICATING THE DEFERRED SUBMITTAL DOCUMENTS HAVE BEEN REVIEWED AND THAT THEY HAVE BEEN FOUND TO BE IN GENERAL CONFORMANCE WITH THE DESIGN OF THE BUILDING. THE DEFERRED SUBMITTAL ITEMS SHALL NOT BE INSTALLED UNTIL THEIR DESIGN AND SUBMITTAL DOCUMENTS HAVE BEEN APPROVED BY THE BUILDING OFFICIAL.

PROJECT TEAM

PROPERTY OWNER	AHMADIAN INVESTMENT GROUP, LLC ALEX AHMADIAN 3525 DEL. MAR HEIGHTS RD STE 274 SAN DIEGO, CA 92130 858.736.6218 ALEXAHMADIAN@GMAIL.COM
ARCHITECT	CLAD INC. COLIN LOWRY, AIA 4766 32ND ST SAN DIEGO, CA 92116 619 800 8105 COLIN@CLADINC.US
STRUCTURAL ENGINEER	SOLID PLAN ENGINEERING SEAN KESSEL, PE 3919 30TH ST SAN DIEGO, CA 92104 858.848.7734 SEAN@SOLIDPLANENG.COM
MEP ENGINEER	NAZARENE ENGINEERING JOHN B. BACHOUA, PE 2514 JAMACHA RD, SUITE 502-183 EL CAJON, CA 92109 619.333.6703 JOHN@NAZENENGINEERING.COM
CIVIL ENGINEER	KAPPA SURVEYING AND ENGINEERING, INC BILL DICK, PE LS 8707 LA MESA BLVD LA MESA, CA 91941 619.465.8948 BILLD@KAPPAINC.COM
GEOTECHNICAL ENGINEER	SOIL TESTERS CHIN C CHEN, RPE PO BOX 1195 LAKEVIEW, CA 92040 619.443.0060
LANDSCAPE ARCHITECT	SIMON LANDSCAPE ARCHITECTURE KYLE SIMON, PLA 619.370.1080 KSIMON@SIMONLANDSCAPEARCHITECTURE.COM
ACOUSTICAL CONSULTANT	DBF ASSOCIATES, INC. STEVEN FIEDLER, PRINCIPAL 3129 TIGER COURT, SUITE 202 CARLSBAD, CA 92010 619.609.0722 SFIEDLER@DBF-ASSOCIATES.COM
CONTRACTOR:	SYMBOLIC BUILDERS ALEX AHMADIAN 3525 DEL. MAR HEIGHTS RD STE 274 SAN DIEGO, CA 92130 858.736.6218 ALEXAHMADIAN@GMAIL.COM



CLAD Inc.
4766 32nd Street, San Diego, CA 92116
619.800.8105

Architect:



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11542-D(2 OF 3)	SEWER NOTES
11542-D(3 OF 3)	GRADING
11542-D(4 OF 3)	EROSION CONTROL
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L2	LANDSCAPE SITE PLAN
A001	GENERAL NOTES & BUILDING CODE ANALYSIS
A002	SPECIFICATIONS
A003	SPECIFICATIONS
A004	SPECIFICATIONS
A005	SPECIFICATIONS
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A101	PARTIAL FIRST FLOOR PLAN
A102	PARTIAL FIRST FLOOR PLAN
A103	PARTIAL SECOND FLOOR PLAN
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A106	PARTIAL THIRD FLOOR PLAN
A107	PARTIAL ROOF PLAN
A108	PARTIAL ROOF PLAN
A109	EGRESS FLOOR PLANS
A111	FIRST FLOOR REFLECTED CEILING PLAN
A112	SECOND FLOOR REFLECTED CEILING PLAN
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S10	STRUCTURAL DETAILS
S11	STRUCTURAL DETAILS
S12	STRUCTURAL DETAILS
SS1	STANDARD STRUCTURAL DETAILS
SS2	STANDARD STRUCTURAL DETAILS
WSW1	STRONG WALL DETAILS
WSW2	STRONG WALL DETAILS
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DEVELOPER INCENTIVES

THIS PROJECT INCLUDES DEVELOPMENT INCENTIVES GRANTED IN ACCORDANCE WITH GOVERNMENT CODE 65915

1. ELIMINATE REQUIREMENT FOR COMMON OPEN SPACE
2. REDUCE PARKING RATIO FROM 0.5 SPACE PER BEDROOM TO 0.5 SPACE PER DWELLING UNIT
3. REDUCE PARKING WIDTH FOR PARKING SPACE ADJACENT TO A WALL STRUCTURE FROM 11' TO 9.5'.

VICINITY MAP



PROJECT INFO

ADDRESS	2428 HIGHLAND AVE NATIONAL CITY, CA 91950
ASSESSOR'S PARCEL NUMBER	562-072-03-00
LEGAL DESCRIPTION	PORTION OF LOTS 15-20, ALL IN BLOCK 4 OF FLORA M. KIMBALL'S SUBDIVISION OF THE EAST HALF OF 10 ACRE LOT 16 OF QUARTER SECTION 152, RANCHO DE LA NACION IN THE CITY OF NATIONAL CITY, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF NO. 44, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, PER DOC #2018-0326562
SITE AREA	7,280.79 SF (0.167 ACRES)
PROJECT DESCRIPTION	THE SCOPE OF WORK INCLUDES THE NEW CONSTRUCTION OF 3-STORY BUILDING CONSISTING OF: 16 MULTIFAMILY DWELLING UNITS (TYPE 5B, R2) 10,846 SF LOBBY / STAIRS / OFFICE (TYPE 5B, R2) 923 SF COVERED PARKING (TYPE 5B, S2) 4,941 SF UTILITY / TRASH ROOM (TYPE 5B, U) 154 SF
ZONING CLASSIFICATION	MXC-2
CONSTRUCTION TYPE	TYPE 5B
OCCUPANCY	R-2 (APARTMENTS); S2 (PARKING GARAGE)
DWELLING UNITS	ALLOWED: 75 DU/A (0.166 A X 75 = 12.45 = 12 DU'S + 35% DENSITY BONUS = 16.2 = 17 DU'S = 17 MAX DU'S ALLOWED PROVIDED: 16 TOTAL DWELLING UNITS
PARKING	REQUIRED: 0.5 PER DU X 18 = 8 = 8 TOTAL PARKING SPACES (PER INCENTIVES #2) PROVIDED: 9 COVERED PARKING SPACES
SPRINKLERS	NFPA 13
DENSITY BONUS	TWO (16.7%) UNITS WILL BE RESERVED FOR VERY LOW INCOME HOUSEHOLD IN RETURN FOR A 35% DENSITY BONUS AND 3 INCENTIVES
MAX HEIGHT:	REQUIRED: 65' MAX PROVIDED: 31'-0 1/2"
MAX FAR:	REQUIRED: 2.5 MAX (SINGLE USE) PROVIDED: 2.5 MAX (SINGLE USE)
COMMON OPEN SPACE:	REQUIRED 300 SF x 17 DU'S = 5,100 SF PROVIDED: 0 (PER INCENTIVES #1)
PRIVATE OPEN SPACE	REQUIRED : 60 SF PER DU PROVIDED : 60 SF (SEE FLOOR PLANS)

2428 HIGHLAND

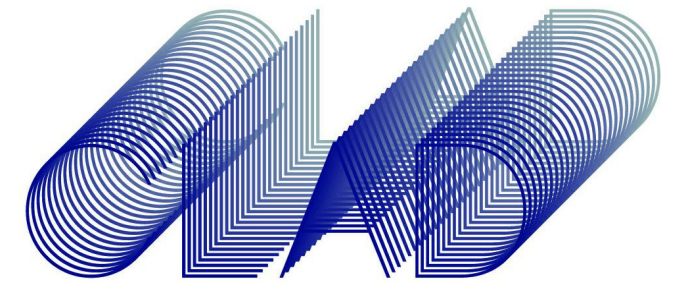
2428 Highland Ave, National City, CA 91950

Project Number: 1801 Date: 11.04.2020

Revision: No. Date: Notes:

TITLE SHEET

G001



CLAD Inc.
4766 32nd Street, San Diego, CA 92116
619.800.8105

Architect:



2428 HIGHLAND

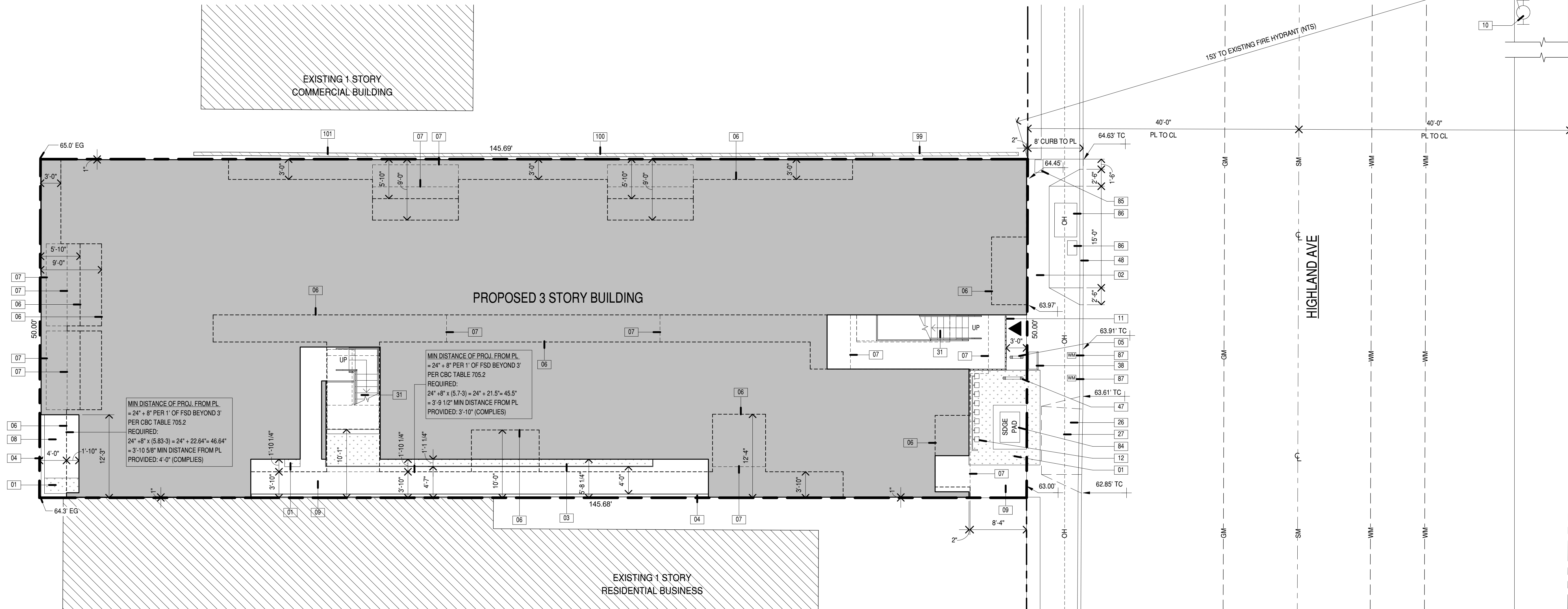
2428 Highland Ave, National City, CA 91950

Project Number: 1801 Date: 11.04.2020

Revision: No. Date: Notes:

SITE PLAN

A100



1 SITE PLAN
1/8" = 1'-0"

SITE PLAN NOTES

- SEE CIVIL PLANS FOR GRADING AND DRAINAGE INFORMATION.
- PER MXC-2 ZONE NO SETBACKS REQUIRED AT FRONT, SIDE, AND REAR PROPERTY LINES

FIRE DEPARTMENT NOTES

- NEW AND EXISTING BUILDINGS SHALL HAVE APPROVED ADDRESS NUMBERS, BUILDING NUMBERS OR APPROVED BUILDING IDENTIFICATION PLACED IN A POSITION THAT IS PLAINLY LEGIBLE AND VISIBLE FROM THE STREET OR ROAD FRONTING THE PROPERTY. THESE NUMBERS SHALL CONTRAST IN COLOR TO BACKGROUND. NUMBERS SHALL BE A MINIMUM OF 4" HIGH WITH A MINIMUM STROKE WIDTH OF 1/2". CFC 505.1.
- WHERE ACCESS TO OR WITHIN A STRUCTURE OR AN AREA IS RESTRICTED BECAUSE OF SECURED OPENINGS OR WHERE IMMEDIATE ACCESS IS NECESSARY FOR LIFE-SAVING OR FIRE-FIGHTING PURPOSES, THE FIRE CODE OFFICIAL IS AUTHORIZED TO REQUIRE A KEY BOX TO BE INSTALLED IN AN APPROVED LOCATION. THE KEY BOX SHALL BE OF AN APPROVED TYPE AND SHALL CONTAIN KEY(S) TO GAIN NECESSARY ACCESS AS REQUIRED BY THE FIRE CODE OFFICIAL. CFC 503.6.
- WHEN SPRINKLERS ARE REQUIRED, SUBMIT FIRE SPRINKLER TENANT IMPROVEMENT PLANS TO FIRE DEPARTMENT FOR APPROVAL PRIOR TO INSTALLATION. CFC 901.4
- PORTABLE FIRE EXTINGUISHER(S) SHALL BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH CFC 906, TABLE 906.3(1) AND CHAPTER 3, TITLE 19 CCR.
- THIS PROJECT WILL BE IN COMPLIANCE WITH THE CURRENT EDITIONS OF NFPA, CFC, TITLE 19 AND LOCAL CITY OF NATIONAL CITY MUNICIPAL CODES.
- REQUESTS FOR INSPECTIONS SHALL BE MADE 48 HOURS IN ADVANCE. INSPECTIONS SHALL BE MADE ONCE WORK IS COMPLETE, UTILIZING APPROVED AND STAMPED PLANS. CONTRACTOR SHALL BE REQUIRED TO HAVE THE APPROVED PLANS ON SITE PER CODE.

SITE PLAN LEGEND

	LANDSCAPED AREA		KEYNOTE: SEE KEYNOTE LEGEND
	NO PARKING ZONE		DIRECTION OF TRAVEL
	PROPOSED BUILDING		FIRE HYDRANT
	PROPERTY LINE		ACCESSIBLE PARKING PAVEMENT SYMBOL
	SETBACK LINE		PARKING SPACE NUMBER
	OUTLINE OF ROOF OR BALCONY ABOVE		TOP OF WALL
	OUTLINE OF FLOOR ABOVE		BOTTOM OF WALL
	CENTERLINE OF PUBLIC ROAD		EXISTING GRADE
	EXISTING SEWER MAIN		FINISHED GRADE
	EXISTING WATER MAIN		FINISHED FLOOR ELEVATION
	EXISTING GAS MAIN		RIGHT OF WAY
			TYPICAL
			UNLESS NOTED OTHERWISE

KEYNOTE LEGEND

NUMBER	DESCRIPTION
01	LANDSCAPE AREA PER LANDSCAPING PLANS
02	SIDEWALK PER CIVIL PLANS
03	RAISED FLOW THROUGH PLANTER WITH CORTEN STEEL WALLS
04	6H FENCE ON CONCRETE CURB PER CIVIL PLANS
05	BACKFLOW PREVENTER PER CIVIL PLANS
06	OUTLINE OF FLOOR ABOVE
07	OUTLINE OF DECK ABOVE
08	GROUND FLOOR PRIVATE PATIO
09	CONCRETE WALKWAY (4'-1" MIN. WIDTH)
10	EXISTING FIRE HYDRANT, DISTANCE TO SITE 153'
11	3' WIDE ENTRY GATE, LOCKING SYSTEM PER OWNER
12	GAS METERS PER PLUMBING PLANS
26	EXISTING CURB CUT TO BE REMOVED
27	EXISTING OVERHEAD POWER LINES
31	STEEL STAIR, PAINTED
38	FLORENCE MAILBOX, 4C15D-18-8K
47	BACKFLOW PREVENTER FOR FIRE SERVICE AND FIRE DEPARTMENT CONNECTION
48	PROPOSED DRIVEWAY AND CURB CUT PER CIVIL PLANS
84	SDGE TRANSFORMER AND CONC. PAD
85	EXISTING TELECOM PEDESTAL TO REMAIN
86	EXISTING TELECOM BOX TO BE LOWERED FLUSH WITH DRIVEWAY
87	WATER METER PER CIVIL PLANS
99	EXISTING 4' HIGH CONC. BLOCK WALL PER SURVEY, TO REMAIN
100	EXISTING 8' HIGH CONC. BLOCK WALL PER SURVEY, TO REMAIN
101	EXISTING 10' HIGH CONC. BLOCK WALL PER SURVEY, TO REMAIN

No Fees per Government Code 6103]
 RECORDING REQUESTED BY:]
 National City Housing Authority]
]
]
]
]
 WHEN RECORDED MAIL TO:]
 National City Housing Authority]
 Attention: Executive Director]
 1243 National City Boulevard]
 National City, CA 91950]

**AFFORDABLE HOUSING DENSITY BONUS AGREEMENT
 (2428 Highland Avenue)**

THIS AFFORDABLE HOUSING DENSITY BONUS AGREEMENT (“Agreement”) is dated as of the 31 day of August, 2021, by and between the City of National City (“City”), and Highland Pacifica LLC, a California limited liability company (“Developer”).

WHEREAS, Developer is the owner of that certain real property generally located at 2428 Highland Avenue, in the City of National City, County of San Diego, more particularly described in Exhibit “A” attached hereto (“Property”); and

WHEREAS, the General Plan and Zoning Ordinance of National City permit no more than twelve (12) housing units on the Property; and

WHEREAS, Developer proposes to develop a total of sixteen (16) housing units on the Property (“Development”); and

WHEREAS, pursuant to Government Code section 65915, and Sections 18.48.030, et seq. of the National City Municipal Code, the Developer has proposed to construct and restrict the rent and occupancy of two (2) residential dwelling units, one (1) studio unit and one (1) one bedroom unit, (“Affordable Unit”) to very low-income households in exchange for a density bonus (“Density Bonus”) which will allow the construction of the sixteen (16) unit Development on the Property. In addition to the Density Bonus, the Developer has requested and received incentives and concessions as set forth in Government Code Section 65915; and

WHEREAS, This Agreement will serve to memorialize Developer’s obligation to provide the two (2) Affordable Unit, the time frame for the construction and occupancy of the Affordable Unit and the restriction of the Affordable Unit by the recordation of this Agreement assuring affordability for a total of fifty-five (55) years measured from the issuance of final inspection approval for the Development.

NOW, THEREFORE, in consideration of the foregoing and of the mutual terms and covenants hereinafter set forth and other good and valuable consideration, the City and Developer agree as follows:

1. Acknowledgement of Incentives. Developer acknowledges and agrees that, in addition to the Density Bonus, Developer is receiving incentives and concessions pursuant to and in accordance with the requirements of Government Code 65915.

2. Developer Covenants. Pursuant to and in consideration of the Density Bonus and the additional incentives and concessions, Developer hereby agrees and covenants on behalf of itself and its successors and assigns, and each successor in interest to the Property, that at all times during the term of this Agreement two (2) units, one (1) studio and one (1) one bedroom, residential dwelling units on the Property shall be rented and occupied as the Affordable Unit as set forth in this Agreement. As used herein the term “Affordable Unit” shall refer to the two (2) residential dwelling units on the Property which are held available strictly in accordance with the terms and conditions set forth in this Agreement.

3. Affordability Restrictions.

(a) Area Median Income. As used herein, “Area Median Income” shall mean the area median income, as adjusted for family size, for San Diego County, established periodically by the California Department of Housing and Community Development (“HCD”) and published in the California Code of Regulations. In the event HCD ceases to publish an established Area Median Income as aforesaid, the City may, in its sole discretion, use any other reasonably comparable method of computing Area Median Income.

(b) Occupancy Restrictions. During the term of this Agreement, the Affordable Unit shall be occupied by a household whose income does not exceed the very low income limits applicable to San Diego County, adjusted for household size, as published annually by HCD, earning at or below fifty percent (50%) of the Area Median Income.

(c) Rent Amount. During the term of this Agreement, the monthly rental rate for the Affordable Unit (which shall include a utility allowance based on the utility allowance schedules published annually by the National City Housing Authority) shall not exceed 1/12 of thirty percent (30%) of fifty percent (50%) of the Area Median Income, as adjusted for assumed household size and utilities. The imputed household size for the Affordable Unit shall be equal to the number of bedrooms in the unit plus one. For example, the rent for the two-bedroom Affordable Unit shall be calculated using fifty percent (50%) of the Area Median Income for a 3-person household.

4. Restrictions. The following restrictions shall also be applicable to the Affordable Unit:

(a) No Relationship With Developer. The Affordable Unit shall not be occupied or leased to Developer or any relative (by blood or marriage) of Developer or any person employed by Developer or of any individuals who are members, principals, executives, directors, partners

or shareholders of Developer or in any entity having an ownership in Developer or in the Property.

(b) No Full-Time Students. The Affordable Unit shall not be occupied or leased to any household comprised exclusively of persons who are full-time students, unless such persons are eligible to file a joint federal income tax return and all such persons reside in the Affordable Unit. The term “full-time student” shall be defined as any person who will be or has been a full-time student during five calendar months of the calendar year in question at an educational institution (other than a correspondence school) with regular faculty and students.

(c) No Student Dependents. Notwithstanding the provisions of section 4(b), the Affordable Unit shall not be occupied or leased to any student dependent as defined in the U.S. Internal Revenue Code, unless the taxpayer (upon whom the student in question is dependent) resides in the same unit.

(d) No Owners of Real Property. The Affordable Unit shall not be occupied or leased to any person or any household comprised of one or more persons who own real property.

(e) Liquid Asset Limitation. The Affordable Unit shall not be occupied or leased to any person or household holding, directly or indirectly, liquid assets whose aggregate value exceeds, at the time of determination of eligibility, eighty percent (80%) of the then-current annual Area Median Income. As used herein, the term “liquid assets” refers to cash and assets which are readily convertible to cash within a reasonable period, including but not limited to savings and checking accounts, certificates of deposit of any term, marketable securities, money market and similar accounts, mutual fund shares, and insurance policy cash values. The term “liquid assets” shall not include retirement funds which are not readily accessible or which cannot be accessed by the tenant without the tenant incurring a penalty.

(f) Income of Co-Tenants. The income of all co-tenants and/or occupants shall be taken into account in determining whether a tenant or prospective tenant meets the requirements of this Agreement.

(g) Eligible Tenants - Increased Income. If as a result of the annual recertification procedure described in Section 7 below any household which was previously determined to be eligible to occupy the Affordable Unit is determined to be ineligible as a result of increased income or assets, the City will provide written notification thereof, and Developer shall have one hundred eighty days (180) from the date of notification to take all reasonable steps to pursue eviction of the ineligible household. If Developer fails to act within the one hundred eighty day (180) period, the City shall require payment of a fee by Developer, provided that no fee shall be payable so long as Developer is diligently pursuing eviction of the ineligible household by appropriate proceedings. Under this fee requirement, the ineligible tenant residing in the Affordable Unit shall pay the full market rate rent, and Developer shall pay the difference between the affordable rent and the full market rate rent, as determined by the City, to the City. The period of fee payment shall in no event exceed a period of six (6) months, at which time Developer’s failure to provide the Affordable Unit to a household eligible hereunder shall constitute a material default under this Agreement.

5. Term. Pursuant to Government Code Section 65915, this Agreement shall be effective on the date of its recordation and shall remain in force until the date that is fifty-five (55) years from the date of issuance of final inspection approval of the Development by the City.

6. Deed of Trust.

(a) Execution and Recordation. Developer shall, concurrently with the execution of this Agreement, execute, acknowledge and record a deed of trust on the Property ensuring timely performance of the obligations set forth in this Agreement (“Deed of Trust”). The Deed of Trust shall be subordinated to the construction deed(s) of trust and/or permanent financing in favor of institutional lenders, as approved by the City Manager. The subordination shall be upon such terms and conditions and for such periods of time as the City Manager may approve to protect the provision of affordable housing as required by this Agreement. The City shall reconvey the Deed of Trust following the expiration of the term of this Agreement.

(b) Foreclosure on the Property. In the event of a foreclosure on the Property which eliminates the Deed of Trust, the new owner, upon five (5) days written notice from the City, shall: (i) execute, acknowledge and deliver to the City an assignment and assumption of this Agreement in a form as approved by the City, in its reasonable discretion, for recordation; (ii) execute, acknowledge and deliver to the City a deed of trust, in a form as approved by the City, in its reasonable discretion, to be recorded against the Property, in a lien priority immediately junior to the assignment and assumption of this Agreement which will secure the performance of this Agreement; and (iii) reimburse the City for all of its attorneys’ fees and costs in connection with the foregoing, including all costs, attorneys’ fees, and expert witnesses fees incurred by the City in obtaining compliance by the new owner, including those incurred in litigation, if any.

7. Verification of Eligibility. The Affordable Unit shall not be rented to a prospective tenant or occupied by any person unless and until the City, through its designated staff, has verified that the prospective tenant or occupant is eligible and that affordable rents will be charged in accordance with the criteria set forth in this Agreement. Developer and/or its successor in interest shall ensure that all eligibility and rent criteria are met during the term of the Agreement. Annually, on the anniversary of the initial certification of compliance, as determined by the City, during the term of this Agreement, Developer or its successor in interest shall certify to the City that the Affordable Unit is being occupied by eligible tenants. Said certification shall be on forms acceptable to the City.

8. Maintenance Standards. During the term of this Agreement, Developer shall maintain the one (1) Affordable Unit and the Property in a condition that satisfies the more stringent of (a) the requirements of the applicable local codes or (b) the United States Department of Housing and Urban Development’s Uniform Physical Conditions Standards. The City shall have the right to inspect the Affordable Unit and the Property prior to initial occupancy and periodically during the term of this Agreement, upon three business days’ notice to Developer. The City shall have the right to disclose results of those inspections to the appropriate enforcement authorities. Any deficiencies in the physical condition of the Affordable Unit shall be corrected by Developer at Developer’s expense within thirty (30) days of the identification of such deficiency by the City

and delivery of written notice of the same to Developer. Failure to maintain the unit(s) and the Property in compliance with this section shall constitute a breach of this Agreement and subject the Developer to damages as set forth in Section 13 of this Agreement.

9. Interpretation and Construction. If any provision of this Agreement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Agreement and the application of such provisions to persons or circumstances, other than those as to which it is found to be invalid, shall not be affected thereby. Nothing contained herein shall be deemed compliance with or waiver of any provision of law or conditions of approval except as expressly stated herein.

10. Design, Construction and Occupancy Schedule for the Affordable Unit. The Affordable Unit shall receive final inspection approval no later than the date that the market-rate units receive final inspection and approval. Time is of the essence in the occupancy of the Affordable Unit. The City Manager may, in his or her sole discretion, extend one or more time deadlines for performance as referenced in this Agreement for good cause.

11. Indemnity. Developer agrees to indemnify, defend and hold harmless the City, the National City Housing Authority, and any and all of their respective councilmembers, commissioners, members, officers, agents, servants and employees (the "Indemnitees") from and against all claims, liens, claims of lien, losses, damages, costs, and expenses, whether direct or indirect, arising in any way from this Agreement, including the construction, sale, rental or operation of the Development, the Property and/or any of the units, or from the default by Developer in the performance of its obligations under this Agreement; provided, however, that Developer shall not be required to indemnify, defend or hold harmless any of the Indemnitees from claims, losses, damages, costs and expenses related to the sole negligence or willful misconduct of the Indemnitees.

12. Agreement Binding on Successors. The terms, covenants and conditions of this Agreement shall apply to, and shall bind the parties hereto and any successors or assignees. Developer shall not sell, transfer or otherwise dispose of the Property, any portion thereof, or any interest therein unless the proposed transferee shall have executed and delivered to the City an express written assumption of all of Developer's obligations under this Agreement, on a form reasonably acceptable to the City. Upon assignment and assumption by a successor entity, as approved by the City, Developer shall be released from all prospective liability and responsibility under the terms of this Agreement. Developer agrees that all of its obligations hereunder shall constitute covenants, which shall run with the land and shall be binding upon the Property and upon every person having any interest therein at any time and from time to time during the term of this Agreement. Further, Developer agrees that, if a court of competent jurisdiction determines that the obligations set forth herein do not qualify as covenants running with the land, they shall be enforced as equitable servitudes. Any sale or conveyance of the Property shall be made subject to this Agreement.

13. Damages; Enforcement; Remedies; Security.

(a) Standing; Equitable Remedies; Remedies Cumulative. Developer expressly agrees and declares that the City shall be the proper party to, and shall have standing to, initiate and pursue any and all actions or proceedings, at law or in equity, to enforce the provisions hereof and/or to recover damages for any event that is expressly stated to be a material default hereunder and which event remains uncured following sixty (60) days' written notice to Developer from the City (or up to one hundred twenty (120) days after notice, if actions to correct the material default have been timely initiated and are, in the reasonable opinion of the City, being diligently pursued), notwithstanding the fact that such damages or the detriment arising from such a material default that remains uncured as aforesaid may have actually been suffered by some other person or by the public at large. Further, Developer expressly agrees that injunctive relief and specific performance are proper pre-trial and/or post-trial remedies hereunder to assure compliance with this Agreement. Nothing in this Section and no recovery by the City shall restrict or limit the rights or remedies of persons or entities other than the City, against Developer in connection with the same or related acts by Developer, provided that Developer shall not be subject to duplicate awards or recoveries. The remedies set forth in this Section are cumulative and not mutually exclusive, except to the extent that their award is specifically determined to be duplicative by final order of a court of competent jurisdiction. Further, the award of damages hereunder shall not bar the exercise of police power or other governmental powers, or the pursuit of criminal, civil or administrative penalties by the City in connection with any material default under this Agreement that remains uncured as aforesaid. Developer acknowledges that a material default under this Agreement that remains uncured may constitute a violation of state law.

(b) Remedies At Law For Breach Of Rental Restrictions. In the event of any material default under the provisions hereof that remains uncured following thirty (30) days written notice to Developer from the City (or up to one hundred sixty (60) days after notice, if actions to correct the material default have been timely initiated and are, in the reasonable opinion of the City, being diligently pursued) regarding restrictions on rental of the Affordable Unit, at the sole option of the City, the City shall be entitled to the following remedies at law to the extent they are not duplicative, the election of which shall not be required and may be revoked and/or modified until immediately prior to entry of judgment:

(1) Damages For Specific Breach. The City shall be entitled to recover compensatory damages, at its sole option in the event of a material uncured default under the terms of this Agreement. If the material uncured default in question involves the violation of Section 13(b) above, the amount of such compensatory damages shall be the product of multiplying (A) the number of months that the material uncured default in question has continued until the time of trial or cure, whichever occurs first, by (B) the result of subtracting (i) the rents properly chargeable hereunder for the Affordable Unit (ii) the rents actually collected by Developer for the Affordable Unit for the months in question, as reasonably determined by the City. Developer and the City agree that it would be extremely difficult or impracticable to ascertain the precise amount of actual damages accruing to the City as a result of such a material uncured default and that the foregoing formula is a fair and reasonable method of approximating such damages. The City shall be entitled to seek and to recover damages in separate actions for successive, separate breaches, which may occur during the term of this Agreement. Further, interest shall accrue on the amount of such damages from the date of the expiration of

Developer's cure period for the material uncured breach in question at the rate of ten percent (10%) per annum or the maximum rate then allowed by law, whichever is less. Nothing in this section shall preclude the award of exemplary damages as allowed by law.

(2) Acceleration and Liquidation of Future Performance. At the sole option of the City, if any material default by Developer in the performance of its obligations under this Agreement remains uncured for more than ninety (90) days after written notice to Developer by the City specifying such breach in reasonable detail (or such longer period of time, not to exceed six (6) months, as may reasonably be required for Developer to cure such breach exercising reasonable diligence), Developer's obligation to perform hereunder may be accelerated by the City and declared immediately due through the payment of a liquidated sum. Developer and the City agree that it would be extremely difficult and impractical to predict the precise cost to the City of (i) locating a rental unit equivalent to the Affordable Unit, (ii) procuring such unit (through purchase, lease or subsidies) at the rent discounts contemplated herein, (iii) performing the substantial administrative activities associated with replacing the Affordable Unit, and (iv) inflation. Therefore, Developer and the City agree that, in the event of a material default hereunder by Developer that remains uncured as aforesaid, and upon written notice from the City to Developer that the City has elected to exercise its option to accelerate and liquidate Developer's performance hereunder in accordance with the provisions of this Section 13(b)(2), Developer shall pay, and the City shall be entitled to receive, within thirty (30) days of the City's delivery of such written notice, in complete liquidation of the City's future monetary damages and Developer's future obligations under this Agreement, a lump sum payment equal to: (A) the aggregate of the mathematical differences between the monthly rent for a "Comparable Market Rate Unit" (as determined by the City, using statistical data for units of the same size and location at the time of the breach) and the monthly rent allowable hereunder for the Affordable Unit, at the date of delivery of the aforesaid written notice of election to accelerate, multiplied by (B) the number of months remaining in the term of this Agreement, from and after the date of delivery of the aforesaid written notice of election to accelerate. Developer and the City agree that acceleration is a fair and reasonable remedy for non-compliance hereunder, and that the foregoing formula represents a fair and reasonable method of approximating and liquidating the future monetary obligations of Developer to the City hereunder for purposes of any such optional acceleration by the City. Further, such liquidated amount shall automatically commence to bear interest at the rate of ten percent (10%) per annum or the maximum rate then allowed by law, whichever is less, from and after the date that the City delivers to Developer the aforesaid written notice of the City's election to accelerate Developer's performance hereunder, until paid. Further, if Developer breaches this Section 13(b)(2), the City shall be entitled to receive all reasonable attorneys' fees, costs of suit, title insurance charges, foreclosure costs and other out-of-pocket expenses reasonably incurred in recovering such liquidated amount.

14. Monitoring Fees. Developer shall pay to the City, each year during the term of this Agreement, an annual monitoring fee, as determined by the City in schedules promulgated by the City from time to time. Failure to timely pay such fees shall constitute a material default under this Agreement.

15. General Provisions.

(a) Waiver. No provision of this Agreement, or breach of any provision, can be waived except in writing. The waiver by any party of any breach or violation of any term, covenant or condition of this Agreement or of any provisions, ordinance or law, shall not be deemed to be a waiver of any other term, covenant, condition, ordinance or law or any subsequent breach or violation of the same or of any other term, covenant, condition, ordinance or law.

(b) Costs and Attorneys' Fees. The prevailing party in any action brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs and witness, expert and attorney's fees expended in connection with such an action from the other party.

(c) Recordation. This Agreement shall be recorded in the Office of the County Recorder of the County of San Diego senior to all monetary liens. City shall not be obligated to issue permits prior to such delivery and recordation of this Agreement.

(d) Integration. The undersigned, and each of them, acknowledge and represent that no promise or inducement not expressed in this Agreement has been made in connection with this Agreement. This Agreement contains the entire agreement and understanding between the parties as to its subject matter.

(e) Ownership of the Property. Developer represents and warrants that it is the owner of the Property and has full authority to execute this Agreement.

(f) Counterparts. This Agreement may be executed in any number of counterparts and, as so executed, the counterparts shall constitute one and the same Agreement. The parties agree that each such counterpart is an original and shall be binding upon all the parties, even though all of the parties are not signatories to the same counterpart.

(g) Notices. All notices given pursuant to this Agreement shall be in writing and sent to the party at its address appearing below (a) by certified or registered U.S. mail, return receipt requested, (b) overnight by a nationally recognized overnight courier such as UPS Overnight or FedEx, or (c) by personal delivery. All notices shall be effective upon receipt (or refusal to accept delivery). These addresses may be changed by any party by written notice to all other parties.

If to City: City of National City
 Attention: City Manager
 1243 National City Boulevard
 National City, CA 91950

If to Developer: Highland Pacifica LLC
 3525 Del Mar Heights Rd #274
 San Diego CA 92130

(h) Exhibits and Recitals Incorporated. All exhibits referred to in this Agreement are hereby incorporated in this Agreement by this reference, regardless of whether or not the exhibits are actually attached to this Agreement. The Recitals to this Agreement are hereby incorporated in this Agreement by this reference.

(i) Further Assurances. If Developer does not receive all of the necessary permits and approvals to construct the Project, Developer and the City agree that this Agreement and the density bonus granted herein shall be null and void and of no further force and effect and Developer and the City agree to take all reasonable steps and to execute and cause to be recorded all documents reasonably necessary to remove this Agreement and the Deed of Trust from the record chain of title to the Property.

16. Risk of Market Conditions. Developer shall bear sole responsibility for developing, constructing and marketing the units covered by this Agreement, pursuant to the approvals that the City has issued for the Development and the requirements contained in this Agreement. The City shall have no obligation to amend this Agreement, and the Developer shall reimburse the City for administrative costs associated with any modification of this Agreement that shall require the approval of the City Council of National City.

17. Signature Authority. All individuals signing this Agreement for a party which is a corporation, limited liability company, partnership or other legal entity, or signing under a power of attorney, or as a trustee, guardian, conservator, or in any other legal capacity, covenant to the other party hereto that he or she has the necessary capacity and authority to act for, sign and bind the respective entity or principal on whose behalf he or she is signing.

CITY:
City of National City

By: _____
Brad Raulston, City Manager

APPROVED AS TO FORM:
Charles Bell Jr., City Attorney

By: _____

DEVELOPER:
Highland Pacifica LLC, a California limited liability company

By:  _____
Alex Ahmadian

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

)

County of San Diego)

On _____, 2021, before me, _____, notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

)

County of San Diego)

On _____, 2021, before me, _____, notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT "A"

Legal Description of the Property

That certain real property located in the City of National City, County of San Diego, State of California more particularly described as follows:

THE NORTHERLY 50 FEET OF THE SOUTHERLY 110 FEET OF THE EASTERLY 20 FEET OF LOT 15, AND THE NORTHERLY 50 FEET OF THE SOUTHERLY 110 FEET OF LOTS 16, 17, 18, 19 AND 20, ALL IN BLOCK 4 OF FLORA M. KIMBALL'S SUBDIVISION OF THE EAST HALF OF 10 ACRE LOT 16 OF QUARTER SECTION 152, RANCHO DE LA NACION, IN THE CITY OF NATIONAL CITY, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 44, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY.

APN: 562-072-03-00

No Fees per Government Code 6103

Recording Requested By:
National City Housing Authority

When Recorded Mail To:
National City Housing Authority
Attention: Executive Director
1243 National City Boulevard
National City, CA 91950

**PERFORMANCE DEED OF TRUST
(2428 Highland Avenue)**

THIS DEED OF TRUST is dated as of the 31 day of August, 2021, between Highland Pacifica LLC , a California limited liability company (“Trustor”), whose address is 3525 Del Mar Heights Rd #274 San Diego CA 92130, Ticor Title (“Trustee”), and the City of National City (“Beneficiary”), whose address is 1243 National City Boulevard, National City, California 91950.

TRUSTOR HEREBY irrevocably grants, transfers, and assigns to Trustee, in trust, with power of sale, all that property in the City of National City, County of San Diego, State of California, described as (“Property”):

(See Legal Description - Exhibit “A”)

FOR THE PURPOSE OF SECURING:

(1) The timely performance of the Affordable Housing Density Bonus Agreement of even date herewith (“Agreement”), between the Beneficiary and the Trustor, and any renewals, extensions, modifications or amendments to the Agreement by the Trustor and each and every covenant set forth herein; and

(2) The performance of each agreement contained in this Deed of Trust.

A. TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES:

1. Defense of Security. To appear in and defend any action or proceeding purporting to affect the security of this Deed of Trust or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorneys’ fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose on this Deed of Trust.

2. Payment of Liens and Taxes. To pay, when due, all taxes and assessments affecting the Property, including assessments on appurtenant water stock, all encumbrances, charges, and liens, with interest, on the Property or any part of the Property, which appear to be prior or superior to this Deed of Trust, and all costs, fees, and expenses of this Deed of Trust. If Trustor fails to make any payment or to do any act as provided in this Deed of Trust, then Beneficiary or Trustee may (but is not obligated to) make the payment or do the act in the required manner and to the extent deemed necessary by Beneficiary or Trustee to protect the security of this Deed of Trust. The performance by Beneficiary or Trustee of such an act shall not require notice to or demand upon Trustor and shall not release Trustor from any obligation under this Deed of Trust. Beneficiary or Trustee shall also have the following related rights and powers: to enter upon the Property for the foregoing purposes; to appear in and defend any action or proceeding purporting to affect the security of this Deed of Trust or the rights or powers of Beneficiary or Trustee; to pay, purchase, contest, or compromise any encumbrance, charge, or lien that in the judgment of either appears to be prior or superior to this Deed of Trust; to employ counsel; and to pay necessary expenses and costs, including attorneys' fees.

3. Reimbursement of Costs. To pay immediately and without demand all sums expended by Beneficiary or Trustee pursuant to this Deed of Trust, with interest from date of expenditure at the amount allowed by law in effect at the date of this Deed of Trust, and to pay any reasonable amount demanded by Beneficiary (up to the maximum allowed by law at the time of the demand) for any statement regarding the obligation secured by this Deed of Trust.

4. Use. That it will not permit or suffer the use of any of the Property for any purpose other than the use for which the same was intended at the time this Deed of Trust was executed.

5. Incorporation of Agreement. That the Agreement is incorporated herein by reference and made a part of this Deed of Trust.

6. Performance of Other Obligations. To perform, in a timely manner, each agreement and covenant by and between Trustor on any and all notes, loans and deeds of trust that are senior and/or junior to this Deed of Trust. A default in any of these obligations, beyond any applicable cure period, shall constitute a default under this Deed of Trust.

B. THE PARTIES AGREE THAT:

7. Waiver of Late Payments. By accepting payment of any sum secured by this Deed of Trust after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums so secured or to declare default for failure to pay any indebtedness secured by this Deed of Trust.

8. Full Reconveyance. Upon expiration of the term of the Agreement and written request of Beneficiary, and payment of Trustee's fees and charges, Trustee shall reconvey, without warranty, the Property then subject to this Deed of Trust. The recitals in the reconveyance shall be conclusive proof of the truthfulness of the recitals. The grantee in the reconveyance may be described as "the person or persons legally entitled thereto."

9. Assignment of Rents. As additional security, Trustor hereby gives to and confers upon Beneficiary the right, power, and authority during the continuance of this Deed of Trust, to collect the rents, issues, and profits of the Property, but reserves the right, prior to any default by Trustor in payment of any indebtedness secured by this Deed of Trust or in the performance of any agreement under this Deed of Trust, to collect and retain these rents, issues, and profits as they become due and payable. Upon any such default beyond any applicable cure period, Beneficiary may, without notice and without regard to the adequacy of the security for the indebtedness secured by this Deed of Trust, either personally or by agent or court-appointed receiver, do the following: enter upon and take possession of the Property or any part of the Property; sue for or otherwise collect all rents, issues, and profits, including those past due and unpaid; and apply these rents, issues, and profits, less costs and expenses of operation and collection (including reasonable attorneys' fees), upon any indebtedness secured by this Deed of Trust, in any order determined by Beneficiary. The exercise of the foregoing rights by Beneficiary shall not cure or waive any default or notice of default under this Deed of Trust or invalidate any act done pursuant to such a notice.

10. Default and Foreclosure. Upon default under the Agreement, subject to any applicable notice and cure rights contained in the Agreement, or in the performance of any obligation under this Deed of Trust beyond any applicable cure period, Beneficiary may declare all obligations secured by this Deed of Trust immediately due and payable by delivering to Trustee a written declaration of default and demand for sale and a written notice of default and election to sell the Property. Trustee shall cause the notice of default and election to sell to be recorded. After the required time period has lapsed following the recordation of the notice of default, and after notice of sale has been given as required by law, Trustee, without demand on Trustor, shall sell the Property at the time and place specified in the notice of sale, either as a whole or in separate parcels, and in any order determined by Trustee, at public auction to the highest bidder for cash in lawful money of the United States, payable at the time of sale. Trustee may postpone sale of all or any portion of the Property by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to the purchaser at the auction its deed conveying the Property sold, but without any covenant or warranty, express or implied. The recital in the deed of any matter or fact shall be conclusive proof of the truthfulness of the recital. Any person, including Trustor, Trustee, or Beneficiary, may purchase at the sale. After deducting all costs, fees, and expenses of Trustee and Beneficiary under this paragraph, including costs of procuring evidence of title incurred in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms of this Deed of Trust, not then repaid, with accrued interest at the amount allowed by law in effect at the date of this Deed of Trust; all other sums then secured by this Deed of Trust; and the remainder, if any, to the person or persons legally entitled to the remaining proceeds.

11. Due on Sale or Further Encumbrance. Trustor shall not sell, transfer or otherwise dispose of the real property described in this deed of trust, or any portion thereof, or any interest therein unless the proposed transferee shall have executed and delivered to the Beneficiary an express written assumption of all of Trustor's obligations hereunder this deed of trust, on a form reasonably acceptable to the Beneficiary. Consent to one transaction of this type will not constitute a waiver of the right to acquire consent to future or successive transactions.

12. General Provisions. This Deed of Trust applies to, inures to the benefit of, and binds all parties to this Deed of Trust and their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term "Beneficiary" shall mean the City of National City, and its successors and assigns. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

13. Substitution of Trustees. Beneficiary, or any successor in ownership of any obligations secured by this Deed of Trust, may from time to time, by written instrument, substitute a successor or successors to any Trustee named in or acting under this Deed of Trust. The substitution instrument shall contain the name of the original Trustor, Trustee, and Beneficiary under this Deed of Trust, the book and page where this Deed is recorded, and the name and address of the new Trustee. When executed by Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where the Property is situated, the substitution instrument shall be conclusive proof of proper substitution of the successor Trustee or Trustees. Any successor Trustee or Trustees shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers, and duties.

14. Cumulative Powers and Remedies. The powers and remedies conferred in this Deed of Trust are concurrent and cumulative to all other rights and remedies provided in this Deed of Trust or given by law. These powers and remedies may be exercised singly, successively, or together, and as often as deemed necessary.

15. Conclusiveness of Recitals. The recitals contained in any reconveyance, trustee's deed, or any other instrument executed by the Trustee from time to time under the authority of this Deed of Trust or in the exercise of its powers or the performance of its duties under this Deed of Trust, shall be conclusive evidence of their truth, whether stated as specific and particular facts, or in general statements or conclusions absent manifest error. Further, the recitals shall be binding and conclusive upon the Trustor, its heirs, executors, administrators, successors, and assigns, and all other persons.

16. Attorneys' Fees. If any action is brought for the foreclosure of this Deed of Trust or for the enforcement of any provision of this Deed of Trust (whether or not suit is filed), Trustor agrees to pay all costs and expenses of Beneficiary and Trustee, including reasonable attorneys' fees; and these sums shall be secured by this Deed of Trust. The prevailing party in any litigation, including but not limited to arbitration, writ petitions, complaints, and/or actions for declaratory relief, brought to enforce, interpret or reform the provisions of this Deed of Trust shall be entitled to reasonable attorneys' and experts' fees, costs and out-of-pocket expenses

(whether or not considered recoverable “costs” under applicable statute) incurred in such litigation.

17. Request for Notices of Default and Sale. In accordance with Section 2924b of the California Civil Code, request is hereby made that a copy of any Notice of Default and a copy of any Notice of Sale under that Deed of Trust executed by the Trustor concerning this Property be mailed to:

City of National City
 Attention: Executive Director
 1243 National City Boulevard
 National City, CA 91950

NOTICE: A copy of any notice of default and of any notice of sale will be sent only to the address contained in this recorded request. If your address changes, a new request must be recorded.

18. Inspections. Trustor shall permit Beneficiary and its agents or representatives, to inspect the Property at any and all reasonable times, upon 48 hours advance notice to Trustor. Inspections shall be conducted so as not to interfere with the tenants’ use and enjoyment of the Property.

19. Hazardous Materials Defined. For purposes of this Deed of Trust, “Hazardous Materials” means and includes any flammable, explosive, or radioactive materials or hazardous, toxic or dangerous wastes, substances or related materials or any other chemicals, materials or substances, exposure to which is prohibited, limited or regulated by any federal, state, county, regional or local authority or which, even if not so regulated, may or could pose a hazard to the health and safety of the occupants of the Property or of property adjacent to the Property, including, but not limited to, asbestos, PCBs, petroleum products and byproducts, substances defined or listed as “hazardous substances” or “toxic substances” or similarly identified in, pursuant to, or for purposes of, the California Solid Waste Management, Resource Recovery and Recycling Act (California Government Code Section 66700 *et seq.*), the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. Section 9601, *et seq.*), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, *et seq.*), the Resource Conservation and Recovery Act (42 U.S.C. Section 6901, *et seq.*), Section 25117 or Section 25316 of the California Health & Safety Code; and any so-called “Superfund” or “Superlien” law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material; or any substances or mixture regulated under the Toxic Substance Control Act of 1976, as now or hereafter amended (15 U.S.C. Section 2601 *et seq.*); and any “toxic pollutant” under the Clean Water Act, as now or hereafter amended (33 U.S.C. Section 1251 *et seq.*); and any hazardous air pollutant under the Clean Air Act, as now or hereafter amended (42 U.S.C. Section 7901 *et seq.*). Notwithstanding the above, the term “Hazardous Materials” shall not include small amounts of chemicals, cleaning agents and the like commonly employed in routine household uses in a manner typical

of occupants in other similar residential properties provided they are used in compliance with applicable laws. The term “Hazardous Materials Laws” means any federal, state or local law, code, statute, ordinance, rule, regulation, rule of common law or guideline relating to Hazardous Materials now or hereafter enacted or promulgated (collectively, and including, without limitation, any such laws which require notice of the use, presence, storage, generation, disposal or release of any Hazardous Materials to be provided to any party).

20. Trustor’s Hazardous Materials Representations and Warranties and Indemnity. In addition to the general and specific representations, covenants and warranties set forth in the Deed of Trust or otherwise, Trustor represents, covenants and warrants, with respect to Hazardous Materials, as follows:

(a) Neither Trustor nor, to the best knowledge of Trustor, any other person, has ever caused or permitted any Hazardous Materials to be manufactured, placed, held, located or disposed of on, under or at the Property or any part thereof, and neither the Property nor any part thereof, or any property adjacent thereto, has ever been used (whether by the Trustor or, to the best knowledge of the Trustor, by any other person) as a manufacturing site, dump site or storage site (whether permanent or temporary) for any Hazardous Materials;

(b) Trustor hereby agrees to indemnify Beneficiary, its officers, employees, contractors and agents, and hold Beneficiary, its officers, employees, contractors and agents harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against Beneficiary, its officers, employees, contractors and agents for, with respect to, or as a direct or indirect result of, the presence or use, generation, storage, release, threatened release or disposal of Hazardous Materials on or under the Property or the escape, seepage, leakage, spillage, discharge, emission or release of any Hazardous Materials from the Property (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under CERCLA, any so-called “Superfund” or “Superlien” law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any Hazardous Materials) regardless of whether or not caused by or within the control of Trustor, except to the extent arising as a result of the negligence or willful misconduct of Beneficiary.

(c) Trustor has not received any notice of (i) the happening of any event involving the use, spillage, discharge, or cleanup of any Hazardous Materials (“Hazardous Discharge”) affecting Trustor or the Property or (ii) any complaint, order, citation or notice with regard to air emissions, water discharges, noise emissions or any other environmental, health or safety matter affecting Trustor or the Property (“Environmental Complaint”) from any person or entity, including, without limitation, the United States Environmental Protection Agency (“EPA”). If Trustor receives any such notice after the date hereof, then Trustor will give, within seven (7) business days thereafter, oral and written notice of same to Beneficiary.

(d) Without limitation of Beneficiary’s rights under this Deed of Trust, Beneficiary shall have the right, but not the obligation, to enter onto the Property or to take such other actions

as it deems necessary or advisable to clean up, remove, resolve or minimize the impact of, or otherwise deal with, any such Hazardous Materials or Environmental Complaint upon its receipt of any notice from any person or entity, including without limitation, the EPA, asserting the existence of any Hazardous Materials or an Environmental Complaint on or pertaining to the Property which, if true, could result in an order, suit or other action against Trustor affecting any part of the Property by any governmental agency or otherwise which, in the sole opinion of Beneficiary, could jeopardize its security under this Deed of Trust. All reasonable costs and expenses incurred by Beneficiary in the exercise of any such rights shall be secured by this Deed of Trust and shall be payable by Trustor upon demand together with interest thereon at a rate equal to the highest rate payable by law.

(e) The foregoing representation, covenants, indemnities and warranties shall be continuing and shall be true and correct for the period from the date hereof to the release of this Deed of Trust (whether by satisfaction of the obligations secured hereby or foreclosure or action in lieu thereof), and these representations, covenants, indemnities and warranties shall survive such release.

21. Authority to Sign. All individuals signing this Deed of Trust for a party which is a corporation, limited liability company, partnership or other legal entity, or signing under a power of attorney, or as a trustee, guardian, conservator, or in any other legal capacity, covenant to the Beneficiary that they have the necessary capacity and authority to act for, sign and bind the respective entity or principal on whose behalf they are signing.

TRUSTOR:

Highland Pacifica LLC, a California limited liability company

By: 

 Alex Ahmadian

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)
County of San Diego)

On _____, 2021, before me, _____, notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

Exhibit "A"

Legal Description

That certain real property located in the City of National City, County of San Diego, State of California more particularly described as follows:

THE NORTHERLY 50 FEET OF THE SOUTHERLY 110 FEET OF THE EASTERLY 20 FEET OF LOT 15, AND THE NORTHERLY 50 FEET OF THE SOUTHERLY 110 FEET OF LOTS 16, 17, 18, 19 AND 20, ALL IN BLOCK 4 OF FLORA M. KIMBALL'S SUBDIVISION OF THE EAST HALF OF 10 ACRE LOT 16 OF QUARTER SECTION 152, RANCHO DE LA NACION, IN THE CITY OF NATIONAL CITY, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 44, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY.

APN: 562-072-03-00

RESOLUTION NO. 2021 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA APPROVING AN AFFORDABLE HOUSING DENSITY BONUS AGREEMENT WITH HIGHLAND PACIFICA, LLC, FOR THE DEVELOPMENT OF 16 UNITS LOCATED AT 2428 HIGHLAND AVENUE AND RESTRICTING THE RENT AND OCCUPANCY OF TWO (2) UNITS TO VERY LOW-INCOME HOUSEHOLDS IN EXCHANGE FOR A DENSITY BONUS PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTIONS 65915 - 65918

WHEREAS, Highland Pacifica LLC (“Developer”) wants to develop its property located at 2428 Highland Avenue, National City, California; and

WHEREAS, the current zoning allows for the construction of twelve (12) units by right; and

WHEREAS, the Developer will restrict the rent and occupancy of two (2) units to very low-income households (below fifty percent (50%) of area median income) in exchange for a density bonus of thirty-five percent (35%) mandated by the California Government Code Sections 65915 – 65918, which will allow the construction of additional an four (4) units for a total of 16 units on the property; and

WHEREAS, the Affordable Density Housing Bonus Agreement (“Agreement”) will serve to memorialize the Developer’s obligation to provide the two (2) affordable units and the restriction of the affordable units by the recordation of this Agreement assuring affordability for a total of fifty-five (55) years; and

WHEREAS, a Performance Deed of Trust will also be recorded to secure the Agreement on the property.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: Approves an Affordable Housing Density Bonus Agreement with Highland Pacifica, LLC, restricting the rent and occupancy of two (2) units to very low-income households in exchange for one density bonus pursuant to California Government Code Sections 65915 – 65918 for the development of sixteen (16) units located at 2428 Highland Avenue, in National City, California.

Section 2: That the City of National City will record a Performance Deed of Trust securing the timely performance of the Affordable Housing Density Bonus Agreement, and after it is recorded in the County of San Diego, a copy of said Deed of Trust will be on file in the Office of the City Clerk.

Resolution No. 2021 –
Page Two

Section 3: The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED and ADOPTED this 7th day of September 2021.

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City authorizing the establishment of a General Fund appropriation of \\$73,802 and use of General Fund balance in FY22 for operation of Las Palmas Pool during FY21. \(Library and Community Services\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.:

ITEM TITLE:

Resolution of the City Council of the City of National City authorizing the establishment of a General Fund appropriation of \$73,802 and use of General Fund fund balance in FY22 for operation of Las Palmas Pool during FY21.

PREPARED BY: Audrey Denham

PHONE: 619-336-4243

DEPARTMENT: Library & Community Services

APPROVED BY: 

EXPLANATION:

See staff report.

FINANCIAL STATEMENT:

ACCOUNT NO.

001-441-058-299-0000 (Contract Services) - \$73,802

Adoption of the resolution will result in the use of General Fund unassigned fund balance of \$73,802.

APPROVED: 

FINANCE

APPROVED: _____

MIS

ENVIRONMENTAL REVIEW:

No CEQA Exemption - This action is not subject to review under the California Environmental Quality Act (CEQA).

ORDINANCE: INTRODUCTION FINAL ADOPTION

STAFF RECOMMENDATION:

Adopt a resolution amending the Fiscal Year 2022 Community Services Department budget by appropriating funds in the amount of \$73,802 for expenditures associated with the operation of the Las Palmas Pool.

BOARD / COMMISSION RECOMMENDATION:

ATTACHMENTS:

1. Staff Report
2. Resolution



City Council Staff Report

September 7, 2021

ITEM

Resolution of the City Council of the City of National City authorizing the establishment of a General Fund appropriation of \$73,802 and use of General Fund fund balance in FY22 for operation of Las Palmas Pool during FY21.

BACKGROUND

In November 2015, the City entered into a Service Agreement with EXOS to operate Las Palmas Pool and provide aquatic programs for residents. The City is responsible for utility services, landscape, janitorial, and facility maintenance. The City reimburses EXOS for all operating expenses and the City retains all revenues collected for aquatic programs and rentals. The City compensates EXOS for these services through a monthly management fee.

In April 2020, City Council voted to close Las Palmas Pool for all of FY21 due to COVID-19 and as a cost cutting measure. The closure was expected to save the City approximately \$370,000. However, annual fixed costs for pool utilities and chemicals remained at \$200,000 whether open or closed. The City then gave EXOS notice that the Service Agreement between the City and EXOS for the operation of Las Palmas Pool would be terminated without cause.

On June 2, 2020 City staff and EXOS presented a proposal to operate Las Palmas Pool with a net neutral budget, not including annual fixed costs. The proposal was based on extensive analysis of past usage, and a plan to reduce operating expenses and increase revenues. On June 16, 2020, City staff provided a more in depth analysis of the estimated FY21 revenue with letters and emails from rental groups requesting pool space in FY21. City Council then approved a Service Agreement between the City and EXOS to operate Las Palmas Pool for a term of one year ending June 30, 2021. FY21 expenses were estimated at \$312,300, with revenue estimated at \$314,900.

EXPLANATION

Due to COVID-19, Las Palmas Pool staffing levels increased, health department mandates decreased pool usage, and scheduled rentals and programs were delayed; additionally, the pool was closed to complete unexpected repairs, resulting in uncontrollable expenses for FY21. FY21 operating expenses for Las Palmas Pool exceeded budget projections by \$64,067. Additionally, the City lost \$40,000 in revenue with the cancellation of the National School District 3rd grade learn to swim program. EXOS was still able to exceed revenue projections by \$19,624. The FY21 General Fund subsidy is \$41,843; if the 3rd grade learn to swim program was not cancelled the General Fund subsidy would have been less than \$2,000. Below is a summary of FY21:

FY21	Expenses	Revenues	General Fund Subsidy
Approved Budget	\$312,300	\$314,900	\$2,600
Actual	\$376,367	\$334,524	-\$41,843
Variance	-\$64,067	\$19,624	

Staff did not have sufficient time to request an appropriation prior to FY21 year-end closing. Therefore, staff are requesting an appropriation for FY22. Please note that there is \$9,735 remaining in the FY21 account; however invoices cannot be paid from different fiscal years. Therefore, the appropriation amount is \$73,802, and there will be a savings of \$9,735 in FY21.

RECOMMENDATION

Adopt a resolution amending the Fiscal Year 2022 Community Services Department budget by appropriating funds in the amount of \$73,802 for expenditures associated with the operation of the Las Palmas Pool.

FISCAL IMPACT

Adoption of the resolution will result in the use of General Fund unassigned fund balance of \$73,802.

RESOLUTION NO. 2021 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, AUTHORIZING THE ESTABLISHMENT OF A GENERAL FUND APPROPRIATION OF \$73,802 AND USE OF GENERAL FUND FUND BALANCE IN THE FISCAL YEAR 2022 FOR OPERATION OF LAS PALMAS POOL DURING THE FISCAL YEAR 2021

WHEREAS, on June 2, 2020, City of National City (“City”) staff presented a proposal to operate Las Palmas Pool with a net neutral budget based on extensive analysis of past usage and a plan to reduce operating expenses and increase revenue; and

WHEREAS, on June 16, 2020, the City entered into an Agreement between the and EXOS Community Services, LLC to provide aquatic programs and services at Las Palmas Pool located at 1800 East 22nd Street for a term of one (1) year ending June 30, 2021, with the Fiscal Year 2021 expenses estimated at \$312,300 and revenue estimated at \$314,900; and

WHEREAS, due to COVID-19, Las Palmas Pool staffing levels increased, health department mandates decreased pool usage, and scheduled rentals and programs were delayed; additionally, the pool was closed to complete unexpected repairs, resulting in uncontrollable expenses for the Fiscal Year 2021; and

WHEREAS, City staff did not have sufficient time to request an appropriation prior to the Fiscal Year 2021 year-end closing; therefore, City staff is requesting an appropriation for the Fiscal Year 2022; and

WHEREAS, City staff recommends City Council approved amending the Fiscal Year 2022 Community Services Department budget by appropriating \$73,802 for expenditures associated with the operation of the Las Palmas Pool.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: Authorizes establishing a general fund appropriation of \$73,802 and general fund balance in Fiscal Year 2022 for the operation of Las Palmas pool during the Fiscal Year 2021.

Section 2: The City Clerk shall certify the passage and adoption of this Resolution and enter it into the book of original Resolution.

PASSED and ADOPTED this 7th day of September, 2021.

Alejandra Sotelo Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City awarding and authorizing the Mayor to execute agreements for Towing and Impound Services with the top two-ranked providers: A to Z Enterprises, Inc., DBA Road One Towing and Alexandra Investments, Inc., DBA Angelo's Towing and Recovery with a term of October 1, 2021 - September 30, 2023. \(Police and Finance\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO. |

ITEM TITLE:

Resolution of the City Council of the City of National City awarding and authorizing the Mayor to execute agreements for Towing and Impound Services with the top two-ranked providers: A to Z Enterprises, Inc., DBA Road One Towing and Alexandra Investments, Inc., DBA Angelo's Towing and Recovery with a term of October 1, 2021 – September 30, 2023.

PREPARED BY: Debra Lunt/Jose Tellez

PHONE: 619-336-4582/4510

EXPLANATION:

See Attached

Finance/Police

DEPARTMENT:

APPROVED BY: _____



FINANCIAL STATEMENT:

ACCOUNT NO. |

APPROVED: _____



Finance

APPROVED: _____

MIS

The quarterly Towing Program Fee revenue shall be \$54,722, for an annual total of \$218,889, paid in equal shares by the two designated Contractors.

ENVIRONMENTAL REVIEW:

No CEQA Exemption – This action is not subject to review under the California Environmental Quality Act (CEQA).

ORDINANCE: INTRODUCTION:

FINAL ADOPTION:

STAFF RECOMMENDATION:

Adopt a resolution to award tow and impound services and authorize the Mayor to execute tow contracts with Road One Towing and Angelo's Towing for October 2021 through September 2023.

BOARD / COMMISSION RECOMMENDATION:

N/A

ATTACHMENTS:

- | | |
|---|---------------|
| 1. Staff Report | 5. Resolution |
| 2. Towing Contract Price Comparison | |
| 3. Site Visit Staff Report, Site Visit Forms | |
| 4. Contracts: Road One Towing & Angelo's Towing | |



NATIONAL CITY POLICE DEPARTMENT

STAFF REPORT

DATE: September 7, 2021

AGENDA ITEM: Towing & Impound Contract (RFP) #GS2021-1

Background

The City's current towing contracts with RoadOne Towing and Angelo's Towing expire on September 30, 2021. In late 2020, a working group comprised of representatives from the City Manager and City Attorney's offices; and the Finance, Police, and Neighborhood Services Departments convened to facilitate a timely process for a seamless continuation of services beyond September 30, 2021. Consistent with the City's practice of seeking proposals for contractual services, the working group drafted the Request for Proposals (RFP) for towing and impound services. On May 4th, 2021 the City Council approved the issuance of a Request for Proposals for towing and impound services. Members of the working group evaluated the proposals, conducted site inspections and negotiated conditional tow contract(s) to be executed and effective by October 1, 2021. The tow contract working group is comprised of representatives from several City departments including:

City Manager's Office

- Tony Winney, Assistant City Manager

City Attorney's Office

- Charles Bell Jr. City Attorney

Finance

- Debra Lunt, Purchasing Buyer

Neighborhood Services

- Armando Vergara, Director of Neighborhood Services

Police Department

- Alejandro Hernandez, Police Captain
- Damian Ballardo, Police Sergeant

|



RFP Process

The working group worked together to prepare a Request for Proposal (“RFP”) for review of companies for consideration of the future tow contract. On May 4th, 2021, the City Council approved issuance of RFP #GS2021-1 for Towing and Impound Contract services for the City of National City. The RFP contained all the criteria to be used by the working group and the Police Department has established standard, consistent tow rates.

RFP #GS2021-1 was issued on May 6th, 2021. RFPs were mailed to twelve (12) potential bidders. Responses to the RFPs were due on June 8th, 2021. The City received seven (7) responses.

When deciding to whom a contract should be awarded, the RFP clearly states that the award of a contract(s) is based on the best overall value to the City. The factors to consider in determining the best overall value include, but are not limited to: evaluation of service capabilities, experience, price, and other factors assessed in the RFP. There is no obligation to make an award based solely on financial factors. In addition, there is no obligation to make any award to any contractor.

RFP Evaluations

The working group reviewed the seven written proposals. Extensive administrative review was conducted by pertinent members of the working group, and proposals were evaluated according to how well they met or exceeded the RFP requirements. Site inspections were conducted in accordance with the RFP at each of the businesses that met the requirements of the RFP. Accordingly, a total of three site inspections were conducted by Sergeant Damian Ballardo and Neighborhood Services inspector, Ronny Soriano. After the site inspections, it was determined that all three of the bidders meet the RFP requirements. (Please see the report prepared by Sgt. Damian Ballardo, attached hereto as Towing Contract Request for Proposal; Site Visits).

The three proposals that meet the RFP requirements, in alphabetical order are:

- Angelo’s Towing, 1177 South 26th Street, San Diego, CA., 92113
- Quality Towing, 270 Trousdale St., Chula Vista, CA., 91910
- RoadOne Towing, 3333 National Ave, Suite A, San Diego, CA., 92123

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*1200 National City Boulevard
National City, CA 91950
(619) 336-4512/Fax (619) 336-4525*



It has been determined that these three (3) tow contractors meet and/or exceed the RFP requirements and are suited to provide the required level of service the City expects. Pursuant to the RFP, the objective is to select two (2) tow contractors to be placed on a rotational basis for the new tow contract period beginning on October 1, 2021 through September 30, 2023.

The proposed rates received from the remaining three (3) tow contractors differ from one another (details in attached Towing Contract Price Comparison). Overall, proposed rates were similar to the tow rates charged under the last contract cycle from 2016. Based on the rates proposed by the two recommended tow operators, the Police Department has established consistent tow rates, reflected in the column titled Final in the Price Comparison attachment. The most commonly used fee charged is for basic towing, which at \$180 is the same price as the previous towing services contracts.

Below is a brief analysis of the three contractors (in alphabetic order) that meet and/or exceed the RFP requirements. Additional details relied upon by the working group are provided in Police Sergeant Damian Ballardo's attached report titled "Towing & Impound Contract (RFP); Site Visits."

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A. Angelo's Towing

Advantages

- Met RFP requirements
- Located close to National City (approx. 2.9 miles)
- Angelo's is a current tow contractor for the City. There have been very few issues with response times.
- Long history of municipal tow services
- CHP certified trucks – all sizes required in RFP, high quality equipment.
 - The fleet of trucks is new and equipped with advanced technology, such as GPS, to assist with faster response times on calls for service
 - All Angelo's tow trucks are also equipped with a notebook style computer which receives calls for service, the GPS application will direct the drivers where to respond
- Business office/dispatch staffed 24/7
- The communication center is state of the art with numerous large screen high definition televisions which monitor all activity on all of the tow yards
- Large, paved storage yard, alarmed, video surveillance, well lit
- Tow contract with City of Coronado, CHP, San Diego Police Department, San Diego Sheriff's Department, and AAA
- Largest AAA provider in area
- Close to public transportation both Trolley and bus
- All Positive references
- Better Business Bureau Rating: A+

Factors to Consider

- Angelo's is currently a National City tow provider
- 5 large secure evidence storage lockers for evidentiary vehicle storage.
- Storage yard is currently being expanded to 60,000 square feet from its current 30,000 square foot area.
- Current system in place for reconciliations.

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National City, CA 91950
(619) 336-4512/Fax (619) 336-4525*



B. Quality Towing

Advantages

- Met RFP requirements
- Located close to National City (approx. 2.7 miles)
- Long history of municipal tow service
- CHP certified trucks – all sizes required in RFP, quality equipment (Trucks appear to be well maintained and in good repair)
- Business office/dispatch staffed from 8am to 6pm (after hours must phone for assistant).
- Storage lot is approximately 33,000 square feet
- Current tow contracts with CHP, El Cajon PD, La Mesa PD and SDSO.
- Yard is alarmed by ADT, well illuminated and paved.
- Positive references

Factors to Consider

- No prior experience as a National City tow provider
- No Trolley within walking distance. Bus stop approximately four blocks away, this could be problematic for citizens to pick up their cars.
- No dedicated dispatch center. Trucks dispatched by cell phone.
- No current process in place to collect fees due the City; the contractor would have to create an administrative process and train employees



C. Road One

Advantages

- Met RFP requirements
- Located close to National City (3.2 miles)
- Road One is the City's current tow contractor and there have been few issues with response times.
- Long history of municipal tow service
- CHP certified trucks – all sizes required in RFP, high quality equipment, largest fleet
 - The fleet of trucks is new and equipped with the advanced technology such as GPS to assist with faster response times on calls for service
 - Each driver is issued a smart phone with an application that receives the call for service, then the driver can mark his arrival time and when they are in tow
 - The application also allows the driver to upload all vehicle information into the Road One tow system automatically
- Main business office/dispatch staffed 24/7
- Large storage lot (150,000sq ft), alarmed, video surveillance, well lit
- Has 4 secure storage lockers for evidentiary vehicles
- Has process in place to collect fees due to the City
- Tow contract with San Diego PD, Chula Vista PD, National City PD, Escondido PD, La Mesa PD, San Diego Sheriff's Department and several other law enforcement agencies
- Positive references
- Better Business Bureau Rating: A

Factors to Consider

- Storage lot used for City will only be staffed during business hours. For after-hours release, a customer must phone the dispatch center and then they will immediately send an employee to the storage lot to assist customer; thus there is waiting time
- No Trolley within walking distance, Bus stop approximately 20 yards from entrance

LP

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National City, CA 91950
(619) 336-4512/Fax (619) 336-4525*



Staff Recommendation

After reviewing all responses to the RFP and conducting the site inspections, the following are staff's recommendations for Council consideration.

Consistent with the objective of the City Council approved RFP, the Tow Contract Committee recommends the City enter into contracts with two (2) towing and impound contractors. Based on prior experience, it is more efficient to manage and administer two tow contractors in terms of scheduling, preparing two monthly reports of each, and tracking all contract obligations and requirements.

Having completed a comprehensive RFP and evaluation process, with consideration of overall best value to the City, staff recommends awarding and entering into tow contracts with RoadOne Towing (Road One West, Inc.) and Angelo's Towing, on the terms and conditions set forth in the contracts, attached.

Staff Recommendation

Adopt a resolution to award and authorize the Mayor to execute tow contracts to the top two ranked tow providers: RoadOne Towing (RoadOne West, Inc.) and Angelo's Towing.

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**TOWING CONTRACT
PRICE COMPARISONS**

Attachment 2

	FINAL**	Road 1	Cortes	Angelos	Quality	ASAP	TONY'S	RESCUE	Final Pricing 2016
FEE SCHEDULE									
BASIC TOWING. Includes First Hour Hookup, Labor, Standby Time, for vehicles Under 9,500 GVW (unloaded).	\$180	\$180	\$180	\$180	\$180	\$175	\$145	\$180	\$180
MEDIUM SIZE - BASIC TOWING. Includes first hour hookup, labor, standby time, for vehicles over 9,500 GVW but less than 22,000 (unloaded)	\$205	\$205	\$205	\$205	\$200	\$205	\$175	\$205	\$205
LARGE SIZE - BASIC TOWING. includes first hour hookup, labor, standby time, for vehicles over 22,000 GVW (unloaded)	\$240	\$250	\$250	\$225	\$220	\$225	\$195	\$225	\$225
ON-SCENE or Stand-by labor = each 15-minute increment, beyond first hour. Is charged only when extra ordinary labor must be expended to recover a vehicle. Stand-by is charged when the job cannot be started and must be explained on the tow bill.	\$40	\$40	\$45 per 15 minute increment	\$40 1/4 hour	\$40	\$18 each 15 minutes, then free	\$45	\$40	\$40
DOLLIES. Will only be used when there is not a less expensive, safe manner of handling the situation.	\$55	\$55	\$0	\$55	\$55	\$55	n/c	\$55	\$55
DRY RUN. May also be known as a "hook-up – drop fee" and is charged when the vehicle is hooked up and the owner returns before the vehicle is in transit.	\$50	\$50	\$90	\$50	\$50	\$100	n/c	\$50	\$50
PER MILE TOWING. Applies only to vehicles recovered outside the jurisdiction of the city of National City	\$5	\$5	\$5	\$5.00	\$5.00	\$5.50	n/c	\$5	\$5
MAXIMUM STORAGE - PER DAY. Per day is defined as a 24-hour period.	\$50	\$50	\$45	\$45	Basic\$45 Med \$55 Heavy\$65	\$45	\$40	\$45	\$45
STORAGE PER HOUR. The maximum daily hourly storage rate, not to exceed the maximum storage-per day rate.	\$15	\$15	\$3.75	\$15	\$15.00	\$1.87 per hour	\$10 per hr for 1st 4 hr	\$15	\$15
AFTER HOURS VEHICLE RELEASE. After 5PM and before 8AM including weekends and all City-observed holidays.	\$65	\$65	\$65	\$65	\$75	\$65	\$70	\$65.00	\$65
NOTIFICATION OF LIEN SALE. Vehicle valued at less than \$4,000, (22851.12 CVC).	\$70	\$70	\$70	\$70	\$70	\$35	\$70	\$70	\$70
NOTIFICATION OF LIEN SALE. Vehicle valued at over \$4,000. (22851.12 CVC).	\$100	\$100	\$100	\$100	\$100	\$50	\$100	\$100	\$100
POLICE EQUIPMENT TOWING. Inside jurisdictional limits of National City	n/c	n/c	n/c	n/c	n/c	n/c	n/c	n/c	N/C
CITY EQUIPMENT TOWING & STORAGE Includes all City vehicles. Also includes police vehicles towed from outside jurisdictional limits of National City	25% of Basic Towing Fee	25% of Basic Towing Fee	25% of Basic Towing Fee	25% of Basic Towing Fee	25% of Basic Towing Fee	25% of Basic Towing Fee	25% of Basic Towing Fee	25% of Basic Towing Fee	25% Basic Tow Fee
EVIDENTIARY TOWING AND STORAGE. Daily storage fees for City/vehicles, seized vehicles, and vehicles for evidentiary purposes.	25% of Daily Storage fee & 25% Basic Towing	25% of Daily Storage fee & 25% Basic Towing fee	25% of Daily Storage fee & 25% Basic Towing fee	25% of Daily Storage fee & 25% Basic Towing fee	25% of Daily Storage fee & 25% Basic Towing fee	25% of Daily Storage fee & 25% Basic Towing fee	25% of Daily Storage fee & 25% Basic Towing fee	25% of Daily Storage fee & 25% Basic Towing fee	25% of Daily Storage fee
TOWING OF VICTIMS' VEHICLES	\$60	\$80	\$75.00	\$40.00	25% of Daily Storage fee & 25% Basic Towing fee	\$100	\$145	25% of Basic Towing Fee	\$40
**FINAL: Final negotiated rates to which both recommended vendors agreed. Contracts with both vendors will charge the same rates									



**NATIONAL CITY POLICE DEPARTMENT
MEMORANDUM**

DATE: June 18th, 2021
TO: Tow Contract Committee
FROM: Damian Ballardo, Tow Contract Committee Member
SUBJECT: **Towing & Impound Contract (RFP); Site Visits**

Request for Proposal ("RFP") #GS2021-1 was issued to establish a new Towing and Impound contract for the City of National City. The RFP's were mailed to vendors, and advertised in the San Diego Union Tribune and the Star News. The completed RFP's were due on June 8th, 2021. The City received seven (7) responses. Upon initial review of all the proposals by the Tow Contract Committee it was decided that only three companies met the minimum qualifications. Based on this, only three sites were visited.

- Quality Towing, 270 Trousdale St., Chula Vista
- Angelo's Towing 1177 S. 26th St, San Diego
- Road One Towing, 3333 National Ave, San Diego

Site visits were conducted on all three tow contractors by Ronny Soriano and Sergeant Damian Ballardo. As stated in the RFP, the site visits were conducted without prior notice in order to view the tow contractor in their normal everyday business setting. The site visits were conducted on Thursday, June 17th, 2021. A Site Visit checklist was completed by Sergeant Ballardo during each site visit.

Quality Towing (visited 06-17-21 @ 09:20 am)
Employee present – Adrian Jimenez

Quality Towing has a current business license for their jurisdiction. Their business office/storage lot is located at 270 Trousdale St. in Chula Vista, which according to Google Maps is 2.7 miles from City Hall.

Their business office is staffed from 8 AM to 6 PM. The sign outside also indicates business hours are 8 AM to 6 PM. All incoming phone calls are answered by office staff during business hours. An onsite attendant is available

June 18th, 2021

24/7 for after-hours vehicle releases. The current fee schedule is posted on the interior wall of the office. They accept cash and major credit cards, and have cash on hand for change. Customer invoices are itemized with all charges.

Angies Towing, Inc. dba Quality Towing and Recovery or QUALITY, currently services the following agencies; CHP, El Cajon PD, La Mesa PD, Santee Sheriff Department and the Lemon Grove Sheriff Department. Quality Towing's trucks are currently dispatched by cell phone. The employee did not know if they have a system in place for reconciliations.

Quality was not able to attach current CHP 243B forms to their proposal due to an issuing backlog in Sacramento. On the day of the site inspection I was able to obtain copies of their current/valid CHP243B forms for their trucks. The proposal sent in by Quality Towing listed the truck information stating they have standard duty, medium duty wheel, and heavy duty lift trucks and standard/medium duty rollback trucks as well as 4x4 and sub-garage trucks. There were only medium duty and standard/medium duty rollback trucks at the lot when we arrived on site. I was told all their other trucks were on service calls.

Quality Towing's site is nearby public transportation. There is a bus stop approximately four blocks from the site. There is **NO** Trolley stop within a reasonable walking distance from the site.

The yard size is listed as 33,000 square feet and my visual estimate of the lot size agrees with this estimate. The storage yard is enclosed by a solid wall on one side and chain link fence on three sides with razor wire on the top and a locked gate. The lot is currently alarmed by ADT Security with intrusion sensors. The storage lot does have a paved vehicle examination area and is well illuminated.

The Quality Towing site we visited did **NOT** have a secured evidentiary storage area. I was told that they plan to build one and that it should be in service within a few months but they did not have any plans or permits to show me.

Quality Towing meets all RFP requirements.

Angelo's Towing (visited 06-17-21 @ 10:30 am)
Employee present – Nash Habib

Angelo's Towing has a current National City business license. Their business office/storage lot is located at 1177 S. 26th Street in San Diego which is approximately 2.9 miles from the City Hall. Their business office is staffed 24 hours a day/ 7 days a week. During the business hours of 6:00 am to 6:00 pm, there are three office employees present; from 10:00 pm to 6:00 am the staff consists of three dispatchers. All incoming phone calls are answered by office staff. The office staff is available 24/7 for after-hours vehicle releases. The

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June 18th, 2021

current fee schedule is posted in the lobby of the business office. Angelo's Towing accepts cash and major credit cards, and have cash on hand for change. An inspection of invoices verified that customer invoices are itemized with all charges.

Angelo's Towing currently tows for the CHP, Coronado PD, El Cajon PD, San Diego Sheriffs and National City PD. They do have a current system in place for reconciliations. They are a large Automobile Club ("AAA") provider with thousands of AAA calls for service each month.

Angelo's Towing's truck fleet meets the RFP requirements. All trucks and drivers are CHP certified. While on site I was provided with their most recent/valid CHP 243B forms and drivers forms. The business has standard duty, medium duty, and heavy duty wheel lift trucks, standard/medium duty rollback trucks and 4x4 trucks. The business also has a tow truck capable of sub-garage. All trucks are equipped within RFP requirements.

Angelo's Towing's storage lot is located in San Diego and is close to public transportation. The lot is within two blocks of both a bus stop and trolley service.

The storage lot is paved and per Nash Habib, is approximately 30,000 square feet including the office building. My visual estimate of the lot size agrees with this estimate. Mr Habib has purchased the property immediately south of his site and is currently in the process of demolishing the buildings and this will double the size of his current lot from 30,000 to 60,000 square feet. The construction should be finished by September. The current storage yard is enclosed by solid fence and wall with a locked gate. The lot is alarmed and monitored by numerous high definition cameras that record. The lot is well lit with pole and building mounted lights.

The storage lot has five separate and completely secure evidentiary storage areas for evidentiary vehicles. Each has a paved vehicle examination area. Each area is approximately 11'x21'.

Angelo's Towing and Storage meets all RFP requirements.

Road One Towing (visited 06-17-21 @ 11:20 am)
Employees present –Brian Wakham

Road One Towing has a current National City business license. Their business office/storage lot is located at 3333 National Avenue in San Diego which is approximately 3.2 miles from the City Hall. This business office is staffed Monday – Friday, 8:00 am to 6:00 pm. There is also a sign indicating the business hours are 8AM-5PM.

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After hours, phone calls are routed to the main office/dispatchers and answered by staff. If an after-hours release is requested by a customer, the dispatcher would immediately

send a Road One employee to the storage lot to assist the customer. All incoming phone calls are answered by Road One staff. The current fee schedule is posted at the business, they accept cash and major credit cards, and have cash on hand for change. An inspection of invoices verified that customer invoices are itemized with all charges.

A to Z Enterprises, Inc., dba RoadOne, currently tow for The City of San Diego, CHP, SDSO, CVPD, La Mesa PD, Harbor PD, Oceanside PD, Miramar Air Station Military Police and several other law enforcement agencies. Road One Towing has a system in place to post reconciliations for other jurisdictions. They currently have a system in place for National City.

Road One Towing's truck fleet meets the RFP requirements. All trucks are CHP certified. The business has standard duty, medium duty, and heavy duty wheel lift trucks, standard/medium duty rollback trucks, and a heavy duty truck. The business also has tow trucks capable of sub-garage towing and off road capable vehicles. All trucks are equipped within RFP requirements. Road One has the largest fleet of trucks of all the RFP proposals. All trucks have a Tele-track GPS system allowing Road One dispatch to know the location of all trucks and dispatch the closest truck for a shortened response time.

Road One Towing's storage lot is located in San Diego and close to public transportation. There is a bus stop approximately 20 yards from the entrance of their yard. There are **No** Trolley stops within $\frac{3}{4}$ of a mile of the site.

The storage lot is composed of a gravel type surface with partial paving and is approximately 150,000 square feet. My visual estimate of the lot size agrees with this estimate. The storage yard is enclosed by solid chain link fence reinforced with rebar and barb wire with a locked gate. The lot is alarmed and monitored by several cameras equipped with motion sensors, that record. The lot is well lit with pole and building mounted lights.

The storage lot has an indoor secured storage area for evidentiary vehicles. There are 4 individual 10' x 20' evidentiary storage cages. Each has a paved vehicle examination area.

Road One Towing meets all RFP requirements.

Conclusion

Upon completion of the site visits, the results of the site visits were presented to the tow contract committee. As a result of the site inspections, it was determined that all three of the proposals meet the RFP requirements.

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Although all three meet the RFP requirements, Quality Towing did not have in place an area to store evidentiary vehicles. Based on the RFP page 16 (**III Specific Provisions** section A paragraph 3 Inspection), "The city reserves the right to disqualify a Bidding Contractor who does not, in the City's judgement, exhibit the sufficient **physical** and financial resources to perform the contract." Because Quality Towing does not have a **physical** location for evidentiary vehicles, they should be disqualified.

Summary

- Angelo's Towing, 1177 S. 26th Street, San Diego, CA., 92113
- Road One Towing (A to Z Enterprises, Inc.), 9150 Chesapeake Dr. Suite 240, San Diego, CA., 92123

Respectfully Submitted,

Damian Ballardo
Tow Contract Committee Member

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NCPD

CITY OF NATIONAL CITY

TOW RFP SITE VISIT

PROSPECTIVE CONTRACTOR: Quality Towing

DATE/TIME: 6-17-21 0920

YES

BUSINESS LICENSE

- Current in jurisdiction

YES

24 HOUR PHONE CONTACT

619-460-2444

YES

- Pager / cell / office staff / answering service

YES

24 HOUR OFFICE STAFF FOR RELEASE

YES

- Office at yard (Open minimally 0800-1800)

YES

- Access to vehicle by R/O 24 hours

FEE SCHEDULE POSTED IN OFFICE; Yes or No

YES

ACCEPT CREDIT CARD AND CASH

YES

- Cash on hand for change

PROCEDURE IN PLACE TO POST RECONCILIATION YES / NO

UNKNOWN

INVOICES ITEMIZED WITH ALL CHARGES YES/NO

TOW TRUCK REQUIREMENTS

- Rollback → Basic = YES / NO Medium = YES / NO Heavy = YES / NO
- Wheel Lift → Basic = YES / NO Medium = YES / NO Heavy = YES / NO
- One sub-garage vehicle YES / NO
- Off-road Capable Truck YES / NO 4x4

TRUCK EQUIPMENT

YES

- Two Way Radio or other means of two way communication BY CELL PHONE

YES

- 8000 lbs capacity

YES

- Dollies on each vehicle

- Completed CHP Inspection Certificate for each vehicle (working within NC) signed and dated prior to RFP COMPLETED & E-MAILED

LOT REQUIREMENTS (Take Photos)

- Within 7 miles of City Hall (Appx Distance = 2.7)
- >10,000 sq ft of usable lot space (Not including Buildings) (Appx sq footage = 33,000)
- Public transit nearby YES / NO Bus/Trolley - NO
- Enclosed → Solid Fence YES / NO or Wall YES / NO (Height= 8 ft.? YES / NO)
- Lockable Gate YES / NO
- Are gates locked during business hours? YES
- What type of lock? AUTO GATE
- Is gate manual or mechanized?
- Alarmed = YES / NO Security Cameras = YES / NO
- Sufficient Lighting
- Drainage - DIRT / NO CITY STORM DRAIN ISSUES
- Secured Evidence Storage (or can build one prior to contract) WILL BUILD 2 - 20'X21'
- Paved Examination Area BEING BUILT ALONG W
- Samples of drivers licenses for employees who will be working in NC. Conduct survey of 10 employees or 10% of employees, whichever is greater. WILL BE DONE UPON AWARD

YES

YES

YES

COMMENTS:

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EMPLOYEE PRESENT: ADRIAN JEMENEZ PERSON CONDUCTING INSPECTION: BALLARDO / SORIANO

- Reconciliation fees are those fees paid to the city by the vendor
- How many total trucks 30
- How many employees and are they certified by the CHP 35-40 - YES
- Are staff present 24 hours at site? YES

TOW RFP SITE VISIT

PROSPECTIVE CONTRACTOR: Road One Towing

DATE/TIME: 6-17-21 1120

YES BUSINESS LICENSE

YES ➤ Current in jurisdiction

YES 24 HOUR PHONE CONTACT

➤ Pager / cell office staff answering service

YES 24 HOUR OFFICE STAFF FOR RELEASE

YES ➤ Office at yard (Open minimally 0800-1800)

YES ➤ Access to vehicle by R/O 24 hours

FEE SCHEDULE POSTED IN OFFICE; Yes or No

YES ACCEPT CREDIT CARD AND CASH

YES ➤ Cash on hand for change

PROCEDURE IN PLACE TO POST RECONCILIATION YES / NO

INVOICES ITEMIZED WITH ALL CHARGES YES / NO

TOW TRUCK REQUIREMENTS

➤ Rollback → Basic = YES / NO Medium = YES / NO Heavy = YES / NO

➤ Wheel Lift → Basic = YES / NO Medium = YES / NO Heavy = YES / NO

➤ One sub-garage vehicle YES / NO

➤ Off-road Capable Truck YES / NO WHEEL LIFT 4x4

TRUCK EQUIPMENT

YES ➤ Two Way Radio or other means of two way communication KERNEY MESA DISPATCH

YES ➤ 8000 lbs capacity 3-ON DUTY 24-7

YES ➤ Dollies on each vehicle

➤ Completed CHP Inspection Certificate for each vehicle (working within NC) signed and dated prior to RFP SENT E-MAIL

LOT REQUIREMENTS (Take Photos)

➤ Within 7 miles of City Hall (Appx Distance = 3.2)

➤ >10,000 sq ft of usable lot space (Not including Buildings) (Appx sq footage = 150,000)

➤ Public transit nearby YES / NO (Bus/Trolley -NO 3/4 MILE WALK FOR TROLLEY)

➤ Enclosed → Solid Fence YES / NO or Wall YES / NO (Height= 8 ft.? YES / NO)

➤ Lockable Gate YES / NO

➤ Are gates locked during business hours? YES

➤ What type of lock? AUTOMATED GATE

➤ Is gate manual or mechanized?

➤ Alarmed = YES / NO Security Cameras = YES / NO 16 CAMERAS

YES ➤ Sufficient Lighting

YES ➤ Drainage S.D CITY DRAINAGE

YES ➤ Secured Evidence Storage (or can build one prior to contract) 4 - 10'x20'

➤ Paved Examination Area YES

➤ Samples of drivers licenses for employees who will be working in NC. Conduct survey of 10 employees or 10% of employees, whichever is greater. _____

COMMENTS: _____

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EMPLOYEE PRESENT: BRIAN PERSON CONDUCTING INSPECTION: BALLARDO / SORZIANO

- Reconciliation fees are those fees paid to the city by the vendor
- How many total trucks 10 - FOR NC.
- How many employees and are they certified by the CHP 40 - YES
- Are staff present 24 hours at site? YES

NCPD

CITY OF NATIONAL CITY

TOW RFP SITE VISIT

PROSPECTIVE CONTRACTOR: Angelo's Towing

DATE/TIME: 6-17-21 10:30

<u>YES</u>	BUSINESS LICENSE
<u>YES</u>	➤ Current in jurisdiction
<u>YES</u>	24 HOUR PHONE CONTACT
	➤ Pager / cell / <u>office staff</u> / answering service
<u>YES</u>	24 HOUR OFFICE STAFF FOR RELEASE
<u>YES</u>	➤ Office at yard (Open minimally 0800-1800) <u>24 HR</u>
<u>YES</u>	➤ Access to vehicle by R/O 24 hours
	FEE SCHEDULE POSTED IN OFFICE; <u>Yes</u> or No
<u>YES</u>	ACCEPT CREDIT CARD AND CASH
<u>YES</u>	➤ Cash on hand for change
	PROCEDURE IN PLACE TO POST RECONCILIATION <u>YES</u> / NO
	INVOICES ITEMIZED WITH ALL CHARGES <u>YES</u> / NO
	TOW TRUCK REQUIREMENTS
	➤ Rollback → Basic = <u>YES</u> / NO Medium = <u>YES</u> / NO Heavy = <u>YES</u> / NO
	➤ Wheel Lift → Basic = <u>YES</u> / NO Medium = <u>YES</u> / NO Heavy = <u>YES</u> / NO
	➤ One sub-garage vehicle <u>YES</u> / NO <u>6'4"</u>
	➤ Off-road Capable Truck <u>YES</u> / NO <u>4 OF THEM</u>
	TRUCK EQUIPMENT
<u>YES</u>	➤ Two Way Radio or other means of two way communication <u>DISPATCH CNTR / CELL PHONE</u>
<u>YES</u>	➤ 8000 lbs capacity
<u>YES</u>	➤ Dollies on each vehicle
<u>YES</u>	➤ Completed CHP Inspection Certificate for each vehicle (working within NC) signed and dated prior to RFP
	LOT REQUIREMENTS (Take Photos)
	➤ Within 7 miles of City Hall (Appx Distance = <u>2.9</u>)
	➤ >10,000 sq ft of usable lot space (Not including Buildings) (Appx sq footage = <u>30,000</u> → <u>60,000</u> <u>CONSTRUCTION</u>)
	➤ Public transit nearby <u>YES</u> / NO <u>Bus/Trolley</u>
	➤ Enclosed → Solid Fence <u>YES</u> / NO or Wall <u>YES</u> / NO (Height= 8 ft.? <u>YES</u> / NO)
	➤ Lockable Gate <u>YES</u> / NO
	➤ Are gates locked during business hours? <u>YES</u>
	➤ What type of lock? <u>AUTO-MASTER</u>
	➤ Is gate manual or <u>mechanized</u> ?
	➤ Alarmed = <u>YES</u> / NO Security Cameras = <u>YES</u> / NO <u>36</u>
<u>YES</u>	➤ Sufficient Lighting
<u>YES</u>	➤ Drainage
<u>YES</u>	➤ Secured Evidence Storage (or can build one prior to contract) <u>5- 11'x 26' fully enclosed</u>
	➤ Paved Examination Area <u>YES</u>
	➤ Samples of drivers licenses for employees who will be working in NC. Conduct survey of 10 employees or 10% of employees, whichever is greater. _____

COMMENTS: _____

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EMPLOYEE PRESENT: NASH HABIB

PERSON CONDUCTING INSPECTION: BALVARDO/SORIANO

- Reconciliation fees are those fees paid to the city by the vendor
- How many total trucks 28 - 1-50 TON - 1-20 TON / 4-4x4
- How many employees and are they certified by the CHP
- Are staff present 24 hours at site? YES

AGREEMENT BY AND BETWEEN

CITY OF NATIONAL CITY

AND

A TO Z ENTERPRISES, INC.,

DBA ROADONE

FOR

TOWING AND IMPOUND SERVICES

October 1, 2021 – September 30, 2023

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**AGREEMENT FOR TOWING AND IMPOUND SERVICES
BETWEEN THE CITY OF NATIONAL CITY AND
A TO Z ENTERPRISES, INC., DBA ROADONE**

This Agreement for Towing and Impound Services (“Agreement”) is made and entered into in the City of National City, State of California, on this 25th day of August , in the year 2021, by and between the City of National City, a municipal corporation (“City”), and A to Z Enterprises, Inc., D.B.A. RoadOne (“Contractor”) for towing and impound services.

RECITALS

Whereas, the City of National City requires professional towing and impound services to maintain the safety of the public right-of-way and to seize and secure vehicles in accordance with the laws of the State of California and the National City Municipal Code, ordinances and regulations of the City of National City; and

Whereas, the City has adopted a process for the selection and designation of professional towing contractors to provide towing, impound and storage service upon the request of the National City Police Department; and

Whereas, on May 6, 2021, a Request for Proposal (“RFP”) was issued for towing and impound services for the City, to which Contractor responded; and

Whereas, the tow committee comprised of City staff evaluated the proposals and presented their report to Council for consideration at the September 7, 2021 City Council meeting;

Whereas, the staff report detailed the evaluation process, explained the evaluations of the proposals, including whether the proposals met the RFP requirements, and recommended awarding contracts to the top two operators; and

Whereas, Contractor, participated in a competitive process through the RFP, and together with another towing contractor has been found to provide the best overall value to the City, including having the best qualifications and capability of providing the highest quality, professional towing services for the City of National City; and

Whereas, the City of National City desires to have two towing and impound operators perform exclusive towing service within the City of National City and Contractor represents and warrants it is experienced and staffed in a manner such that it is capable and prepared to deliver the services required by the City of National City within the time frames herein provided, all in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, the City of National City and Contractor mutually agree to the terms and conditions as follows:

DEFINITION OF TERMS

1.0 Police Tow shall mean the towing of vehicles at the direction of the National City Police Department where the consent of the owner or operator or their agent of the vehicle is not required under existing law. This shall include but is not limited to the towing of motor vehicles that are illegally parked, abandoned, evidence in a criminal investigation, disabled due to collision or mechanical failure (pursuant to Section 22500 of the Vehicle Code) or otherwise subject to the authority of the National City Police Department.

1.1 Police Referral Tow shall mean the towing of a vehicle by the National City Police Department at the request of the vehicle owner, operator, or their agent. Examples include mechanically disabled vehicles, vehicles disabled as a result of collision, or any other circumstances where the public right-of-way is impacted.

1.2 On-Demand Tow means the towing of a vehicle by a towing company that has been requested by the vehicle owner, operator, or their agent, without police involvement. On-Demand tows may include owners or agents of private property landholders who arrange for vehicle towing service from private property without police involvement. If the police department becomes involved in arranging for tow service, the matter is considered a "Police Referral Tow". On-Demand Tows are considered independent services outside the scope of this Agreement.

1.3 Secondary Tow is defined as the impound of a vehicle on orders of police under the authority of California Vehicle Code Sections 22655 or 22655.5 and the vehicle is brought to the National City Police Department for evidence processing. The secondary tow occurs when the police direct the original Contractor to retrieve and store the vehicle on Contractor's property.

1.4 Collision Tow The owner or operator of a vehicle involved in a non-criminal traffic collision may select a tow company of their own choosing. However, if in the opinion of the investigating police officer an unreasonable delay would result, or unnecessary delay would negatively impact access to the public right-of-way, the investigating officer may consider the matter a "Police Tow" and cause the removal of the vehicle. If the vehicle is towed on orders of the investigating officer, the officer shall complete the Vehicle Report (CHP 180), citing 22500 California Vehicle Code as the authority for impound. No special hold or police authorized release is necessary.

1.5 Response Time is defined as the elapsed time between the relaying of the tow service request by the National City Dispatch Center or a City Employee to the Contractor and the arrival of the specific tow truck type requested to fulfill the tow need on scene. Under most situations, a call for field service will be relayed by the Police dispatchers via telephone to the tow contractors. However, there is a need to allow for direct requests to the tow contractor by any NCPD employee. This may be done by phone or in person to either the Contractor's dispatcher or to a tow truck driver that is already on the scene of an NCPD requested tow, when there is a need for additional services.

1.6 Dispatch Center is the Police Department's multifunction emergency and non-emergency telephone/radio operators.

1.7 Contract Year is defined as any one year, 365 day period during the term of this Agreement. The first contract year begins on October 1, 2021 and ends on September 30, 2022. The second contract year begins on October 1, 2022 and ends on September 30, 2023. There are two (2) successive years in this Agreement.

1.8 Fee Schedule is defined as the fees charged by Contractor to the owner, operator, or agent of the subject vehicle for various services charged by Contractor. The fee schedule is approved and authorized by a majority vote of the City of National City, City Council. The fee schedule includes itemized charges for numerous towing and storage services including but not limited to hook up fees, dolly fees, daily storage fees, after-hour release fees, etc. The Fee Schedule is Attachment A to this document. Attachment A and the fees may be adjusted as set forth in Section 7.0.

1.9 Towing Program Fee is a fee from Contractor to City and is authorized by California Vehicle Code Section 12110(b). It is defined as a quarterly fee charged to Contractor(s) by the City in connection with the award of a franchise for the towing services for the City. The Towing Program Fee is designed to compensate the City for its actual and reasonable costs incurred by the City to process and administer towing services. The Towing Program Fee may be adjusted during the term of this Agreement as set forth in Section 3.4 of this Agreement. The payment of the Towing Program Fee is set forth in Sections 7.5, 7.6, 7.7, and 7.8.

1.10 Negligent Vehicle Impound Release Fee ("NVIR") is authorized by the City Council. The Negligent Vehicle Impound Release Fee is defined as a fee charged to the owner, operator, or agent of a vehicle that violated certain specified sections of the California Vehicle Code or National City Municipal Code. The NVIR fee is one hundred twenty-four (\$124) dollars. The NVIR fee may be adjusted during the term of the agreement as set forth in Section 7.0 of this Agreement. This fee is collected by Contractor on behalf of City.

1.11 Administrative Review Fee: is a fee charged to the vehicle owner, operator or agent and is collected by the contractor, on behalf of the City. The fee is one hundred and fifty (\$150) dollars. The fee supports the staff time utilized to process and administer requests and appeals from unlicensed drivers for release of their vehicles prior to the 30 days prescribed by the California Vehicle Code. This includes a hearing with the Police Traffic Supervisor. The "Administrative Review Fee" may be adjusted during the term of the Contract at the discretion of the City. The fee off-sets the administrative costs of the program. This fee is charged to the vehicle owner, operator or agent and is collected by Contractor on behalf of City. The Administrative Review Fee may be adjusted during the term of this Agreement as set forth in Section 7.0.

ADMINISTRATION AND MANAGEMENT OF AGREEMENT

2.0 Agreement Approval

This Agreement for towing service shall become effective when the City Council of the City of National City has reviewed and approved the Agreement and it has been fully executed by Contractor.

2.1 Entire Agreement

This Agreement supersedes any prior agreements, documents, negotiations and communications, oral or written, and contains the entire Agreement between the parties as to towing and impound services. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of any party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

2.2 Administration of Agreement

Each party designates the below individuals as the "Contract Administrator" for the party. The Contract Administrator is authorized by the party to represent the party in the administration of this agreement. The Contract Administrator shall monitor the progress and execution of this Agreement. The Contract Administrator may delegate duties and responsibilities to subordinates to insure functional management, supervision and operation of this Agreement.

Contract Administrator for the City of National City

Jose Tellez, Chief of Police
National City Police Department
1200 National City Blvd., National City, CA. 91950
(619) 336-4511

Management and Operations

Traffic Division Sergeant
National City Police Department
1200 National City Blvd., National City, CA 91950
(619) 336-4475

Inspection & Operational Supervision

Traffic Division Sergeant
National City Police Department
1200 National City Blvd., National City, CA 91950
(619) 336-4475

Contract Administrator for:
A to Z Enterprises, Inc.
DBA RoadOne

Brad Ramsey
A to Z Enterprises, Inc.
DBA RoadOne
9150 Chesapeake Dr., Suite 240
San Diego, CA 92123

2.3 Cooperation and Consultation

The designated City employee(s) and Contractor shall regularly consult during the term of this Agreement in order to achieve the objectives of this Agreement. Throughout the term of this Agreement, Contractor shall permit access to its offices, facilities, files and records relating to the operation and management of this agreement. Upon request of the City, the Contractor shall provide copies of files, materials or records relating to the towing, impound, and disposition of any vehicle towed as a result of this agreement.

2.4 Compliance with Applicable Law

The Contractor in the performance of the services to be provided herein, shall comply with all applicable State and Federal statutes and regulations, and all applicable ordinances, rules and regulations of the City of National City, whether now in force or subsequently enacted.

2.5 Licenses, Permits, Etc.

Contractor represents and covenants that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession, and as required in the City's Request for Proposal for this Agreement. The Contractor represents and covenants that the Contractor shall, at its sole cost and expense, keep in effect at all times during the term of this agreement, any license, permit, insurance or approval which is legally required for the Contractor to practice its profession.

2.6 Disputes

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under any term of this Agreement which is not disposed of by this Agreement shall be decided by the Chief of Police who will furnish the decision to the Contractor in writing. Contractor shall proceed diligently with performance of this Agreement pending receipt of the decision of the Chief of Police. The decision of the Chief of Police is final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, arbitrary, capricious or so grossly erroneous as to necessarily imply bad faith.

The "Disputes" clause does not and is not intended to preclude consideration of legal questions in connection with decisions provided in the above paragraph. Nothing in this Agreement shall be construed as making final the decision of any administrative official, representative, or council on a question of law.

2.7 Mediation / Arbitration

If a dispute arises out of or relates to this Agreement, or the breach thereof, the parties agree first to try, in good faith, to settle the dispute by mediation in San Diego County, California, in accordance with the Commercial Mediation Rules of the American Arbitration Association (the "AAA") before resorting to arbitration. The cost of mediation shall be borne equally by the parties. Any controversy or claim arising out of, or relating to, this Agreement, or breach thereof, which is not resolved by mediation shall be settled by arbitration in San Diego County, California, in accordance with the Commercial Arbitration Rules of the AAA then existing. Any award rendered shall be final and conclusive upon the parties, and a judgment thereon may be entered in any court having jurisdiction over the subject matter of the controversy. The expenses of the arbitration shall be borne equally by the parties to the arbitration, provided that each party shall pay for and bear the cost of its own experts, evidence and attorneys' fees, except that the arbitrator may assess such expenses or any part thereof against a specified party as part of the arbitration award.

2.8 Legal Fees

If any party brings a suit or action against the other party arising from any alleged breach of any of the covenants or agreements or any inaccuracies in any of the representations and warranties on the part of the other party arising out of this Agreement, then in that event, the prevailing party in such action or dispute, whether by final judgment or out-of-court settlement, shall be entitled to have and recover from the other party all costs and expenses of suit, including expert and attorneys' fees.

For purposes of determining who is to be considered the prevailing party, it is stipulated that attorneys' fees incurred in the prosecution or defense of the action or suit shall not be considered in determining the amount of the judgment or award.

Attorneys' fees to the prevailing party, if other than the City, shall not exceed the amount of attorneys' fees incurred by the City in its prosecution or defense of the action, irrespective of the actual amount of attorneys' fees incurred by the prevailing party.

2.9 Indemnification and Hold Harmless

The Contractor agrees to indemnify, defend, and hold harmless the City of National City, its officers, employees, agents, and volunteers against and from any and all liability, loss, damages to property, injuries to, or death of any person or persons, and all claims, demands, suits, actions, proceedings, defense costs or reasonable attorneys' fees, of any kind or nature, including workers' compensation claims, of or by anyone whomsoever, in any way resulting from, related to, or arising out of the Contractor's performance or other obligations under this Agreement. The City will cooperate reasonably in the defense of any action, and Contractor shall employ competent counsel, reasonably acceptable to the City Attorney.

The indemnity, defense and hold harmless obligations contained herein shall survive the termination of this Agreement for any alleged or actual omission, act, or negligence under this Agreement that occurred during the term on this Agreement.

2.10 Business Records (10650 CVC et seq.)

Contractor shall maintain and retain data and records of all tow services furnished, including description of vehicles, nature of service, date, time of notification by City, time of tow truck dispatch, time of arrival of tow truck at scene, location of calls, total itemized charges of towing and storage, and the description of all vehicles towed and/or stored at the initiation of the City. If the vehicle is sold at lien sale, data shall be maintained documenting all liens against the vehicle, monies received as a result of the sale, identification of the purchaser, and the amount of monies forwarded to City and state. All such data and original towing and storage records shall be maintained in an accessible location. The Contractor shall make available and permit the City without notice during normal business hours to audit, examine and make excerpts, copies, or transcripts of all data and records with respect to the towing and storage of vehicles initiated by the City. If Contractor employs, assigns or contracts with a third-party vendor to manage or process the DMV required processing regarding lien sale vehicles, Contractor shall make available all relevant records, data or documents regarding lien sales. Contractor shall waive any privacy rights in order to permit City to inspect, review and copy any relevant record in possession of a third-party vendor.

2.11 Prohibition Against Use of Privileged Information

Contractor shall not use for personal gain, transmit, or disclose any privileged or confidential information that is acquired from or obtained as a result of information gathered from the management or operation of this Agreement. For the purpose of this section, "Privileged or Confidential Information" shall include City or police department records unrelated to towing and storage of vehicles, DMV information, or Criminal History information.

2.12 Independent Contractor

Contractor shall for all purposes arising out of this Agreement, be an independent contractor. Contractor and employees of Contractor shall not be deemed employees or agents of City. It is expressly understood and agreed that the Contractor and its employees shall in no event, as a result of this Agreement, be entitled to any benefit to which City employees are entitled, including but not limited to overtime, retirement benefits, workers' compensation benefits, injury leave, medical leave, unemployment or any other leave benefits.

Neither the City nor its officers, agents or employees shall have any control over the conduct of the Contractor or any of the Contractor's employees except as herein set forth, and the Contractor expressly agrees not to represent that the Contractor or the Contractor's agents, servants, or employees are in any manner agents, servants, and employees of the City, it being understood that the Contractor, its agents, servants, and employees are as to the City wholly independent contractors and that the Contractor's obligations to the City are solely such as are prescribed by this Agreement.

2.13 Assignment

This Agreement contemplates the personal services of the Contractor and the Contractor's employees, and it is recognized by the parties that a substantial inducement to the City for entering into this Agreement was, and is, the professional reputation and competence of the Contractor and its employees. Neither this Agreement nor any interest herein may be assigned by the Contractor without the prior written consent of the City. Nothing herein contained is intended to prevent the Contractor from employing or hiring as many employees as the Contractor may deem necessary for the proper and efficient performance of this Agreement. Contractor has represented it has sufficient staffing to perform pursuant to this Agreement.

Contractor agrees it shall not subcontract any towing or impound services. Any other type of work that is subcontracted shall require written consent of the City. All agreements by Contractor with its subcontractor(s) shall require the subcontractor(s) to adhere to the applicable terms of this Agreement.

2.14 Workers' Compensation

The Contractor shall comply with all of the provisions of the Workers' Compensation Insurance and Safety Acts of the State of California, the applicable provisions of Division 4 and 5 of the California Government Code and all amendments thereto; and all similar State or Federal acts or laws applicable; and shall indemnify, defend and hold harmless the City and its officers, employees and volunteers from and against all claims, demands, payments, suits, actions, proceedings and judgments of every nature and description, including reasonable attorneys' fees and defense costs presented, brought or recovered against the City or its officers, employees, or volunteers, for or on account of any liability under any of said acts which may be incurred by reason of any work to be performed by the Contractor under this Agreement.

2.15 Non-Discrimination Provision

The Contractor will not discriminate against any employee or applicant for employment because of age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. The Contractor will take positive action to insure that applicants are employed without regard to their age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the City setting forth the provisions of this non-discrimination clause.

2.16 Conflict of Interest and Political Reform Act Obligations

During the term of this Agreement, the Contractor shall not perform services of any kind for any person or entity whose interest's conflict in any way with those of the City of National City. The Contractor also agrees not to specify any product, treatment, process

or material for the project in which the Contractor has a material financial interest, either direct or indirect, without first notifying the City of that fact. The Contractor shall at all times comply with the terms of the Political Reform Act and the National City Conflict of Interest Code. The Contractor shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the City in which the Contractor has a direct or indirect financial interest as defined in Government Code Section 87103. The Contractor represents that it has no knowledge of any financial interests that would require it to disqualify itself from any matter on which it might perform services for the City. Contractor further warrants and represents that Contractor will immediately advise the City Attorney if Contractor learns of an economic interest of Contractor's that may result in a conflict of interest for the purposes of the Political Reform Act, and regulations promulgated thereunder.

The Contractor shall be strictly liable to the City for all damages, costs or expenses the City may suffer by virtue of any violation of this section by the Contractor.

2.17 Termination of Agreement

A. This Agreement may be terminated with or without cause by the City. Termination without cause shall be effective only upon 60-day's written notice to the Contractor. During said 60-day period the Contractor shall perform all services in accordance with this Agreement.

B. This Agreement may be terminated immediately by the City for cause in the event of a material breach of this Agreement, misrepresentation by the Contractor in connection with the formation of this Agreement or the performance of services, or the failure to perform services as directed by the City.

C. Termination with or without cause shall be effected by delivery of written Notice of Termination to the Contractor as provided for in Section 2.21.

D. In the event of termination, all finished or unfinished memoranda, reports, plans, specifications and other documents prepared by the Contractor, whether paper or electronic, shall immediately become the property of and be delivered to the City, and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed on such documents and other materials up to the effective date of the Notice of Termination, not to exceed the amounts payable hereunder, and less any damages caused the City by the Contractor's breach, if any.

E. The City further reserves the right to immediately terminate this Agreement upon: (1) the filing of a petition in bankruptcy affecting the Contractor; (2) a reorganization of the Contractor for the benefit of creditors; or (3) a business reorganization or change in business status of the Contractor.

F. If Contractor is terminated during the period of performance for any of the reasons stated above or is no longer able to perform for any reason, then the City may unilaterally select another tow operator to replace the terminated or no longer performing Contractor. The selection of such other tow operator, and whether to select another tow operator, shall be at the sole discretion of the City. In the event another tow operator is

selected by the City per this Section, that other tow operator will be required to comply with the same terms of this Agreement or its amendments, including the accepted and adopted fee rate schedule.

2.18 Charges and Fees

Contractor is authorized and responsible for the collection of all applicable towing and storage charges, and any fee authorized or required by City to defray costs to City for the management and operation of this agreement, prior to releasing a vehicle.

2.19 Inspection

City shall require no less than an annual inspection of Contractor and its facilities to insure conformance and compliance with the provisions of the California Vehicle Code and this agreement. Responsibility for said inspection rests with the National City Police Department Traffic Division Sergeant and/or their designee. Said inspections shall be conducted during normal business hours but may be conducted without prior, advanced notice. Upon completion of inspection, the Traffic Division Sergeant shall submit a written report to the Contract Administrators and/or City staff.

2.20 Notice of Termination

All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered; or sent by overnight mail (Federal Express or the like); or sent by registered or certified mail, postage prepaid, return receipt requested; or sent by ordinary mail, postage prepaid; or telegraphed or cabled; or delivered or sent by telex, telecopy, facsimile or fax; and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if sent by overnight mail, the business day following its deposit in such overnight mail facility, (iii) if mailed by registered, certified or ordinary mail, five (5) days, (ten (10) days if the address is outside the State of California) after the date of deposit in a post office, mailbox, mail chute, or other like facility regularly maintained by the United States Postal Service, (iv) if given by telex, telecopy, facsimile or fax, when sent. Any notices, request, demand, direction or other communication delivered or sent as specified above shall be directed to the following persons:

To the CITY:

Jose Tellez, Chief of Police
National City Police Department
1200 National City Blvd
National City, CA. 91950

To the CONTRACTOR:

Brad Ramsey
A to Z Enterprises, Inc.
DBA RoadOne
9150 Chesapeake Dr., Suite 240
San Diego, CA 92123

TERM OF AGREEMENT, OPTIONS, AND RE-OPENERS

3.0 Duration

The duration of this Agreement shall be for two (2) years with options for extension.

3.1 Relevant Dates

This Agreement begins at 0001 hours on October 1, 2021, and terminates at 2400 hours on September 30, 2023.

3.2 Option to Renew

The City of National City reserves the option to renew the Agreement up to three (3) successive one (1) year periods under the terms and conditions herein stated, beginning on the anniversary of the commencement of service, including any amendments. The renewal option is at the discretion of the City's Contract Administrator. The renewal is contingent on a mutual agreement between the City and the Contractor, with such agreement to be confirmed by the Contract Administrator within sixty (60) days prior to the expiration of the contract period. The City of National City or the Contractor may decline to confirm the renewal of the Agreement for any reason whatsoever, which shall render the renewal option null and void.

The City's initial letter informing the Contractor of the City's interest in exercising its option to renew the contract does not constitute an award of the option period. Any option acceptance must be confirmed by the City of National City in writing, before it becomes valid.

The City will not grant an option if the Contractor requests an increase which exceeds the average percentage variant for the previous twelve (12) months in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the National City area, as published by the Bureau of Labor Statistics, or five percent (5%) whichever is less. If a price increase is requested, the Contractor must provide detailed supporting documentation to justify the requested increase. The City will evaluate the requested increase, which the City reserves the right to accept or reject the requested increase.

3.3 Re-Opener Clause - Towing Program Fee

After the first twelve consecutive month period of this Agreement, City may review all tow data to determine the actual number of Police and Referral Tows in the preceding

twelve-month period and to determine whether the Towing Program Fee warrants adjustment. The Towing Program Fees may be adjusted up or down, as determined by City, based upon the actual and reasonable costs incurred by the City to process and administer towing and impound services, which may include, but is not limited to, review of the number of vehicles referred to the Contractor and review of increased costs. If appropriate, City shall consider implementing a per vehicle towing program fee to offset costs incurred by the police department in processing and administering towing services. City may also compare and consider towing program fees charged by other law enforcement jurisdictions in San Diego County for towing services.

3.4 Re-Opener Clause - Fee Schedule

After the first twelve consecutive month period of this Agreement, the Contractor may submit to the Chief of Police a request for an increase to the fee schedule set forth in Attachment A, seeking to adjust the fees consistent with the community standard for police towing in San Diego County. The request shall include a comparison of relevant fees in each law enforcement jurisdiction in San Diego County. City shall assist and consult with Contractor to provide Contractor with accurate data. The Chief of Police shall make appropriate comments, recommendations and submit the material for City Council consideration.

3.5 Re-Opener Clause – Administrative Review Fee

After the first twelve consecutive month period of this Agreement, City may review the number of Administrative Review hearing held within a 30 day period to determine whether an adjustment is warranted. The Administrative Review Fee may be adjusted up or down based upon data. The percentage 30-day impound fee may be adjusted up or down based upon the data.

RESPONSE TIME, EXCEPTIONS AND PENALTY ASSESSMENT

4.0 Response Time

Response time is defined as the elapsed time between the relaying of the tow service request by the Dispatch Center or a City Employee to the Contractor and the arrival of the specific tow truck type requested to fulfill the tow need on scene. (For example: NCPD Dispatch phones in a request for a low profile truck to tow an evidence hold vehicle to the underground parking lot of NCPD. The response of a NON low profile tow truck which **cannot** accommodate towing the vehicle into the underground parking lot of NCPD does not qualify as fulfilling the Response Time requirement.)

The Response Time for Towing Service shall not exceed twenty (20) minutes for tows inside the jurisdictional limits of City.

Due to the limited number of out of City of National City jurisdiction towing service requests, response times shall be evaluated on an individual basis for towing service requests outside of the jurisdictional limits of City. Complaints or irregularities involving out of jurisdiction towing requests shall be managed between the Contract Administrators.

The Contractor is expected to dispatch immediately any available tow truck that will fulfill the tow need on scene upon receipt of a towing request.

The Contractor is expected to notify the National City Police Dispatch Center when the response time requirement cannot be met. The Police Dispatcher or the officer at the scene will have the discretion to cancel the tow if the response time cannot or is not met and re-dispatch to a Secondary tow Contractor, at no cost to City. "Secondary tow contractor" refers to the next tow company in rotation.

4.1 Response Time Computation

Response time is computed from the time the police dispatcher enters the request for a tow into the dispatch CAD system and the Contractor arrives on scene. The on-scene investigating officer shall notify dispatch of the tow truck arrival. The police department computer aided dispatch system shall be the final resolution of any actual time dispute regarding response times. Any failure to record relevant times by the on-duty dispatcher shall not be considered in any penalty assessment.

4.2 Response Time - Penalty

Failure to arrive at the requested location within the prescribed response time may result in cancellation of the service request. The secondary tow contractor may be notified.

4.3 Response Time - Penalty Assessment

Contractor shall pay a five hundred dollar (\$500.00) penalty if more than five percent (5%) of the tows in any calendar month period exceed the maximum response time requirement. This is calculated based on individual tow per any single request by the City for towing services and not average response times.

Failure to meet Response Time requirements may result in termination of this Agreement.

ON-CALL CONTRACTOR AND CONTRACTOR ROTATION SCHEDULE

5.0 Contractor On-Call & Rotation

The Contractor on-call rotation shall run, for two contractors - from 0001 hours on the first day of the month to midnight on the 15th day of the month for one contractor and from 0001 hours on the 15th day of the month to midnight on the last day of the month.

The Traffic Division Sergeant will do the selection for the on-call rotation at the beginning of each contract year. The Traffic Division Sergeant will select the Contractor rotation by an impartial means agreeable to contractors involved. Should all Contractors not meet an agreement as to means the Traffic Division Sergeant will make the selection, the means will be directed by the Chief of Police and the Chief's decision will be final.

Any Contractor selected as the first in the rotation schedule at the beginning of a contract year will begin the first day of the contract.

It is understood that the number of contractors selected divided into the number of days per month may not result in each contractor having the same number of overall tow days per year.

In the event this Contract is extended pursuant to section 3.3 Option for Renewal, the schedule will continue to rotate as reflected.

GENERAL DUTIES, REQUIREMENTS AND OBLIGATIONS

6.0 Business License

Contractor shall at all times during the term of this Agreement retain a valid City Business License in compliance with National City Municipal Code Section 6.04 et seq.

Contractor businesses and storage lots located within the jurisdictional limits of the City of National City must conform to all City of National City building ordinances, zoning regulations, land use requirements and must have the approval of the City Planning Department.

Contractor businesses and storage lots located outside the jurisdictional limits of the City of National City must conform to all City (if located within an incorporated City) or County (if located within an unincorporated County area) building ordinances, zoning regulations, land use requirements within the jurisdiction of location.

6.1 Contractor Availability - Response to Service Requests

Contractor shall be available to promptly respond twenty-four (24) hours a day, seven (7) days a week, including all holidays, consistent with the On-Call and Rotation Schedule, for all requests initiated by City for towing services.

Upon award of Agreement, Contractors shall operate a dispatching system.

The tow dispatching system shall be sufficiently staffed and equipped to accept all telephone calls, without delay, twenty-four (24) hours a day, seven (7) days a week. Delay is defined as the City or the public receiving no answer after six (6) rings or busy signal to their telephone call. Contractors using paging systems are required to respond to a page within five (5) minutes of the initial page by the City.

The City does not currently have plans for adding automated tow dispatching to the existing NCPD dispatch system. Therefore, the City is not requiring any Contractor to purchase equipment to be used to integrate into an automated tow dispatching system. It will be up to the Contractor to ensure they are able to meet the response time requirements of the Contract by whatever means they deem appropriate.

Since there are no current plans to add automated tow dispatching to the existing NCPD dispatch system there are no minimum requirements established for such a system upgrade at this time.

6.2 Contractor Towing Forfeited Vehicles

The Contractor shall tow all forfeited vehicles, as ordered by the City.

The Contractor shall not drive the forfeited vehicles except to move them within the storage facility. Use of vehicles for personal use or other use not permitted herein is strictly prohibited, and constitutes a material breach of this Agreement.

In the event it is found that a towed vehicle is subject to forfeiture, the City shall arrange for the vehicle to be picked up from the Contractor's storage facility and the Contractor shall invoice the National City Police Department for all towing and storage fees.

6.3 Contractor Availability - Vehicle Release

Contractor shall be available to release vehicles to their owners, agents or authorized representatives, twenty-four (24) hours a day, seven (7) days a week, including all holidays.

6.4 Business Office

Contractor shall maintain a functional business office within the location of the yard used to store police initiated tows.

6.5 Business Office Hours

Contractor shall adequately staff their business office in order to remain open and available to meet the public during the normal business office hours. The business office of the Contractor shall be located within the storage yard for which a towed vehicle is located and be open to serve the public and the City from 0800 to 1800 hours, Monday through Friday, except for City observed holidays. City observed holidays are:

New Year's Day, Dr. Martin Luther King Jr.'s Birthday, Caesar Chavez Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the Friday after, and Christmas Eve and Christmas Day.

6.6 Contractor's Employees

All drivers must maintain a professional appearance. Staff shall work in a neat and clean uniform. The Contractor shall furnish staff with a shirt or some other type of outerwear bearing the company name and logo. Appropriate clothing will be worn at all times including by employees that are being trained. All employees will conduct themselves in a professional manner when interacting with the public or City employees.

Within ten (10) days of award, Contractor shall provide the National City Police Department Traffic Division Sergeant with the names of all employees that will be assigned to the Agreement. Drivers and other employees associated with the processing and removal of vehicles shall be subject to a complete background investigation.

The Contractor will notify, within ten (10) days, National City Police Department Traffic Division Sergeant whenever an employee is terminated or a new employee is hired that is

assigned to perform duties under the Agreement or may have access to vehicles impounded pursuant to police request.

Contractor shall ensure that all tow truck drivers responding to calls initiated by the City are properly licensed, qualified and competent employees. The Contractor shall ensure all tow truck drivers are trained and proficient in the use of the tow truck and related equipment, including, but not limited to, the procedures necessary for the safe towing and recovery of ALL vehicles. All tow truck drivers shall possess the proper class license and certificates for towing vehicles, along with a Class 'A' endorsement to allow operation of special vehicle configurations and/or special cargos.

Contractor's employees shall be qualified to perform all work undertaken by or assigned to them. In the event a driver or the equipment is inadequate and the Contractor is unable to service the request, a charge for service or labor will not be permitted.

Contractor shall have all tow truck drivers involved with NCPD's rotation tow operations participate in a controlled substance and alcohol testing (CSAT) program.

1) Drivers requiring a Class A, Class B, or commercial Class C license (endorsed for hazardous materials transportation) shall participate in a CSAT program as defined in the Code of Federal Regulations, Title 49, Parts 40 and 382.

2) Those drivers that are not required to possess a Class A, Class B, or commercial Class C license shall be enrolled in a CSAT program substantially similar to the requirements as outlined in Section 1) above.

3) The Contractor shall ensure selection pools for commercially and non-commercially licensed drivers are maintained separately. The Contractor shall provide proof records of their CSAT programs to NCPD.

4) A driver possessing a non-commercial driver's license who tests positive but subsequently returns with a negative test result shall meet the same reinstatement requirements as a driver required to possess a commercial driver's license.

6.7 Signs

In compliance with California Civil Code Section 3070 (E), Contractor shall display inside the business office, in plain view at the cashier's station, a sign. Said sign shall not be less than 17 by 22 inches in size, with lettering not less than one inch in height, disclosing all storage fees and charges in force, including the maximum daily storage rate. Posting of the Fee Schedule (Attachment A) in the appropriate size and lettering complies with CCC Section 3070 (E).

Additionally, Contractor is required by California Vehicle Code Section 22850.3 (b) to display in a conspicuous place a notice to the effect that a vehicle impounded at the direction of the Police Department may only be released upon proof of current registration. Said notice must include the name and telephone number of the local police agency that caused the vehicle to be stored.

6.8 Method of Payment - Towing or Storage Charges (22651.1 CVC)

At a minimum, Contractor shall accept a valid bank credit card or cash for payment of towing and storage by the registered owner, legal owner, or the owner's agent claiming the vehicle. Pursuant to California Civil Code Section 1748.1, Contractor shall not impose a surcharge on a cardholder who elects to use a credit card in lieu of cash for payment of any fees pursuant to this Agreement. In addition, Contractor shall have sufficient funds on the premises to accommodate and make change in a reasonable monetary transaction.

6.9 Storage of Vehicles; City, Seized

Contractor shall immediately provide written notice to the National City Police Department Traffic Unit whenever a city vehicle or seized vehicle is stored in excess of forty-eight (48) hours. Failure to provide the required written notification to the City may result in forfeiture of Contractor's right to storage fees.

The Contractor shall provide invoices to the National City Police Department Operations Assistant for the towing of each City owned and each seized vehicle. The invoices shall include the description of the vehicle, the date, time, origin, and disposition of the towed vehicle, name and identification number of City employee authorizing the tow and/or storage, the mileage starting and finishing at destination, and an itemized cost of services provided (mileage, number of storage days) commensurate with the attached rate schedule. Invoices shall be delivered to the National City Police Department Operations Assistant no later than the fifteenth (15th) of the month following services rendered. City shall make payment for services rendered on a monthly basis from month previous.

6.10 Removal from Private Property

Pursuant to California Vehicle Code Section 22658(h), a towing company may impose a charge of not more than one-half of the regular towing charge for the towing of a vehicle at the request of the owner of private property or that owner's agent pursuant to this section if the owner of the vehicle or the owner's agent returns to the vehicle before it is removed from private property. The regular towing charge may only be imposed after the vehicle has been removed from the property and is in transit.

Pursuant to sub-section (i) (2), if a vehicle is released within 24 hours from the time the vehicle is brought into the storage facility, regardless of the calendar date, the storage charge shall be for only one day. Not more than one day's storage charge may be required for any vehicle released the same day that it is stored.

6.11 Notice to City - Private Property Impounds

In addition to the requirements set forth in California Vehicle Code Section 22658, Contractor agrees to notify the National City Police Department of all vehicle impounds from private property, within the jurisdictional limits of City, that result in storage of the vehicle. Notice shall include but not be limited to a complete description of the vehicle including the vehicle identification number, location of impound and name of property owner or agent who authorized the impound. Notice shall occur within one hour of taking

possession of the vehicle. Generally, private property impounds are considered On-Demand Tows.

6.12 Gratuities (12110 CVC)

Contractor or Contractor's employees shall not *offer* or provide City, and no City employee shall accept any direct or indirect commission, reduced fee, gift, recreation, favors, seasonal gratuity, or any compensation whatsoever from Contractor. No City employee shall offer or provide Contractor with any gift, recreation, favor, seasonal gratuity, or any compensation whatsoever. No City employee is permitted to purchase a lien sold vehicle from Contractor that resulted from a police initiated tow or referral tow. City employees shall not purchase any vehicle or vehicle part from Contractor for a reduced fee or a fee below the prevailing rate as determined by industry standards. The intent of this section is to avoid the mere appearance of impropriety involving the contractual relationship.

Contractor or Contractor's employees are prohibited from accepting any money or anything of value from a repair shop for delivery or the arranging of a delivery of a vehicle for the purpose of storage or repair. Nothing in this section is intended to preclude Contractor from charging a repair shop appropriate towing fees pursuant to the Fee Schedule.

No benefit provided to City by Contractor, or benefit provided to Contractor by City, as defined in the terms and conditions of this Agreement that resulted from the process of negotiations, shall be considered a gift or gratuity within the meaning of this section.

6.13 Tow Truck Driver - On-Scene Duties

Upon arriving on-scene of a police initiated tow, the Contractor's employee shall report to the investigating Peace Officer in charge. The officer-in-charge shall make every reasonable effort to inform Contractor's employee of any unusual circumstance or hazardous condition reasonably known to the officer. Contractor's employee shall make every reasonable effort to inform the officer-in-charge of any unusual circumstance or hazardous condition undetected by the officer-in-charge. The officer-in-charge may request additional towing services from the Contractor's employee and the officer-in-charge shall have the authority to waive the Response Time requirements for additional services based on the on-scene needs. Contractor's employee shall make every reasonable effort to comply with instructions or directions provided by the officer-in-charge. Contractor's employee may make any emergency alterations reasonably required to safely move and/or impound vehicles.

Contractor shall be responsible for removing and appropriately disposing of collision related debris from the public right-of-way to ensure public safety. Contractor shall also remove or render inert any liquid debris that may reasonably be considered a safety hazard to the public-right-of-way. If the removal of any type of debris or hazardous material is beyond the capability of Contractor, Contractor's employee shall inform the officer-in-charge so accommodations can be made.

6.14 Access to Stored Vehicles

During regular business hours, Contractor shall make vehicles stored at the request of City available to that vehicle's registered owner, a person who can be verified to be the registered owner's agent, insurance agents, insurance adjusters, or representatives of automotive repair businesses for the purpose of estimating or appraising damages.

6.15 Access to Stored Vehicles – Removal of Private Property

Pursuant to California Vehicle Code Section 22851(b), no lien shall attach to any personal property in or on the vehicle. The personal property in or on the vehicle shall be given to the current registered owner or the owner's authorized agent upon demand. The lien holder shall not be responsible for personal property after any vehicle has been disposed of pursuant to Division 11, Chapter 10 of the California Vehicle Code.

Pursuant to California Civil Code Section 3068.1, the lien is deemed to arise on the date of possession of the vehicle. Possession is deemed to arise when the vehicle is removed and is in transit.

6.16 Access to Evidentiary Vehicles

Vehicles impounded by City for investigative purposes pursuant to California Vehicle Code Sections 22655 or 22655.5 shall be held in maximally secured, nonpublic areas of Contractor's property, until the vehicle is released by order of City or in conformance with section 8.3 of this Agreement.

No person other than a Police Officer, Reserve Police Officer, Field Evidence Technician, Property & Evidence Unit employee or Crime Scene Specialist employed by City shall remove any property or other contents from evidentiary vehicles. Property removed from such vehicles shall be recorded as removed on the content inventory and the content inventory dated and signed by the Police Officer, Reserve Police Officer, Field Evidence Technician, Property & Evidence Unit employee or Crime Scene Specialist removing the property and by a representative of the Contractor.

6.17 Invoices

All invoices for towing and impounds pursuant to this Agreement shall clearly and individually itemize each and every specific charge or fee type. Daily storage fees shall be itemized on a per day basis, for example: 10 days storage @ \$ per day. All itemized City fees of all types shall be documented on the invoice. The customer shall be provided no less than one copy of the invoice, after all fees have been paid and the invoice marked "Paid."

6.18 Vehicle Impound Control Card (PD form 250)

A Vehicle Impound Control Form (PD Form 250) shall be completed when a police hold is placed on a towed vehicle. The impounding officer shall obtain a case number and enter the case number on the control card before giving the tow truck driver a copy of the control card.

Contractor shall not be liable for uncollected City Administrative Review Fees when the Vehicle Impound Control Card (PD Form 250) is not properly completed by the impounding officer. PD Form 250 shall contain the lawful authority to impound pursuant to the California Vehicle Code. However, the impounding officer may elect to use the words "Admin Fee Applies" listed in the OTHER section of the form.

6.19 Proceeds from Lien sale

In conformance with California Civil Code Section 3073 and California Vehicle Code Section 22850.5, the proceeds from the lien sale of any vehicle impounded pursuant to the Negligent Vehicle Impound Release (NVIR) program or the Administrative Review Fee shall be distributed in the following order:

1. Any and all costs necessary to discharge the lien, including but not limited to impound and storage fees, and the costs of processing the vehicle for lien sale shall be paid to the (lien holder) Contractor.

2. Any and all City administrative fees, including individual fees or any partial fees associated with the Administrative Review and/or NVIR programs, shall be paid to City. Any partial fees recovered by City, resulting from the lien sale, shall first be attributed to the Administrative Review program.

3. The balance, if any, shall be forwarded to the California Department of Motor Vehicles for deposit in the Motor Vehicle Account in the State Transportation Fund.

FEES

7.0 Fee Schedule

Attachment A to this Agreement provides a complete schedule of all charges and fees the Contractor will be authorized to collect from consumers for towing, impound, and storage services rendered on behalf of City. The Attachment A rate schedule shall remain in place unless and until amended by the City Council of the City of National City, pursuant to section 3.5 Re-Opener - Fee Schedule, of this Agreement.

The schedule of rates charged by the operator shall be available in the tow truck, and shall be presented upon demand to person(s) for whom the tow services were provided, or his/her agent, or any representative of the City at the scene.

In the event of a significant or substantial increase in operating expenses, which was not caused by any action of the Contractor, a temporary surcharge may be added in the current rates for any and all of the services provided pursuant to this agreement. The Contractor shall petition the City for the increase in towing and storage rates and provide supporting documentation. Any surcharge is subject to approval by the City.

Rate changes may be sought and approved at the discretion of the City. This process may be instituted by routine cost of service evaluation by the City or by request of the Contractor. It is understood that there may be a need for rate changes during the term of

the Contract. Therefore, during the term of the Contract, should any Contractor make a request for rate changes, the Contract Administrator will forward the request appropriately for consideration.

No rate adjustments will be considered without City Council approval.

Any cost-of-living increase to the tow rates shall be calculated from the Consumer Price Index (CPI) as published for the first quarter of each calendar year. In any year in which this index is not available, the City shall ascertain and utilize some similar criterion and establish, retroactively, a figure for the computation.

Any increase in the City Standard Rates will trigger a proportional increase in the City's Towing Program Fee beginning of July 1st of each contract year.

7.1 Secondary Tow Fees

Secondary towing fees are the responsibility of the vehicle owner, operator or agent. If it is determined that City is liable for the secondary tow fees, Contractor shall charge City 50% of the Basic Tow Fee for Secondary Tows, if applicable.

No storage fees shall accrue while the subject vehicle is in the actual possession of the National City Police Department. Police personnel shall not release a vehicle from the National City Police Department until all Contractor fees have been paid to Contractor by the vehicle owner, operator or agent. In the event a vehicle is released from the police department and Contractor fees were not paid, City shall be liable for the full fee.

7.2 City Vehicle Tow Fees

Contractor agrees not to charge City a fee for the towing of marked or unmarked City police vehicles whether the tow resulted from mechanical breakdown or collision within the jurisdictional limits of National City.

Contractor shall charge City 25% of the Basic Tow Fee for the towing of all other City vehicles whether the tow resulted from mechanical breakdown or collision within the jurisdictional limits of National City.

Fees for all City vehicle tows including police vehicles, which occur outside the jurisdictional limits of National City, shall be resolved between the Contract Administrators but shall not exceed 25% of the basic tow fee.

7.3 Fees - Police Department Errors and Omissions

When any vehicle has been directed by the City to be towed and it is established that the tow was in error through a mistake of fact, Contractor shall release the vehicle to its owner, operator or agent at no cost. Contractor shall bill City at no more than 50% of the basic tow fee.

If an error by City results in a vehicle being stored longer than it can reasonably be established that it should have been, Contractor shall release the vehicle and bill the owner, operator or agent only those storage charges that would have accrued if no error

had occurred. Contractor shall bill City storage fees at no more than \$2.50 per day for every day beyond the owner, operator or agent's responsibility.

If the error in towing or storage is discovered after the vehicle owner, operator or agent recovers the vehicle and all fees have been paid to Contractor, the owner, operator, or agent may be referred to the City Clerk, City of National City to file a Claim for Damages against City.

7.4 Towing Program Fee

The total annual Towing Program Fee due to the City shall be two hundred eighteen thousand eight hundred eighty nine dollars (\$218,889), divided equally amongst the tow operators awarded contracts, and paid quarterly. Contractor shall make quarterly Towing Program Fee payments to City for the right to provide towing and storage service to City. The minimum Towing Program Fee payment amount per Contractor, when two contractors have been awarded, shall be fifty four thousand seven hundred twenty two dollars (\$54,722) per quarter. The Towing Program Fee shall be payable for a period of two

(2) years subject to adjustments as defined in Section 3.4 - Re-Opener Clause – Towing Program Fee. The Towing Program fee shall continue in the above described manner in the event of a Contract extension renewal.

7.5 Towing Program Fee - Due Date

The Towing Program Fee payment shall be due and payable no later than the fifteenth (15th) day of the calendar month following the end of each quarter, pursuant to the following schedule:

First Contract Year: Quarter End Dates

1st Quarter – January 15, 2022

2nd Quarter – April 15, 2022

3rd Quarter – July 15, 2022

4th Quarter – October 15, 2022

Second Contract Year: Quarter End Dates

1st Quarter – January 15, 2023

2nd Quarter – April 15, 2023

3rd Quarter – July 15, 2023

4th Quarter – October 15, 2023

7.6 Towing Program Fee - Late Fee

Any amount owed to the City more than fifteen (15) calendar days beyond the due date, shall be considered delinquent and will be in breach of contract. Failure to pay any amount owed to the City may result in the Contractor being suspended from the contract until such amount is paid. Interest will be charged on unpaid amounts at an annual rate

equal to twelve (12%) percent per annum, or at the maximum rate permitted by applicable law, whichever is lower. Partial payments will not be accepted.

7.7 Towing Program Fee - Payments

The Towing Program Fee is payable to “City of National City.” Payments shall be directed as follows:

**Operations Assistant
National City Police Department
1200 National City Blvd
National City, CA 91950**

Upon receipt and no later than five days from receipt, the Operations Assistant shall record and account for the Towing Program Fee payment consistent with the terms of this agreement and forward the payment to the City Finance Department for deposit in Revenue Account Number 001-11000-3558.

7.8 Negligent Vehicle Impound Release (NVIR) Fee

The Negligent Vehicle Impound Release Fee shall be an amount established by City. Said fee is one hundred twenty four (\$124) dollars. The NVIR fee is recognized as a necessary and effective method of generating those revenues necessary to offset program costs, services and facilities. The NVIR fee applies only to vehicles released by Contractor for violating certain sections of the California Vehicle Code (CVC) and/or the National City Municipal Code (NCMC). See Attachment B for a list of applicable sections.

7.9 NVIR Fee - Collection

Contractor shall collect the NVIR fee of one hundred twenty four (\$124) dollars per vehicle, upon the release of any vehicle impounded pursuant to the above listed California Vehicle Code sections. Contractor shall remit the collected fees to City pursuant to the below listed payment schedule. The collected NVIR fees shall be properly identified and itemized.

7.10 NVIR Fee - Payment Due Date

NVIR fees collected by Contractor shall be due and payable to City no later than the fifth (5th) day of each month and the twentieth (20th) day of each month.

Payments due on the fifth (5th) day of each month shall include and account for all vehicles released by Contractor between the sixteenth (16th) day of the month, and the last day of the month, (inclusive).

Payments due on the twentieth (20th) day of the month shall include and account for all vehicles released by Contractor between the first (1st) day of the month and the fifteenth (15th) day of the month, (inclusive).

7.11 NVIR Fee -Payments

The NVIR Fee is payable to “City of National City.” Payment shall be directed as follows:

**Operations Assistant
National City Police Department
1200 National City Blvd
National City, CA 91950**

Upon receipt and no later than five days from receipt, the Operations Assistant shall record and account for the NVIR Fee payment, consistent with the terms of this agreement and forward the payment to the City Finance Department for deposit in Revenue Account Number 001-11000-3551.

7.12 NVIR Fee Payment - Late Fee

Any amount owed to the City more than fifteen (15) calendar days beyond the due date, shall be considered delinquent and will be in breach of contract. Failure to pay any amount owed to the City may result in the Contractor being suspended from the contract until such amount is paid. Interest will be charged on unpaid amounts at the maximum rate permitted by law. Partial payments will not be accepted.

7.13 Administrative Review Fee

The Administrative Review fee shall be an amount established by City. Said fee is one hundred fifty (\$150) dollars. The Administrative Review fee is recognized as a necessary and effective method of generating revenues necessary to offset program costs, services and facilities. Vehicles impounded by City pursuant to California Vehicle Code 12500(a) and 14601.1 shall be released by City, upon expiration of a 30 day hold and shall only be released by City upon a showing of proof that the owner, operator or agent has a valid driver’s license.

Contractor shall collect Administrative Review fees prior to the actual release of the vehicle. Contractor shall remit the collected fees to City pursuant to the below listed payment schedule. The Administrative Review fees shall be properly identified and itemized. The Administrative Review fee applies only to vehicles impounded pursuant to certain California Vehicle Code Sections. (See Attachment C for a list of applicable sections.)

7.14 Administrative Review Fees - Due Date

The fees collected by Contractor shall be due and payable to City no later than the fifth (5th) day of each month and the twentieth (20th) day of each month.

Payments due on the fifth (5th) day of each month shall include and account for all vehicles released by Contractor between the sixteenth (16th) day of the month, and the last day of the month, (inclusive).

Payments due on the twentieth (20th) day of the month shall include and account for all vehicles released by Contractor between the first (1st) day of the month and the fifteenth

(15th) day of the month, inclusive.

7.15 Administrative Review Fee -Payment

The Administrative Review fee is payable to “City of National City.” Payment shall be directed as follows:

**Operations Assistant
National City Police Department
1200 National City Blvd
National City, CA 91950**

Upon receipt and no later than five days from receipt, the Operations Assistant shall record and account for the Administrative Review fees consistent with the terms of this agreement. The Administrative Review fee of one-hundred fifty (\$150) dollars per vehicle shall be divided and deposited with the City Finance Department as follows:

Amount	Revenue Account Number
\$125.00	001-11110-3550
\$ 25.00	001-11000-3550

7.16 Administrative Review Late Fee

Any amount owed to the City more than fifteen (15) calendar days beyond the due date, shall be considered delinquent and will be in breach of contract. Failure to pay any amount owed to the City may result in the Contractor being suspended from the contract until such amount is paid. Interest will be charged on unpaid amounts at an annual rate equal to twelve (12%) percent per annum, or at the maximum rate permitted by applicable law, whichever is lower. Partial payments will not be accepted.

VEHICLE RELEASE

8.0 General Rule - Vehicle Release

As a general rule, Contractor shall be responsible for the release of all vehicles in Contractor’s possession as a result of police initiated or referral tows.

8.1 Exceptions to General Rule

Vehicles impounded pursuant to the following California Vehicle Code Sections shall not be released by Contractor. Contractor shall refer the vehicle owner, operator or agent to the police department to obtain a release:

1. 14602.6 – Suspended Driver’s License
2. 22651 (i) - Five or more Parking Citations
3. 22655 - Hit & Run Investigation
4. 22655.5 - Evidentiary Reasons
5. And as otherwise required by the California Vehicle Code

8.2 Hit & Run Investigation - Mandatory Release 22655(b) CVC

Any vehicle impounded for hit & run investigation (20002 thru 20006 CVC), pursuant to the authority of California Vehicle Code Section 22655, shall be released within 48 hours after removal from highway or private property. When determining the 48 hour period, weekends, and holidays shall not be included. Any vehicle not released by City within the maximum 48 hour period, shall be released by Contractor upon demand of the vehicle owner, operator or agent upon the expiration of the 48 hour period, regardless of City hold status.

8.3 Questions, Problems, or Controversy Associated with Vehicle Release

In the event Contractor experiences problems, questions or controversy associated with a customer demanding the release of a police initiated or referral tow, Contractor shall notify the police department. Additionally, if Contractor discovers a questionable DMV document, an officer shall be dispatched to resolve the problem.

8.4 Expert Training - DMV Document Identification

During the term of this Agreement and at Contractor's request, City may provide Contractor, Contractor's employees, and new employees with training in the identification and recognition of all relevant California Department of Motor Vehicles documents including but not limited to California Driver's License and California Vehicle Registration documents. A recognized expert employed by the California Department of Motor Vehicles shall conduct training. Training shall include but not be limited to recognition and identification of counterfeit, altered, or forged California Driver's License and California Registration and Title Certificates. The Contract Administrators shall coordinate date, time and location of training.

MINIMUM TRUCK EQUIPMENT and STORAGE LOT REQUIREMENTS

At all times during the term of this Agreement, Contractor shall meet the following minimum tow truck equipment requirements and storage lot requirements:

9.0 Minimum Tow Truck Requirements

During the term of this Agreement, Contractor shall have available no less than three tow rigs of at least one-ton capacity. Each tow rig shall have dual rear wheels. Each vehicle used for towing police impounds shall have a manufacturer's gross vehicle weight rating (GVWR) of not less than 14,500 pounds. During the term of this Agreement, Contractor shall have a tow rig capable of towing large, oversize vehicles; including Class B (minimum 26,001 GVWR), Class C (minimum 48,000 GVWR), and Class D (minimum 52,000 GVWR). During the term of this Agreement, Contractor shall have a truck with Landoll type trailers acceptable for Class C and Class D towing.

In addition, during the term of this Agreement, Contractor shall have available one tow rig, commonly known as a "Sub-Garage Tow Vehicle," capable of entering and removing impounded vehicles from the underground parking garage of the National City Police Department. The sub-garage tow vehicle is a limited use vehicle and does not require dual wheels or a GVWR of 14,500 pounds. Contractor shall have a vehicle capable of

towing/recovery from off road areas.

9.1 Minimum Tow Truck Equipment Requirements

Each tow truck responding to requests for police initiated towing and impound services shall be equipped with radio communications equipment capable of effecting two-way radio communications between the tow truck operator and Contractor's dispatching operation. Citizen Band radios shall not be used to meet this requirement.

Each tow truck shall have a maximum 8,000 pound capacity winch that is power driven by power takeoff from transmission, in both directions, and equipped with safety dogs or an adequate braking system. Winches must be fitted with a minimum of 100 feet of cable for recovery tasks. Roll back car carriers must be fitted with a minimum of 50 feet of cable. All cable (wire rope) must be maintained in good condition. Only wire rope with swaged ends, wedge locks or braided ends, with metal sleeves in the loops shall be approved for use under the terms of this agreement. Consistent with the California Code of Regulations, Title 13, Section 1305(b), wire rope is not in good condition when it is stranded, knotted, crushed, excessively rusted, kinked, badly worn, when there are 12 or more wires broken in lay length, or where there is other visible evidence of loss of strength.

Contractor shall maintain dollies for use by in-service tow trucks providing police towing services to City. Each tow truck, with the exception of slide back carriers, shall carry its own set of dollies.

Each tow truck shall be equipped with no less than two safety chains. No less than two safety chains shall be used for each vehicle being towed. Each safety chain shall be rated at no less than the rating specified by the original equipment manufacturer (OEM). The safety chains shall be securely affixed to the bed frame or wrecker boom, independent of the towing sling, bar, hitch, wheel lift, or under lift towing equipment. The towed vehicle shall be secured to the towing equipment independent of the safety chains by either two chains or two straps. All safety connections and attachments shall have a positive means, of sufficient strength, to ensure that the safety connection or attachment cannot become disengaged while in transit. Vehicles being transported on slide back carriers shall be secured by four tie down chains or straps, independent of the winch or loading cable.

In addition to the requirements set forth in California Vehicle Code Section 27700, City requires Contractor to equip each tow truck with red flares, lanterns or reflectors, hand tools (screw drivers, pliers, ratchet and sockets, crescent wrenches, metric and standard lug wrenches), bolt cutters, six foot crowbar, rope, broom, shovel, dustpan, fire extinguisher (dry chemical or carbon dioxide type), utility flood lamps, portable red taillights and stoplights for towed vehicles, equipment for opening locked vehicles, safety snubber chains, and a trash can with absorbent material.

Each tow truck shall be equipped with disposable (one time use) latex or rubber gloves for use by Contractor's employees to prevent contamination or contact with potential blood borne pathogens. The decision to use said equipment rests solely with Contractor.

9.2 Tow Truck Identification

Each tow truck responding to police initiated towing and impound services shall, on both sides of the vehicle, conspicuously bear Contractor's company name, local address, and local phone number(s) in lettering that complies with California Vehicle Code Section 27907.

9.3 Tow Truck Lighting Equipment

Each tow truck responding to police initiated towing and impound services shall be equipped with lighting systems as required by California Vehicle Code Sections 24605, 24606 and 25253. Additionally, tow trucks shall be equipped with utility lamp lighting systems than comply with California Vehicle Code Section 25110.

9.4 California Highway Patrol Inspection Certification

During each year of this Agreement, Contractor shall obtain and retain an annual California Highway Patrol (CHP) tow truck safety inspection certification. Contractor shall annually be able to show proof that every vehicle in each category required for service under this Agreement providing services to the City has passed a CHP tow truck safety inspection. Tow trucks not passing inspections or meeting the requirements of this section shall immediately be removed from rotation. The tow truck may return to rotation once the truck has successfully passed a re-inspection by the original inspecting agency.

Nothing in this section is intended to prevent, or preclude the National City Police Department from performing periodic unscheduled inspections to insure compliance with the requirements of the California Vehicle Code and this Agreement.

9.5 Tow Truck Maintenance

Each tow truck responding to police initiated towing and impound services shall be well maintained and reasonably clean on the exterior and interior and should reflect the clean, professional image of the City of National City.

9.6 Storage Lot, Minimum Requirements

There shall be a minimum of one (1) vehicle storage yard within a ten (10) mile radius from City Hall, 1243 National City Boulevard, National City, with adequate storage capabilities for all vehicles retrieved from the City and requiring storage. The Contractor shall identify the exact location and size of any storage yards to be used pursuant to this contract.

The storage yard shall be approximately 10,000 sq. ft. and have space necessary to accommodate all Police Department tows and comply with all applicable Building Codes and Zoning Regulations (including but not limited to: Fire, Sign, Zoning, and Building Codes). There shall also be the following:

1. Be completely enclosed by an 8-foot solid high fence with a lockable gate.

Construction of the fence and gates must be of sufficient construction to prevent entry into the storage area of unauthorized persons or vehicles.

2. Alarms and intrusion sensors that provide immediate notification capabilities at all times or similar devices or security measures.
3. Sufficient lighting to detect unauthorized entrance at night.
4. The storage yard shall be served by drainage facilities adequate to prevent the accumulation of standing water. The vehicle storage area must remain free of mud, pools of standing water, debris, or other elements that would be harmful to the stored vehicle, vehicle contents, or to persons viewing, inspecting or recovering the vehicles. The vehicle storage area, including all driveways and access roads, shall be surfaced in a manner so as to prevent the listed conditions. An acceptable surface includes concrete, asphalt, asphaltic concrete, or decomposed granite with oil.
5. All areas open to vehicular traffic shall be paved with cement, asphalt surfacing or oil and aggregate mixture.
6. The entire site is to be continuously maintained to prevent accumulation of trash, combustible waste, and hazardous debris.
7. The storage yard must be a reasonable distance from public transportation.
8. Stored vehicles shall be arranged to provide reasonable and immediate inspection at any time by the City's agents.

The Contractor shall provide service to the public twenty-four (24) hours a day, seven (7) days a week so that an owner may pay towing and storage fees at the Storage Yard where their vehicle is stored and obtain its release.

The Contractor is responsible for the reasonable care, custody, security, and control of any property contained in towed or stored vehicles. All items removed from a vehicle or left stored within the vehicle shall be released to the owner or agent of the impounded vehicle upon demand during normal business hours unless the vehicle is under law enforcement Hold.

Vehicles may not be taken off-site of the Storage Yard, without the City's permission.

9.7 Minimum Lighting Requirements - Storage Lot

There must be adequate lighting, and all yard and office construction must comply with applicable building codes, fire codes, and zoning regulations. The minimum lighting requirements per ten thousand (10,000) square feet are in effect unless zoning or other local regulations dictate increased or diminished lighting requirements:

1. Four (4) 300-Watt incandescent medium-wide flood lights, or
2. Three (3) 300-Watt quartz halogen lights, or
3. Two (2) 100-Watt high-pressure sodium lights.

9.8 Vehicle Examination Area

Contractor will set aside an area of sufficient size to place a standard sized passenger sedan and have a minimum of forty-eight (48") inches from each side, the front, and rear of the vehicle for the purpose of inspecting the vehicle. This examination area must be flat, level, and paved with concrete, asphalt or asphaltic-concrete, or other suitable all weather surfaces.

9.9 Secure Area - Evidentiary Vehicles

Vehicles impounded by City for investigative purposes shall be held in a maximally secured, non-public area of Contractor's property until released by City. Contractor shall insure, by the use of various security devices and measures, including but not limited to walls, fences, containers, buildings or the like, that no unauthorized person, whether intentionally or accidentally can come into physical contact with evidentiary vehicles. Located within the storage yard, Contractor shall set aside a secure area, sufficient in size to hold four (4) vehicles, with sufficient room to walk around, open doors, and examine each separate vehicle.

9.10 Special Operations

During the Contract period, it is anticipated that numerous special police operations may be conducted that require the towing of vehicles. An example of this type of operation is a Sobriety/Driver's License checkpoint. The Police Department will attempt to equally distribute these special operations between the Contractors. However, many of these operations have special date or period requirements beyond the control of the Police Department. Due to these special requirements, a Contractor may obtain more operations than the other Contractor(s). The Contractors agree to this potentially inequitable distribution of special operations as a City Contractor.

INSURANCE REQUIREMENTS

10.0 Minimum Insurance Requirements

All required insurance shall be submitted to the City prior to the granting of the provisional award. Failure to provide the insurance certificates as previously set out shall cause the bid to be rejected as non-responsive. The Contractor shall maintain insurance in full force and effect during the entire period of performance under contract. Failure to do so shall be cause for immediate termination of the contract.

All policies must have a thirty (30) day cancellation clause, giving the City thirty (30) days prior written notice in the event a policy is cancelled.

At the end of each contract year, the City reserves the right to review insurance requirements and to require more or less coverage, depending upon assessment of the risk, the Contractor's past experience, and the availability and affordability of increased liability insurance coverage.

Insurance shall be written with only insurers authorized to conduct business in California which hold a current policy holder's alphabetic and financial size category rating of not less than A: VII according to the current Best's Key Rating Guide, or a company of equal financial stability that the City's Risk Manager approves. In the event coverage is provided by non-admitted "surplus lines" carriers, they must be included on the most recent List of Approved Surplus Line Insurers ("LASLI") and otherwise meet rating requirements

All policies must be endorsed to provide that the insurance afforded by Contractor is primary to any insurance or self-insurance maintained by City and its elected officials, officers, employees, agents, and representatives as respects operations of the Named Insured. Any insurance or self-insurance maintained by City and its elected officials, officers, employees, agents, and representatives shall be in excess of Contractor's insurance and shall not contribute to it.

The following coverage is required:

Commercial General Liability Insurance, with minimum limits of either \$2,000,000 per occurrence and \$4,000,000 aggregate, covering all bodily injury and property damage arising out of its operations, work, or performance under this Agreement. The policy shall name the City and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided. The general aggregate limit must apply solely to this "project" or "location." The "project" or "location" should be noted with specificity on an endorsement that shall be incorporated into the policy. .

Automobile Liability for a minimum of two million dollars combined single limit (\$2,000,000.00 CSL) per person and four million dollars (\$4,000,000.00) per accident. The City of National City must be named as an additional insured on the certificate.

Garage Keepers minimum of one million dollars each occurrence (\$1,000,000.00 EO).

On Hook/Cargo in amounts not less than fifty thousand dollars (\$50,000.00) / twenty thousand dollars (\$20,000.00) /one hundred thousand dollars (\$100,000.00), the maximum deductible shall be no more than two thousand five hundred dollars (\$2,500.00).

Workers' compensation insurance in an amount sufficient to meet statutory requirements covering all of the Contractor's employees and employers' liability insurance with limits of at least \$1,000,000 per accident. In addition, the policy shall be endorsed with a waiver of subrogation in favor of the City. Said endorsement shall be provided prior to commencement of work under this Agreement..

The City does not require a performance bond.

If required insurance coverage is provided on a 'claims made' rather than 'occurrence' form, the contractor shall maintain such insurance coverage for three years after expiration of the term (and any extensions) of the contract.

Any aggregate insurance limits must apply solely to the Contract.

The Certificate Holder for all policies of insurance required by this Agreement shall be:

City of National City
c/o Risk Manager
1243 National City Boulevard
National City, CA. 91950-4397

This Agreement shall not take effect until certificate(s) or other sufficient proof that these insurance provisions have been complied with, are filed with, and approved by the City's Risk Manager.

11.0 CONSTRUCTION OF AGREEMENT

The parties acknowledge and agree that (1) each party is of equal bargaining strength; (2) each party has actively participated in the drafting, preparation and negotiation of this Agreement; (3) each such party has consulted with or has had the opportunity to consult with its own, independent counsel and such other professional advisors as such party has deemed appropriate, relative to any and all matters contemplated under this Agreement; (4) each party and such party's counsel and advisors have reviewed this Agreement; (5) each party has agreed to enter into this Agreement following such review and the rendering of such advice; and (6) any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement, or any portions hereof, or any attachments, or any amendments hereto.

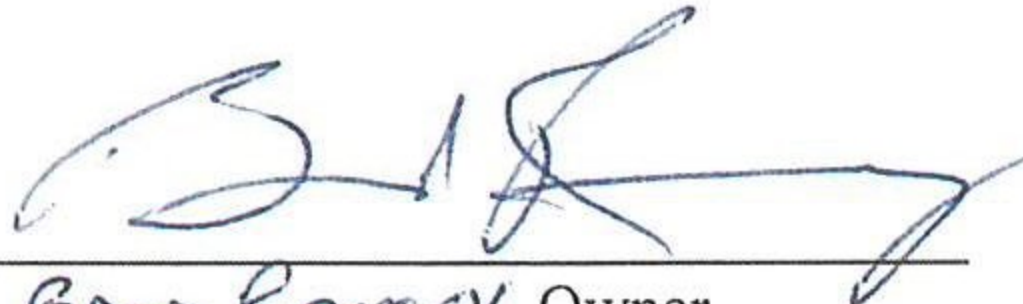
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

[Signature Page to Follow]


CITY OF NATIONAL CITY

A TO Z ENTERPRISES, INC.
DBA ROADONE

By: _____
Alejandra Sotelo Solis, Mayor

By: 
BRAD RAMSEY, Owner

APPROVED AS TO FORM:

By: 
Dale Winteer, Owner

Charles E. Bell, Jr.
City Attorney

**ATTACHMENT A
TOWING FEE SCHEDULE**

SERVICE	FEE
<ul style="list-style-type: none"> • BASIC TOWING Includes first hour hookup, labor, standby time, for vehicles under 9,500 GVW (unloaded). 	\$ 180.00
<ul style="list-style-type: none"> • MEDIUM SIZE - BASIC TOWING Includes first hour hookup, labor, standby time, for vehicles over 9,500 GVW but less than 22,000 GVW (unloaded). 	\$ 205.00
<ul style="list-style-type: none"> • LARGE SIZE - BASIC TOWING Includes first hour hookup, labor, standby time, for vehicles over 22,000 GVW (Unloaded). 	\$ 225.00
<ul style="list-style-type: none"> • ON-SCENE OR STAND-BY Labor = Each 15-minute increment, beyond first hour is charged only when extra ordinary labor must be expended to recover a vehicle. Stand-by is charged when the job cannot be started and must be explained on the tow bill. 	\$ 40.00
<ul style="list-style-type: none"> • DOLLIES Will only be used when there is not a less expensive, safe manner of handling the situation. 	\$ 55.00
<ul style="list-style-type: none"> • DRY RUN May also be known as a “hook-up – drop fee” and is charged when the vehicle is hooked up and the owner returns before the vehicle is in transit. 	\$ 50.00
<ul style="list-style-type: none"> • PER MILE TOWING Applies only to vehicles recovered outside the jurisdiction of the City of National City. 	\$ 5.00
<ul style="list-style-type: none"> • MAXIMUM STORAGE - PER DAY Per day is defined as a 24-hour period. 	\$ 45.00
<ul style="list-style-type: none"> • STORAGE PER HOUR Up to maximum of \$15.00 per hour. 	\$15.00
<ul style="list-style-type: none"> • AFTER HOURS VEHICLE RELEASE After 6 p.m. and before 8 a.m., including weekends and all holidays. 	\$ 65.00
<ul style="list-style-type: none"> • NOTIFICATION OF LIEN SALE Vehicle valued at less than \$4,000 (22851.12 CVC). 	\$ 70.00

<ul style="list-style-type: none"> • NOTIFICATION OF LIEN SALE Vehicle valued at over \$4,000. (22851.12 CVC). 	\$ 100.00
<ul style="list-style-type: none"> • POLICE EQUIPMENT TOWING Inside jurisdictional limits of National City. 	No Charge
<ul style="list-style-type: none"> • CITY EQUIPMENT TOWING Includes all City vehicles. Also includes police vehicles towed from outside jurisdictional limits of National City. 	25% basic tow fee
<ul style="list-style-type: none"> • EVIDENTIARY TOWING AND STORAGE Daily storage fees for City/vehicles, seized vehicles, and vehicles for basic evidentiary purposes. 	25% of daily storage fee 25% of Basic Towing Fee
<ul style="list-style-type: none"> • TOWING OF VICTIMS VEHICLES 	\$60.00

CITY ADMINISTRATIVE FEE'S

<ul style="list-style-type: none"> • NEGLIGENT VEHICLE IMPOUND RELEASE FEE 	\$124.00
<ul style="list-style-type: none"> • SERIOUS TRAFFIC OFFENDER PROGRAM FEE 	\$150.00

ATTACHMENT B

Pursuant to Section 7.9 of this Agreement, the Negligent Vehicle Impound Release Fee shall apply to vehicles impounded pursuant to the following California Vehicle Code sections and/or National City Municipal Code sections. One or more the listed sections must be included on the impounding documents.

California Vehicle Code

- 22500 et seq. Prohibited Stopping, Standing, or Parking
- 22500.1 Prohibited Stopping, Standing, or Parking: Fire Lane
- 22651 (a) Unattended on Bridge
- 22651 (b) Hazard to flow of traffic
- 22651 (d) Blocking a driveway
- 22651 (e) Blocking fire hydrant access
- 22651 (h) Operator taken into custody - not practical to park or lock
- 22651 (i) Unpaid parking citations
- 22651 (j) Illegally parked and no evidence of registration displayed
- 22651 (k) Parking over 72 hours
- 22651 (l) Temporary tow away signs for street repair
- 22651 (m) Highway authorization for other use, with 24-hour notice
- 22651 (n) No parking tow away signs posted
- 22651 (o) (1) Expired registration in excess of six months
- 22651 (p) Unlicensed or suspended/ revoked license in violation of 12500, 14601, 14601.1, 14601.2, 14601.3, 14601.4, 14601.5, or 14604.
- 22651 (r) Illegally parked, blocking a legally parked vehicle
- 22652 Illegally parked in designated handicapped parking space
- 22653 (c) Removal from private property, at request of property owner, when operator is taken into custody
- 22655 (a) Hit & Run suspect vehicle
- 22656 Illegally parked or abandoned within 7-1/2 feet of nearest railroad rail
- 22669 et seq. Removal of Abandoned Vehicles as determined pursuant to section 22523 CVC

National City Municipal Code

- 11.32.060** Illegally parked - 72 hour violation - vehicle removal
- 11.32.070** Illegally parked - Restricted hours - vehicle removal
- 11.32.160** Illegally parked - Emergency parking - vehicle removal
- 11.32.250 (e)** Illegally parked - Taxi Stand - vehicle removal

ATTACHMENT C

Pursuant to Section 7.14 of this Agreement, the Serious Traffic Offender Program Fee shall apply to vehicles impounded pursuant to the following California Vehicle Code Sections. One or more of the following sections must be included on the impounding documents.

California Vehicle Code

- 22651(p)** Includes Sections 12500, 14601, 14601.1, 14601.2, 14601.3, 14601.4, 14601.5 or 14604.
- 22651(h)(2)** Upon service of notice of an order of Suspension or Revocation, pursuant to 13388 CVC.
- 14602.6** Unlicensed, Suspended or Revoked and involved in traffic collision. Sub-section (b) - Certified Mail, 2-day notice to legal owner. Failure to notify legal owner results in maximum fee for 15 days vehicle storage.
- 14602.7** Fleeing a Peace Officer - Court Order upon affidavit of Peace Officer, to seize vehicle, not to exceed 30 days. Failure to notify legal owner (2 days' notice) results in maximum fee for 15 days vehicle storage.
- 14607.6** Impoundment and Forfeiture of Motor Vehicle.

AGREEMENT BY AND BETWEEN

CITY OF NATIONAL CITY

AND

ALEXANDRA INVESTMENTS, INC.

DBA ANGELO'S TOWING & RECOVERY

FOR

TOWING AND IMPOUND SERVICES

October 1, 2021 – September 30, 2023

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**AGREEMENT FOR TOWING AND IMPOUND SERVICES
BETWEEN THE CITY OF NATIONAL CITY AND
ALEXANDERA INVESTMENTS, INC.
DBA ANGELO'S TOWING & RECOVERY**

This Agreement for Towing and Impound Services ("Agreement") is made and entered into in the City of National City, State of California, on this 25th day of August, in the year 2021, by and between the City of National City, a municipal corporation ("City"), and Alexandra Investments, Inc., D.B.A. Angelo's Towing & Recovery ("Contractor") for towing and impound services.

RECITALS

Whereas, the City of National City requires professional towing and impound services to maintain the safety of the public right-of-way and to seize and secure vehicles in accordance with the laws of the State of California and the National City Municipal Code, ordinances and regulations of the City of National City; and

Whereas, the City has adopted a process for the selection and designation of professional towing contractors to provide towing, impound and storage service upon the request of the National City Police Department; and

Whereas, on May 6, 2021, a Request for Proposal ("RFP") was issued for towing and impound services for the City, to which Contractor responded; and

Whereas, the tow committee comprised of City staff evaluated the proposals and presented their report to Council for consideration at the September 7, 2021 City Council meeting;

Whereas, the staff report detailed the evaluation process, explained the evaluations of the proposals, including whether the proposals met the RFP requirements, and recommended awarding contracts to the top two operators; and

Whereas, Contractor, participated in a competitive process through the RFP, and together with another towing contractor has been found to provide the best overall value to the City, including having the best qualifications and capability of providing the highest quality, professional towing services for the City of National City; and

Whereas, the City of National City desires to have two towing and impound operators perform exclusive towing service within the City of National City and Contractor represents and warrants it is experienced and staffed in a manner such that it is capable and prepared to deliver the services required by the City of National City within the time frames herein provided, all in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, the City of National City and Contractor mutually agree to the terms and conditions as follows:

DEFINITION OF TERMS

- 1.0 Police Tow** shall mean the towing of vehicles at the direction of the National City Police Department where the consent of the owner or operator or their agent of the vehicle is not required under existing law. This shall include but is not limited to the towing of motor vehicles that are illegally parked, abandoned, evidence in a criminal investigation, disabled due to collision or mechanical failure (pursuant to Section 22500 of the Vehicle Code) or otherwise subject to the authority of the National City Police Department.
- 1.1 Police Referral Tow** shall mean the towing of a vehicle by the National City Police Department at the request of the vehicle owner, operator, or their agent. Examples include mechanically disabled vehicles, vehicles disabled as a result of collision, or any other circumstances where the public right-of-way is impacted.
- 1.2 On-Demand Tow** means the towing of a vehicle by a towing company that has been requested by the vehicle owner, operator, or their agent, without police involvement. On-Demand tows may include owners or agents of private property landholders who arrange for vehicle towing service from private property without police involvement. If the police department becomes involved in arranging for tow service, the matter is considered a "Police Referral Tow". On-Demand Tows are considered independent services outside the scope of this Agreement.
- 1.3 Secondary Tow** is defined as the impound of a vehicle on orders of police under the authority of California Vehicle Code Sections 22655 or 22655.5 and the vehicle is brought to the National City Police Department for evidence processing. The secondary tow occurs when the police direct the original Contractor to retrieve and store the vehicle on Contractor's property.
- 1.4 Collision Tow** The owner or operator of a vehicle involved in a non-criminal traffic collision may select a tow company of their own choosing. However, if in the opinion of the investigating police officer an unreasonable delay would result, or unnecessary delay would negatively impact access to the public right-of-way, the investigating officer may consider the matter a "Police Tow" and cause the removal of the vehicle. If the vehicle is towed on orders of the investigating officer, the officer shall complete the Vehicle Report (CHP 180), citing 22500 California Vehicle Code as the authority for impound. No special hold or police authorized release is necessary.
- 1.5 Response Time** is defined as the elapsed time between the relaying of the tow service request by the National City Dispatch Center or a City Employee to the Contractor and the arrival of the specific tow truck type requested to fulfill the tow need on scene. Under most situations, a call for field service will be relayed by the Police dispatchers via telephone to the tow contractors. However, there is a need to allow for direct requests to the tow contractor by any NCPD employee. This may be done by phone or in person to either the Contractor's dispatcher or to a tow truck driver that is already on the scene of an NCPD requested tow, when there is a need for additional services.

1.6 **Dispatch Center** is the Police Department's multifunction emergency and non-emergency telephone/radio operators.

1.7 **Contract Year** is defined as any one year, 365 day period during the term of this Agreement. The first contract year begins on October 1, 2021 and ends on September 30, 2022. The second contract year begins on October 1, 2022 and ends on September 30, 2023. There are two (2) successive years in this Agreement.

1.8 **Fee Schedule** is defined as the fees charged by Contractor to the owner, operator, or agent of the subject vehicle for various services charged by Contractor. The feeschedule is approved and authorized by a majority vote of the City of National City, City Council. The fee schedule includes itemized charges for numerous towing and storage services including but not limited to hook up fees, dolly fees, daily storage fees, after- hour release fees, etc. The Fee Schedule is Attachment A to this document. Attachment A and the fees may be adjusted as set forth in Section 7.0.

1.9 **Towing Program Fee** is a fee from Contractor to City and is authorized by California Vehicle Code Section 12110(b). It is defined as a quarterly fee charged to Contractor(s) by the City in connection with the award of a franchise for the towing services for the City. The Towing Program Fee is designed to compensate the City for its actual and reasonable costs incurred by the City to process and administer towing services. The Towing Program Fee may be adjusted during the term of this Agreement as set forth in Section 3.4 of this Agreement. The payment of the Towing Program Fee is setforth in Sections 7.5, 7.6, 7.7, and 7.8.

1.10 **Negligent Vehicle Impound Release Fee ("NVIR")** is authorized by the City Council. The Negligent Vehicle Impound Release Fee is defined as a fee charged to the owner, operator, or agent of a vehicle that violated certain specified sections of the California Vehicle Code or National City Municipal Code. The NVIR fee is one hundred twenty-four (\$124) dollars. The NVIR fee may be adjusted during the term of the agreement as set forth in Section 7.0 of this Agreement. This fee is collected by Contractor on behalf of City.

1.11 **Administrative Review Fee:** is a fee charged to the vehicle owner, operator or agent and is collected by the contractor, on behalf of the City. The fee is one hundred and fifty (\$150) dollars. The fee supports the staff time utilized to process and administer requests and appeals from unlicensed drivers for release of their vehicles prior to the 30 days prescribed by the California Vehicle Code. This includes a hearing with the Police Traffic Supervisor. The "Administrative Review Fee" may be adjusted during the term of the Contract at the discretion of the City. The fee off-sets the administrative costs of the program. This fee is charged to the vehicle owner, operator or agent and is collected by Contractor on behalf of City. The Administrative Review Fee may be adjusted during the term of this Agreement as set forth in Section 7.0.

ADMINISTRATION AND MANAGEMENT OF AGREEMENT

2.0 Agreement Approval

This Agreement for towing service shall become effective when the City Council of the City of National City has reviewed and approved the Agreement and it has been fully executed by Contractor.

2.1 Entire Agreement

This Agreement supersedes any prior agreements, documents, negotiations and communications, oral or written, and contains the entire Agreement between the parties as to towing and impound services. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of any party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

2.2 Administration of Agreement

Each party designates the below individuals as the "Contract Administrator" for the party. The Contract Administrator is authorized by the party to represent the party in the administration of this agreement. The Contract Administrator shall monitor the progress and execution of this Agreement. The Contract Administrator may delegate duties and responsibilities to subordinates to insure functional management, supervision and operation of this Agreement.

Contract Administrator for the City of National City

Jose Tellez, Chief of Police
National City Police Department
1200 National City Blvd., National City, CA. 91950
(619) 336-4511

Management and Operations

Traffic Division Sergeant
National City Police Department
1200 National City Blvd., National City, CA 91950
(619) 336-4475

Inspection & Operational Supervision

Traffic Division Sergeant
National City Police Department
1200 National City Blvd., National City, CA 91950
(619) 336-4475

Contract Administrator for:
Alexandra Investments, Inc.,
DBA Angelo's Towing & Recovery

Nashwan J. Habib
Angelo Habib
Angelo's Towing & Recovery
1177 S. 26th Street
San Diego, CA 92113

2.3 Cooperation and Consultation

The designated City employee(s) and Contractor shall regularly consult during the term of this Agreement in order to achieve the objectives of this Agreement. Throughout the term of this Agreement, Contractor shall permit access to its offices, facilities, files and records relating to the operation and management of this agreement. Upon request of the City, the Contractor shall provide copies of files, materials or records relating to the towing, impound, and disposition of any vehicle towed as a result of this agreement.

2.4 Compliance with Applicable Law

The Contractor in the performance of the services to be provided herein, shall comply with all applicable State and Federal statutes and regulations, and all applicable ordinances, rules and regulations of the City of National City, whether now in force or subsequently enacted.

2.5 Licenses, Permits, Etc.

Contractor represents and covenants that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession, and as required in the City's Request for Proposal for this Agreement. The Contractor represents and covenants that the Contractor shall, at its sole cost and expense, keep in effect at all times during the term of this agreement, any license, permit, insurance or approval which is legally required for the Contractor to practice its profession.

2.6 Disputes

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under any term of this Agreement which is not disposed of by this Agreement shall be decided by the Chief of Police who will furnish the decision to the Contractor in writing. Contractor shall proceed diligently with performance of this Agreement pending receipt of the decision of the Chief of Police. The decision of the Chief of Police is final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, arbitrary, capricious or so grossly erroneous as to necessarily imply bad faith.

The "Disputes" clause does not and is not intended to preclude consideration of legal questions in connection with decisions provided in the above paragraph. Nothing in this Agreement shall be construed as making final the decision of any administrative official, representative, or council on a question of law.

2.7 Mediation / Arbitration

If a dispute arises out of or relates to this Agreement, or the breach thereof, the parties agree first to try, in good faith, to settle the dispute by mediation in San Diego County, California, in accordance with the Commercial Mediation Rules of the American Arbitration Association (the "AAA") before resorting to arbitration. The cost of mediation shall be borne equally by the parties. Any controversy or claim arising out of, or relating to, this Agreement, or breach thereof, which is not resolved by mediation shall be settled by arbitration in San Diego County, California, in accordance with the Commercial Arbitration Rules of the AAA then existing. Any award rendered shall be final and conclusive upon the parties, and a judgment thereon may be entered in any court having jurisdiction over the subject matter of the controversy. The expenses of the arbitration shall be borne equally by the parties to the arbitration, provided that each party shall pay for and bear the cost of its own experts, evidence and attorneys' fees, except that the arbitrator may assess such expenses or any part thereof against a specified party as part of the arbitration award.

2.8 Legal Fees

If any party brings a suit or action against the other party arising from any alleged breach of any of the covenants or agreements or any inaccuracies in any of the representations and warranties on the part of the other party arising out of this Agreement, then in that event, the prevailing party in such action or dispute, whether by final judgment or out-of-court settlement, shall be entitled to have and recover from the other party all costs and expenses of suit, including expert and attorneys' fees.

For purposes of determining who is to be considered the prevailing party, it is stipulated that attorneys' fees incurred in the prosecution or defense of the action or suit shall not be considered in determining the amount of the judgment or award.

Attorneys' fees to the prevailing party, if other than the City, shall not exceed the amount of attorneys' fees incurred by the City in its prosecution or defense of the action, irrespective of the actual amount of attorneys' fees incurred by the prevailing party.

2.9 Indemnification and Hold Harmless

The Contractor agrees to indemnify, defend, and hold harmless the City of National City, its officers, employees, agents, and volunteers against and from any and all liability, loss, damages to property, injuries to, or death of any person or persons, and all claims, demands, suits, actions, proceedings, defense costs or reasonable attorneys' fees, of any kind or nature, including workers' compensation claims, of or by anyone whomsoever, in any way resulting from, related to, or arising out of the Contractor's performance or other obligations under this Agreement. The City will cooperate reasonably in the defense of any action, and Contractor shall employ competent counsel, reasonably acceptable to the City Attorney.

The indemnity, defense and hold harmless obligations contained herein shall survive the termination of this Agreement for any alleged or actual omission, act, or negligence under this Agreement that occurred during the term on this Agreement.

2.10 Business Records (10650 CVC et seq.)

Contractor shall maintain and retain data and records of all tow services furnished, including description of vehicles, nature of service, date, time of notification by City, time of tow truck dispatch, time of arrival of tow truck at scene, location of calls, total itemized charges of towing and storage, and the description of all vehicles towed and/or stored at the initiation of the City. If the vehicle is sold at lien sale, data shall be maintained documenting all liens against the vehicle, monies received as a result of the sale, identification of the purchaser, and the amount of monies forwarded to City and state. All such data and original towing and storage records shall be maintained in an accessible location. The Contractor shall make available and permit the City without notice during normal business hours to audit, examine and make excerpts, copies, or transcripts of all data and records with respect to the towing and storage of vehicles initiated by the City. If Contractor employs, assigns or contracts with a third-party vendor to manage or process the DMV required processing regarding lien sale vehicles, Contractor shall make available all relevant records, data or documents regarding lien sales. Contractor shall waive any privacy rights in order to permit City to inspect, review and copy any relevant record in possession of a third-party vendor.

2.11 Prohibition Against Use of Privileged Information

Contractor shall not use for personal gain, transmit, or disclose any privileged or confidential information that is acquired from or obtained as a result of information gathered from the management or operation of this Agreement. For the purpose of this section, "Privileged or Confidential Information" shall include City or police department records unrelated to towing and storage of vehicles, DMV information, or Criminal History information.

2.12 Independent Contractor

Contractor shall for all purposes arising out of this Agreement, be an independent contractor. Contractor and employees of Contractor shall not be deemed employees or agents of City. It is expressly understood and agreed that the Contractor and its employees shall in no event, as a result of this Agreement, be entitled to any benefit to which City employees are entitled, including but not limited to overtime, retirement benefits, workers' compensation benefits, injury leave, medical leave, unemployment or any other leave benefits.

Neither the City nor its officers, agents or employees shall have any control over the conduct of the Contractor or any of the Contractor's employees except as herein set forth, and the Contractor expressly agrees not to represent that the Contractor or the Contractor's agents, servants, or employees are in any manner agents, servants, and employees of the City, it being understood that the Contractor, its agents, servants, and employees are as to the City wholly independent contractors and that the Contractor's obligations to the City are solely such as are prescribed by this Agreement.

2.13 Assignment

This Agreement contemplates the personal services of the Contractor and the Contractor's employees, and it is recognized by the parties that a substantial inducement to the City for entering into this Agreement was, and is, the professional reputation and competence of the Contractor and its employees. Neither this Agreement nor any interest herein may be assigned by the Contractor without the prior written consent of the City. Nothing herein contained is intended to prevent the Contractor from employing or hiring as many employees as the Contractor may deem necessary for the proper and efficient performance of this Agreement. Contractor has represented it has sufficient staffing to perform pursuant to this Agreement.

Contractor agrees it shall not subcontract any towing or impound services. Any other type of work that is subcontracted shall require written consent of the City. All agreements by Contractor with its subcontractor(s) shall require the subcontractor(s) to adhere to the applicable terms of this Agreement.

2.14 Workers' Compensation

The Contractor shall comply with all of the provisions of the Workers' Compensation Insurance and Safety Acts of the State of California, the applicable provisions of Division 4 and 5 of the California Government Code and all amendments thereto; and all similar State or Federal acts or laws applicable; and shall indemnify, defend and hold harmless the City and its officers, employees and volunteers from and against all claims, demands, payments, suits, actions, proceedings and judgments of every nature and description, including reasonable attorneys' fees and defense costs presented, brought or recovered against the City or its officers, employees, or volunteers, for or on account of any liability under any of said acts which may be incurred by reason of any work to be performed by the Contractor under this Agreement.

2.15 Non-Discrimination Provision

The Contractor will not discriminate against any employee or applicant for employment because of age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. The Contractor will take positive action to insure that applicants are employed without regard to their age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the City setting forth the provisions of this non-discrimination clause.

2.16 Conflict of Interest and Political Reform Act Obligations

During the term of this Agreement, the Contractor shall not perform services of any kind for any person or entity whose interest's conflict in any way with those of the City of National City. The Contractor also agrees not to specify any product, treatment, process

or material for the project in which the Contractor has a material financial interest, either direct or indirect, without first notifying the City of that fact. The Contractor shall at all times comply with the terms of the Political Reform Act and the National City Conflict of Interest Code. The Contractor shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the City in which the Contractor has a direct or indirect financial interest as defined in Government Code Section 87103. The Contractor represents that it has no knowledge of any financial interests that would require it to disqualify itself from any matter on which it might perform services for the City. Contractor further warrants and represents that Contractor will immediately advise the City Attorney if Contractor learns of an economic interest of Contractor's that may result in a conflict of interest for the purposes of the Political Reform Act, and regulations promulgated thereunder.

The Contractor shall be strictly liable to the City for all damages, costs or expenses the City may suffer by virtue of any violation of this section by the Contractor.

2.17 Termination of Agreement

A. This Agreement may be terminated with or without cause by the City. Termination without cause shall be effective only upon 60-day's written notice to the Contractor. During said 60-day period the Contractor shall perform all services in accordance with this Agreement.

B. This Agreement may be terminated immediately by the City for cause in the event of a material breach of this Agreement, misrepresentation by the Contractor in connection with the formation of this Agreement or the performance of services, or the failure to perform services as directed by the City.

C. Termination with or without cause shall be effected by delivery of written Notice of Termination to the Contractor as provided for in Section 2.21.

D. In the event of termination, all finished or unfinished memoranda, reports, plans, specifications and other documents prepared by the Contractor, whether paper or electronic, shall immediately become the property of and be delivered to the City, and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed on such documents and other materials up to the effective date of the Notice of Termination, not to exceed the amounts payable hereunder, and less any damages caused the City by the Contractor's breach, if any.

E. The City further reserves the right to immediately terminate this Agreement upon: (1) the filing of a petition in bankruptcy affecting the Contractor; (2) a reorganization of the Contractor for the benefit of creditors; or (3) a business reorganization or change in business status of the Contractor.

F. If Contractor is terminated during the period of performance for any of the reasons stated above or is no longer able to perform for any reason, then the City may unilaterally select another tow operator to replace the terminated or no longer performing Contractor. The selection of such other tow operator, and whether to select another tow operator, shall be at the sole discretion of the City. In the event another tow operator is

selected by the City per this Section, that other tow operator will be required to comply with the same terms of this Agreement or its amendments, including the accepted and adopted fee rate schedule.

2.18 Charges and Fees

Contractor is authorized and responsible for the collection of all applicable towing and storage charges, and any fee authorized or required by City to defray costs to City for the management and operation of this agreement, prior to releasing a vehicle.

2.19 Inspection

City shall require no less than an annual inspection of Contractor and its facilities to insure conformance and compliance with the provisions of the California Vehicle Code and this agreement. Responsibility for said inspection rests with the National City Police Department Traffic Division Sergeant and/or their designee. Said inspections shall be conducted during normal business hours but may be conducted without prior, advanced notice. Upon completion of inspection, the Traffic Division Sergeant shall submit a written report to the Contract Administrators and/or City staff.

2.20 Notice of Termination

All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered; or sent by overnight mail (Federal Express or the like); or sent by registered or certified mail, postage prepaid, return receipt requested; or sent by ordinary mail, postage prepaid; or telegraphed or cabled; or delivered or sent by telex, telecopy, facsimile or fax; and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if sent by overnight mail, the business day following its deposit in such overnight mail facility, (iii) if mailed by registered, certified or ordinary mail, five (5) days, (ten (10) days if the address is outside the State of California) after the date of deposit in a post office, mailbox, mail chute, or other like facility regularly maintained by the United States Postal Service, (iv) if given by telex, telecopy, facsimile or fax, when sent. Any notices, request, demand, direction or other communication delivered or sent as specified above shall be directed to the following persons:

To the CITY:

Jose Tellez, Chief of Police
National City Police Department
1200 National City Blvd
National City, CA. 91950

To the CONTRACTOR:

Alexandra Investments, Inc.,
DBA Angelo's Towing & Recovery
Nashwan J. Habib
Angelo Habib
Angelo's Towing & Recovery
1177 S. 26th Street
San Diego, CA 92113

TERM OF AGREEMENT, OPTIONS, AND RE-OPENERS

3.0 Duration

The duration of this Agreement shall be for two (2) years with options for extension.

3.1 Relevant Dates

This Agreement begins at 0001 hours on October 1, 2021, and terminates at 2400 hours on September 30, 2023.

3.2 Option to Renew

The City of National City reserves the option to renew the Agreement up to three (3) successive one (1) year periods under the terms and conditions herein stated, beginning on the anniversary of the commencement of service, including any amendments. The renewal option is at the discretion of the City's Contract Administrator. The renewal is contingent on a mutual agreement between the City and the Contractor, with such agreement to be confirmed by the Contract Administrator within sixty (60) days prior to the expiration of the contract period. The City of National City or the Contractor may decline to confirm the renewal of the Agreement for any reason whatsoever, which shall render the renewal option null and void.

The City's initial letter informing the Contractor of the City's interest in exercising its option to renew the contract does not constitute an award of the option period. Any option acceptance must be confirmed by the City of National City in writing, before it becomes valid.

The City will not grant an option if the Contractor requests an increase which exceeds the average percentage variant for the previous twelve (12) months in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the National City area, as published by the Bureau of Labor Statistics, or five percent (5%) whichever is less. If a price increase is requested, the Contractor must provide detailed supporting documentation to justify the requested increase. The City will evaluate the requested increase, which the City reserves the right to accept or reject the requested increase.

3.3 Re-Opener Clause - Towing Program Fee

After the first twelve consecutive month period of this Agreement, City may review all tow data to determine the actual number of Police and Referral Tows in the preceding twelve-

month period and to determine whether the Towing Program Fee warrants adjustment. The Towing Program Fees may be adjusted up or down, as determined by City, based upon the actual and reasonable costs incurred by the City to process and administer towing and impound services, which may include, but is not limited to, review of the number of vehicles referred to the Contractor and review of increased costs. If appropriate, City shall consider implementing a per vehicle towing program fee to offset costs incurred by the police department in processing and administering towing services. City may also compare and consider towing program fees charged by other law enforcement jurisdictions in San Diego County for towing services.

3.4 Re-Opener Clause - Fee Schedule

After the first twelve consecutive month period of this Agreement, the Contractor may submit to the Chief of Police a request for an increase to the fee schedule set forth in Attachment A, seeking to adjust the fees consistent with the community standard for police towing in San Diego County. The request shall include a comparison of relevant fees in each law enforcement jurisdiction in San Diego County. City shall assist and consult with Contractor to provide Contractor with accurate data. The Chief of Police shall make appropriate comments, recommendations and submit the material for City Council consideration.

3.5 Re-Opener Clause – Administrative Review Fee

After the first twelve consecutive month period of this Agreement, City may review the number of Administrative Review hearing held within a 30 day period to determine whether an adjustment is warranted. The Administrative Review Fee may be adjusted up or down based upon data. The percentage 30-day impound fee may be adjusted up or down based upon the data.

RESPONSE TIME, EXCEPTIONS AND PENALTY ASSESSMENT

4.0 Response Time

Response time is defined as the elapsed time between the relaying of the tow service request by the Dispatch Center or a City Employee to the Contractor and the arrival of the specific tow truck type requested to fulfill the tow need on scene. (For example: NCPD Dispatch phones in a request for a low profile truck to tow an evidence hold vehicle to the underground parking lot of NCPD. The response of a NON low profile tow truck which **cannot** accommodate towing the vehicle into the underground parking lot of NCPD does not qualify as fulfilling the Response Time requirement.)

The Response Time for Towing Service shall not exceed twenty (20) minutes for tows inside the jurisdictional limits of City.

Due to the limited number of out of City of National City jurisdiction towing service requests, response times shall be evaluated on an individual basis for towing service requests outside of the jurisdictional limits of City. Complaints or irregularities involving out of jurisdiction towing requests shall be managed between the Contract Administrators.

The Contractor is expected to dispatch immediately any available tow truck that will fulfill the tow need on scene upon receipt of a towing request.

The Contractor is expected to notify the National City Police Dispatch Center when the response time requirement cannot be met. The Police Dispatcher or the officer at the scene will have the discretion to cancel the tow if the response time cannot or is not met and re-dispatch to a Secondary tow Contractor, at no cost to City. "Secondary tow contractor" refers to the next tow company in rotation.

4.1 Response Time Computation

Response time is computed from the time the police dispatcher enters the request for a tow into the dispatch CAD system and the Contractor arrives on scene. The on-scene investigating officer shall notify dispatch of the tow truck arrival. The police department computer aided dispatch system shall be the final resolution of any actual time dispute regarding response times. Any failure to record relevant times by the on-duty dispatcher shall not be considered in any penalty assessment.

4.2 Response Time - Penalty

Failure to arrive at the requested location within the prescribed response time may result in cancellation of the service request. The secondary tow contractor may be notified.

4.3 Response Time - Penalty Assessment

Contractor shall pay a five hundred dollar (\$500.00) penalty if more than five percent (5%) of the tows in any calendar month period exceed the maximum response time requirement. This is calculated based on individual tow per any single request by the City for towing services and not average response times.

Failure to meet Response Time requirements may result in termination of this Agreement.

ON-CALL CONTRACTOR AND CONTRACTOR ROTATION SCHEDULE

5.0 Contractor On-Call & Rotation

The Contractor on-call rotation shall run, for two contractors - from 0001 hours on the first day of the month to midnight on the 15th day of the month for one contractor and from 0001 hours on the 15th day of the month to midnight on the last day of the month.

The Traffic Division Sergeant will do the selection for the on-call rotation at the beginning of each contract year. The Traffic Division Sergeant will select the Contractor rotation by an impartial means agreeable to contractors involved. Should all Contractors not meet an agreement as to means the Traffic Division Sergeant will make the selection, the means will be directed by the Chief of Police and the Chief's decision will be final.

Any Contractor selected as the first in the rotation schedule at the beginning of a contract year will begin the first day of the contract.

It is understood that the number of contractors selected divided into the number of days per month may not result in each contractor having the same number of overall tow days per year.

In the event this Contract is extended pursuant to section 3.3 Option for Renewal, the schedule will continue to rotate as reflected.

GENERAL DUTIES, REQUIREMENTS AND OBLIGATIONS

6.0 Business License

Contractor shall at all times during the term of this Agreement retain a valid City Business License in compliance with National City Municipal Code Section 6.04 et seq.

Contractor businesses and storage lots located within the jurisdictional limits of the City of National City must conform to all City of National City building ordinances, zoning regulations, land use requirements and must have the approval of the City Planning Department.

Contractor businesses and storage lots located outside the jurisdictional limits of the City of National City must conform to all City (if located within an incorporated City) or County (if located within an unincorporated County area) building ordinances, zoning regulations, land use requirements within the jurisdiction of location.

6.1 Contractor Availability - Response to Service Requests

Contractor shall be available to promptly respond twenty-four (24) hours a day, seven (7) days a week, including all holidays, consistent with the On-Call and Rotation Schedule, for all requests initiated by City for towing services.

Upon award of Agreement, Contractors shall operate a dispatching system.

The tow dispatching system shall be sufficiently staffed and equipped to accept all telephone calls, without delay, twenty-four (24) hours a day, seven (7) days a week. Delay is defined as the City or the public receiving no answer after six (6) rings or busy signal to their telephone call. Contractors using paging systems are required to respond to a page within five (5) minutes of the initial page by the City.

The City does not currently have plans for adding automated tow dispatching to the existing NCPD dispatch system. Therefore, the City is not requiring any Contractor to purchase equipment to be used to integrate into an automated tow dispatching system. It will be up to the Contractor to ensure they are able to meet the response time requirements of the Contract by whatever means they deem appropriate.

Since there are no current plans to add automated tow dispatching to the existing NCPD dispatch system there are no minimum requirements established for such a system upgrade at this time.

6.2 Contractor Towing Forfeited Vehicles

The Contractor shall tow all forfeited vehicles, as ordered by the City.

The Contractor shall not drive the forfeited vehicles except to move them within the storage facility. Use of vehicles for personal use or other use not permitted herein is strictly prohibited, and constitutes a material breach of this Agreement.

In the event it is found that a towed vehicle is subject to forfeiture, the City shall arrange for the vehicle to be picked up from the Contractor's storage facility and the Contractor shall invoice the National City Police Department for all towing and storage fees.

6.3 Contractor Availability - Vehicle Release

Contractor shall be available to release vehicles to their owners, agents or authorized representatives, twenty-four (24) hours a day, seven (7) days a week, including all holidays.

6.4 Business Office

Contractor shall maintain a functional business office within the location of the yard used to store police initiated tows.

6.5 Business Office Hours

Contractor shall adequately staff their business office in order to remain open and available to meet the public during the normal business office hours. The business office of the Contractor shall be located within the storage yard for which a towed vehicle is located and be open to serve the public and the City from 0800 to 1800 hours, Monday through Friday, except for City observed holidays. City observed holidays are:

New Year's Day, Dr. Martin Luther King Jr.'s Birthday, Caesar Chavez Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the Friday after, and Christmas Eve and Christmas Day.

6.6 Contractor's Employees

All drivers must maintain a professional appearance. Staff shall work in a neat and clean uniform. The Contractor shall furnish staff with a shirt or some other type of outerwear bearing the company name and logo. Appropriate clothing will be worn at all times including by employees that are being trained. All employees will conduct themselves in a professional manner when interacting with the public or City employees.

Within ten (10) days of award, Contractor shall provide the National City Police Department Traffic Division Sergeant with the names of all employees that will be assigned to the Agreement. Drivers and other employees associated with the processing and removal of vehicles shall be subject to a complete background investigation.

The Contractor will notify, within ten (10) days, National City Police Department Traffic Division Sergeant whenever an employee is terminated or a new employee is hired that is

assigned to perform duties under the Agreement or may have access to vehicles impounded pursuant to police request.

Contractor shall ensure that all tow truck drivers responding to calls initiated by the City are properly licensed, qualified and competent employees. The Contractor shall ensure all tow truck drivers are trained and proficient in the use of the tow truck and related equipment, including, but not limited to, the procedures necessary for the safe towing and recovery of ALL vehicles. All tow truck drivers shall possess the proper class license and certificates for towing vehicles, along with a Class 'A' endorsement to allow operation of special vehicle configurations and/or special cargos.

Contractor's employees shall be qualified to perform all work undertaken by or assigned to them. In the event a driver or the equipment is inadequate and the Contractor is unable to service the request, a charge for service or labor will not be permitted.

Contractor shall have all tow truck drivers involved with NCPD's rotation tow operations participate in a controlled substance and alcohol testing (CSAT) program.

1) Drivers requiring a Class A, Class B, or commercial Class C license (endorsed for hazardous materials transportation) shall participate in a CSAT program as defined in the Code of Federal Regulations, Title 49, Parts 40 and 382.

2) Those drivers that are not required to possess a Class A, Class B, or commercial Class C license shall be enrolled in a CSAT program substantially similar to the requirements as outlined in Section 1) above.

3) The Contractor shall ensure selection pools for commercially and non-commercially licensed drivers are maintained separately. The Contractor shall provide proof records of their CSAT programs to NCPD.

4) A driver possessing a non-commercial driver's license who tests positive but subsequently returns with a negative test result shall meet the same reinstatement requirements as a driver required to possess a commercial driver's license.

6.7 Signs

In compliance with California Civil Code Section 3070 (E), Contractor shall display inside the business office, in plain view at the cashier's station, a sign. Said sign shall not be less than 17 by 22 inches in size, with lettering not less than one inch in height, disclosing all storage fees and charges in force, including the maximum daily storagerate. Posting of the Fee Schedule (Attachment A) in the appropriate size and lettering complies with CCC Section 3070 (E).

Additionally, Contractor is required by California Vehicle Code Section 22850.3 (b) to display in a conspicuous place a notice to the effect that a vehicle impounded at the direction of the Police Department may only be released upon proof of current registration. Said notice must include the name and telephone number of the local police agency that caused the vehicle to be stored.

6.8 Method of Payment - Towing or Storage Charges (22651.1 CVC)

At a minimum, Contractor shall accept a valid bank credit card or cash for payment of towing and storage by the registered owner, legal owner, or the owner's agent claiming the vehicle. Pursuant to California Civil Code Section 1748.1, Contractor shall not impose a surcharge on a cardholder who elects to use a credit card in lieu of cash for payment of any fees pursuant to this Agreement. In addition, Contractor shall have sufficient funds on the premises to accommodate and make change in a reasonable monetary transaction.

6.9 Storage of Vehicles: City, Seized

Contractor shall immediately provide written notice to the National City Police Department Traffic Unit whenever a city vehicle or seized vehicle is stored in excess of forty-eight (48) hours. Failure to provide the required written notification to the City may result in forfeiture of Contractor's right to storage fees.

The Contractor shall provide invoices to the National City Police Department Operations Assistant for the towing of each City owned and each seized vehicle. The invoices shall include the description of the vehicle, the date, time, origin, and disposition of the towed vehicle, name and identification number of City employee authorizing the tow and/or storage, the mileage starting and finishing at destination, and an itemized cost of services provided (mileage, number of storage days) commensurate with the attached rate schedule. Invoices shall be delivered to the National City Police Department Operations Assistant no later than the fifteenth (15th) of the month following services rendered. City shall make payment for services rendered on a monthly basis from month previous.

6.10 Removal from Private Property

Pursuant to California Vehicle Code Section 22658(h), a towing company may impose a charge of not more than one-half of the regular towing charge for the towing of a vehicle at the request of the owner of private property or that owner's agent pursuant to this section if the owner of the vehicle or the owner's agent returns to the vehicle before it is removed from private property. The regular towing charge may only be imposed after the vehicle has been removed from the property and is in transit.

Pursuant to sub-section (i) (2), if a vehicle is released within 24 hours from the time the vehicle is brought into the storage facility, regardless of the calendar date, the storage charge shall be for only one day. Not more than one day's storage charge may be required for any vehicle released the same day that it is stored.

6.11 Notice to City - Private Property Impounds

In addition to the requirements set forth in California Vehicle Code Section 22658, Contractor agrees to notify the National City Police Department of all vehicle impounds from private property, within the jurisdictional limits of City, that result in storage of the vehicle. Notice shall include but not be limited to a complete description of the vehicle including the vehicle identification number, location of impound and name of property owner or agent who authorized the impound. Notice shall occur within one hour of taking

possession of the vehicle. Generally, private property impounds are considered On-Demand Tows.

6.12 Gratuities (12110 CVC)

Contractor or Contractor's employees shall not *offer* or provide City, and no City employee shall accept any direct or indirect commission, reduced fee, gift, recreation, favors, seasonal gratuity, or any compensation whatsoever from Contractor. No City employee shall offer or provide Contractor with any gift, recreation, favor, seasonal gratuity, or any compensation whatsoever. No City employee is permitted to purchase a lien sold vehicle from Contractor that resulted from a police initiated tow or referral tow. City employees shall not purchase any vehicle or vehicle part from Contractor for a reduced fee or a fee below the prevailing rate as determined by industry standards. The intent of this section is to avoid the mere appearance of impropriety involving the contractual relationship.

Contractor or Contractor's employees are prohibited from accepting any money or anything of value from a repair shop for delivery or the arranging of a delivery of a vehicle for the purpose of storage or repair. Nothing in this section is intended to preclude Contractor from charging a repair shop appropriate towing fees pursuant to the Fee Schedule.

No benefit provided to City by Contractor, or benefit provided to Contractor by City, as defined in the terms and conditions of this Agreement that resulted from the process of negotiations, shall be considered a gift or gratuity within the meaning of this section.

6.13 Tow Truck Driver - On-Scene Duties

Upon arriving on-scene of a police initiated tow, the Contractor's employee shall report to the investigating Peace Officer in charge. The officer-in-charge shall make every reasonable effort to inform Contractor's employee of any unusual circumstance or hazardous condition reasonably known to the officer. Contractor's employee shall make every reasonable effort to inform the officer-in-charge of any unusual circumstance or hazardous condition undetected by the officer-in-charge. The officer-in-charge may request additional towing services from the Contractor's employee and the officer-in-charge shall have the authority to waive the Response Time requirements for additional services based on the on-scene needs. Contractor's employee shall make every reasonable effort to comply with instructions or directions provided by the officer-in-charge. Contractor's employee may make any emergency alterations reasonably required to safely move and/or impound vehicles.

Contractor shall be responsible for removing and appropriately disposing of collision related debris from the public right-of-way to ensure public safety. Contractor shall also remove or render inert any liquid debris that may reasonably be considered a safety hazard to the public-right-of-way. If the removal of any type of debris or hazardous material is beyond the capability of Contractor, Contractor's employee shall inform the officer-in-charge so accommodations can be made.

6.14 Access to Stored Vehicles

During regular business hours, Contractor shall make vehicles stored at the request of City available to that vehicle's registered owner, a person who can be verified to be the registered owner's agent, insurance agents, insurance adjusters, or representatives of automotive repair businesses for the purpose of estimating or appraising damages.

6.15 Access to Stored Vehicles – Removal of Private Property

Pursuant to California Vehicle Code Section 22851(b), no lien shall attach to any personal property in or on the vehicle. The personal property in or on the vehicle shall be given to the current registered owner or the owner's authorized agent upon demand. The lien holder shall not be responsible for personal property after any vehicle has been disposed of pursuant to Division 11, Chapter 10 of the California Vehicle Code.

Pursuant to California Civil Code Section 3068.1, the lien is deemed to arise on the date of possession of the vehicle. Possession is deemed to arise when the vehicle is removed and is in transit.

6.16 Access to Evidentiary Vehicles

Vehicles impounded by City for investigative purposes pursuant to California Vehicle Code Sections 22655 or 22655.5 shall be held in maximally secured, nonpublic areas of Contractor's property, until the vehicle is released by order of City or in conformance with section 8.3 of this Agreement.

No person other than a Police Officer, Reserve Police Officer, Field Evidence Technician, Property & Evidence Unit employee or Crime Scene Specialist employed by City shall remove any property or other contents from evidentiary vehicles. Property removed from such vehicles shall be recorded as removed on the content inventory and the content inventory dated and signed by the Police Officer, Reserve Police Officer, Field Evidence Technician, Property & Evidence Unit employee or Crime Scene Specialist removing the property and by a representative of the Contractor.

6.17 Invoices

All invoices for towing and impounds pursuant to this Agreement shall clearly and individually itemize each and every specific charge or fee type. Daily storage fees shall be itemized on a per day basis, for example: 10 days storage @ \$ per day. All itemized City fees of all types shall be documented on the invoice. The customer shall be provided no less than one copy of the invoice, after all fees have been paid and the invoice marked "Paid."

6.18 Vehicle Impound Control Form (PD form 250)

A Vehicle Impound Control Card (PD Form 250) shall be completed when a police hold is placed on a towed vehicle. The impounding officer shall obtain a case number and enter the case number on the control card before giving the tow truck driver a copy of the control card.

Contractor shall not be liable for uncollected City Administrative Review Fees when the Vehicle Impound Control Card (PD Form 250) is not properly completed by the impounding officer. PD Form 250 shall contain the lawful authority to impound pursuant to the California Vehicle Code. However, the impounding officer may elect to use the words "Admin Fee Applies" listed in the OTHER section of the form.

6.19 Proceeds from Lien sale

In conformance with California Civil Code Section 3073 and California Vehicle Code Section 22850.5, the proceeds from the lien sale of any vehicle impounded pursuant to the Negligent Vehicle Impound Release (NVIR) program or the Administrative Review Fee shall be distributed in the following order:

1. Any and all costs necessary to discharge the lien, including but not limited to impound and storage fees, and the costs of processing the vehicle for lien sale shall be paid to the (lien holder) Contractor.

2. Any and all City administrative fees, including individual fees or any partial fees associated with the Administrative Review and/or NVIR programs, shall be paid to City. Any partial fees recovered by City, resulting from the lien sale, shall first be attributed to the Administrative Review program.

3. The balance, if any, shall be forwarded to the California Department of Motor Vehicles for deposit in the Motor Vehicle Account in the State Transportation Fund.

FEES

7.0 Fee Schedule

Attachment A to this Agreement provides a complete schedule of all charges and fees the Contractor will be authorized to collect from consumers for towing, impound, and storage services rendered on behalf of City. The Attachment A rate schedule shall remain in place unless and until amended by the City Council of the City of National City, pursuant to section 3.5 Re-Opener - Fee Schedule, of this Agreement.

The schedule of rates charged by the operator shall be available in the tow truck, and shall be presented upon demand to person(s) for whom the tow services were provided, or his/her agent, or any representative of the City at the scene.

In the event of a significant or substantial increase in operating expenses, which was not caused by any action of the Contractor, a temporary surcharge may be added in the current rates for any and all of the services provided pursuant to this agreement. The Contractor shall petition the City for the increase in towing and storage rates and provide supporting documentation. Any surcharge is subject to approval by the City.

Rate changes may be sought and approved at the discretion of the City. This process may be instituted by routine cost of service evaluation by the City or by request of the Contractor. It is understood that there may be a need for rate changes during the term of

the Contract. Therefore, during the term of the Contract, should any Contractor make a request for rate changes, the Contract Administrator will forward the request appropriately for consideration.

No rate adjustments will be considered without City Council approval.

Any cost-of-living increase to the tow rates shall be calculated from the Consumer Price Index (CPI) as published for the first quarter of each calendar year. In any year in which this index is not available, the City shall ascertain and utilize some similar criterion and establish, retroactively, a figure for the computation.

Any increase in the City Standard Rates will trigger a proportional increase in the City's Towing Program Fee beginning of July 1st of each contract year.

7.1 Secondary Tow Fees

Secondary towing fees are the responsibility of the vehicle owner, operator or agent. If it is determined that City is liable for the secondary tow fees, Contractor shall charge City 50% of the Basic Tow Fee for Secondary Tows, if applicable.

No storage fees shall accrue while the subject vehicle is in the actual possession of the National City Police Department. Police personnel shall not release a vehicle from the National City Police Department until all Contractor fees have been paid to Contractor by the vehicle owner, operator or agent. In the event a vehicle is released from the police department and Contractor fees were not paid, City shall be liable for the full fee.

7.2 City Vehicle Tow Fees

Contractor agrees not to charge City a fee for the towing of marked or unmarked City police vehicles whether the tow resulted from mechanical breakdown or collision within the jurisdictional limits of National City.

Contractor shall charge City 25% of the Basic Tow Fee for the towing of all other City vehicles whether the tow resulted from mechanical breakdown or collision within the jurisdictional limits of National City.

Fees for all City vehicle tows including police vehicles, which occur outside the jurisdictional limits of National City, shall be resolved between the Contract Administrators but shall not exceed 25% of the basic tow fee.

7.3 Fees - Police Department Errors and Omissions

When any vehicle has been directed by the City to be towed and it is established that the tow was in error through a mistake of fact, Contractor shall release the vehicle to its owner, operator or agent at no cost. Contractor shall bill City at no more than 50% of the basic tow fee.

If an error by City results in a vehicle being stored longer than it can reasonably be established that it should have been, Contractor shall release the vehicle and bill the owner, operator or agent only those storage charges that would have accrued if no error

had occurred. Contractor shall bill City storage fees at no more than \$2.50 per day for every day beyond the owner, operator or agent's responsibility.

If the error in towing or storage is discovered after the vehicle owner, operator or agent recovers the vehicle and all fees have been paid to Contractor, the owner, operator, or agent may be referred to the City Clerk, City of National City to file a Claim for Damages against City.

7.4 Towing Program Fee

The total annual Towing Program Fee due to the City shall be two hundred eighteen thousand eight hundred eighty nine dollars (\$218,889), divided equally amongst the tow operators awarded contracts, and paid quarterly. Contractor shall make quarterly Towing Program Fee payments to City for the right to provide towing and storage service to City. The minimum Towing Program Fee payment amount per Contractor, when two contractors have been awarded, shall be fifty four thousand seven hundred twenty two dollars (\$54,722) per quarter. The Towing Program Fee shall be payable for a period of two (2) years subject to adjustments as defined in Section 3.4 - Re-Opener Clause – Towing Program Fee. The Towing Program fee shall continue in the above described manner in the event of a Contract extension renewal.

7.5 Towing Program Fee - Due Date

The Towing Program Fee payment shall be due and payable no later than the fifteenth (15th) day of the calendar month following the end of each quarter, pursuant to the following schedule:

First Contract Year: Quarter End Dates

1st Quarter – January 15, 2022

2nd Quarter – April 15, 2022

3rd Quarter – July 15, 2022

4th Quarter – October 15, 2022

Second Contract Year: Quarter End Dates

1st Quarter – January 15, 2023

2nd Quarter – April 15, 2023

3rd Quarter – July 15, 2023

4th Quarter – October 15, 2023

7.6 Towing Program Fee - Late Fee

Any amount owed to the City more than fifteen (15) calendar days beyond the due date, shall be considered delinquent and will be in breach of contract. Failure to pay any amount owed to the City may result in the Contractor being suspended from the contract until such amount is paid. Interest will be charged on unpaid amounts at an annual rate equal to twelve (12%) percent per annum, or at the maximum rate permitted by applicable law,

whichever is lower. Partial payments will not be accepted.

7.7 Towing Program Fee - Payments

The Towing Program Fee is payable to "City of National City." Payments shall be directed as follows:

**Operations Assistant
National City Police Department
1200 National City Blvd
National City, CA 91950**

Upon receipt and no later than five days from receipt, the Operations Assistant shall record and account for the Towing Program Fee payment consistent with the terms of this agreement and forward the payment to the City Finance Department for deposit in Revenue Account Number 001-11000-3558.

7.8 Negligent Vehicle Impound Release (NVIR) Fee

The Negligent Vehicle Impound Release Fee shall be an amount established by City. Said fee is one hundred twenty four (\$124) dollars. The NVIR fee is recognized as a necessary and effective method of generating those revenues necessary to offset program costs, services and facilities. The NVIR fee applies only to vehicles released by Contractor for violating certain sections of the California Vehicle Code (CVC) and/or the National City Municipal Code (NCMC). See Attachment B for a list of applicable sections.

7.9 NVIR Fee - Collection

Contractor shall collect the NVIR fee of one hundred twenty four (\$124) dollars per vehicle, upon the release of any vehicle impounded pursuant to the above listed California Vehicle Code sections. Contractor shall remit the collected fees to City pursuant to the below listed payment schedule. The collected NVIR fees shall be properly identified and itemized.

7.10 NVIR Fee - Payment Due Date

NVIR fees collected by Contractor shall be due and payable to City no later than the fifth (5th) day of each month and the twentieth (20th) day of each month.

Payments due on the fifth (5th) day of each month shall include and account for all vehicles released by Contractor between the sixteenth (16th) day of the month, and the last day of the month, (inclusive).

Payments due on the twentieth (20th) day of the month shall include and account for all vehicles released by Contractor between the first (1st) day of the month and the fifteenth (15th) day of the month, (inclusive).

7.11 NVIR Fee -Payments

The NVIR Fee is payable to "City of National City." Payment shall be directed as follows:

**Operations Assistant
National City Police Department
1200 National City Blvd
National City, CA 91950**

Upon receipt and no later than five days from receipt, the Operations Assistant shall record and account for the NVIR Fee payment, consistent with the terms of this agreement and forward the payment to the City Finance Department for deposit in Revenue Account Number 001-11000-3551.

7.12 NVIR Fee Payment - Late Fee

Any amount owed to the City more than fifteen (15) calendar days beyond the due date, shall be considered delinquent and will be in breach of contract. Failure to pay any amount owed to the City may result in the Contractor being suspended from the contract until such amount is paid. Interest will be charged on unpaid amounts at the maximum rate permitted by law. Partial payments will not be accepted.

7.13 Administrative Review Fee

The Administrative Review fee shall be an amount established by City. Said fee is one hundred fifty (\$150) dollars. The Administrative Review fee is recognized as a necessary and effective method of generating revenues necessary to offset program costs, services and facilities. Vehicles impounded by City pursuant to California Vehicle Code 12500(a) and 14601.1 shall be released by City, upon expiration of a 30 day hold and shall only be released by City upon a showing of proof that the owner, operator or agent has a valid driver's license.

Contractor shall collect Administrative Review fees prior to the actual release of the vehicle. Contractor shall remit the collected fees to City pursuant to the below listed payment schedule. The Administrative Review fees shall be properly identified and itemized. The Administrative Review fee applies only to vehicles impounded pursuant to certain California Vehicle Code Sections. (See Attachment C for a list of applicable sections.)

7.14 Administrative Review Fees - Due Date

The fees collected by Contractor shall be due and payable to City no later than the fifth (5th) day of each month and the twentieth (20th) day of each month.

Payments due on the fifth (5th) day of each month shall include and account for all vehicles released by Contractor between the sixteenth (16th) day of the month, and the last day of the month, (inclusive).

Payments due on the twentieth (20th) day of the month shall include and account for all vehicles released by Contractor between the first (1st) day of the month and the fifteenth

(15th) day of the month, inclusive.

7.15 Administrative Review Fee -Payment

The Administrative Review fee is payable to "City of National City." Payment shall be directed as follows:

**Operations Assistant
National City Police Department
1200 National City Blvd
National City, CA 91950**

Upon receipt and no later than five days from receipt, the Operations Assistant shall record and account for the Administrative Review fees consistent with the terms of this agreement. The Administrative Review fee of one-hundred fifty (\$150) dollars per vehicle shall be divided and deposited with the City Finance Department as follows:

Amount	Revenue Account Number
\$125.00	001-11110-3550
\$ 25.00	001-11000-3550

7.16 Administrative Review Late Fee

Any amount owed to the City more than fifteen (15) calendar days beyond the due date, shall be considered delinquent and will be in breach of contract. Failure to pay any amount owed to the City may result in the Contractor being suspended from the contract until such amount is paid. Interest will be charged on unpaid amounts at an annual rate equal to twelve (12%) percent per annum, or at the maximum rate permitted by applicable law, whichever is lower. Partial payments will not be accepted.

VEHICLE RELEASE

8.0 General Rule - Vehicle Release

As a general rule, Contractor shall be responsible for the release of all vehicles in Contractor's possession as a result of police initiated or referral tows.

8.1 Exceptions to General Rule

Vehicles impounded pursuant to the following California Vehicle Code Sections shall not be released by Contractor. Contractor shall refer the vehicle owner, operator or agent to the police department to obtain a release:

1. 14602.6 – Suspended Driver's License
2. 22651 (i) - Five or more Parking Citations
3. 22655 - Hit & Run Investigation
4. 22655.5 - Evidentiary Reasons
5. And as otherwise required by the California Vehicle Code

8.2 Hit & Run Investigation - Mandatory Release 22655(b) CVC

Any vehicle impounded for hit & run investigation (20002 thru 20006 CVC), pursuant to the authority of California Vehicle Code Section 22655, shall be released within 48 hours after removal from highway or private property. When determining the 48 hour period, weekends, and holidays shall not be included. Any vehicle not released by City within the maximum 48 hour period, shall be released by Contractor upon demand of the vehicle owner, operator or agent upon the expiration of the 48 hour period, regardless of City hold status.

8.3 Questions, Problems, or Controversy Associated with Vehicle Release

In the event Contractor experiences problems, questions or controversy associated with a customer demanding the release of a police initiated or referral tow, Contractor shall notify the police department. Additionally, if Contractor discovers a questionable DMV document, an officer shall be dispatched to resolve the problem.

8.4 Expert Training - DMV Document Identification

During the term of this Agreement and at Contractor's request, City may provide Contractor, Contractor's employees, and new employees with training in the identification and recognition of all relevant California Department of Motor Vehicles documents including but not limited to California Drivers License and California Vehicle Registration documents. A recognized expert employed by the California Department of Motor Vehicles shall conduct training. Training shall include but not be limited to recognition and identification of counterfeit, altered, or forged California Driver's License and California Registration and Title Certificates. The Contract Administrators shall coordinate date, time and location of training.

MINIMUM TRUCK EQUIPMENT and STORAGE LOT REQUIREMENTS

At all times during the term of this Agreement, Contractor shall meet the following minimum tow truck equipment requirements and storage lot requirements:

9.0 Minimum Tow Truck Requirements

During the term of this Agreement, Contractor shall have available no less than three tow rigs of at least one-ton capacity. Each tow rig shall have dual rear wheels. Each vehicle used for towing police impounds shall have a manufacturer's gross vehicle weight rating (GVWR) of not less than 14,500 pounds. During the term of this Agreement, Contractor shall have a tow rig capable of towing large, oversize vehicles; including Class B (minimum 26,001 GVWR), Class C (minimum 48,000 GVWR), and Class D (minimum 52,000 GVWR). During the term of this Agreement, Contractor shall have a truck with Landoll type trailers acceptable for Class C and Class D towing.

In addition, during the term of this Agreement, Contractor shall have available one tow rig, commonly known as a "Sub-Garage Tow Vehicle," capable of entering and removing impounded vehicles from the underground parking garage of the National City Police Department. The sub-garage tow vehicle is a limited use vehicle and does not require dual wheels or a GVWR of 14,500 pounds. Contractor shall have a vehicle capable of

towing/recovery from off road areas.

9.1 Minimum Tow Truck Equipment Requirements

Each tow truck responding to requests for police initiated towing and impound services shall be equipped with radio communications equipment capable of effecting two-way radio communications between the tow truck operator and Contractor's dispatching operation. Citizen Band radios shall not be used to meet this requirement.

Each tow truck shall have a maximum 8,000 pound capacity winch that is power driven by power takeoff from transmission, in both directions, and equipped with safety dogs or an adequate braking system. Winches must be fitted with a minimum of 100 feet of cable for recovery tasks. Roll back car carriers must be fitted with a minimum of 50 feet of cable. All cable (wire rope) must be maintained in good condition. Only wire rope with swaged ends, wedge locks or braided ends, with metal sleeves in the loops shall be approved for use under the terms of this agreement. Consistent with the California Code of Regulations, Title 13, Section 1305(b), wire rope is not in good condition when it is stranded, knotted, crushed, excessively rusted, kinked, badly worn, when there are 12 or more wires broken in lay length, or where there is other visible evidence of loss of strength.

Contractor shall maintain dollies for use by in-service tow trucks providing police towing services to City. Each tow truck, with the exception of slide back carriers, shall carry its own set of dollies.

Each tow truck shall be equipped with no less than two safety chains. No less than two safety chains shall be used for each vehicle being towed. Each safety chain shall be rated at no less than the rating specified by the original equipment manufacturer (OEM). The safety chains shall be securely affixed to the bed frame or wrecker boom, independent of the towing sling, bar, hitch, wheel lift, or under lift towing equipment. The towed vehicle shall be secured to the towing equipment independent of the safety chains by either two chains or two straps. All safety connections and attachments shall have a positive means, of sufficient strength, to ensure that the safety connection or attachment cannot become disengaged while in transit. Vehicles being transported on slide back carriers shall be secured by four tie down chains or straps, independent of the winch or loading cable.

In addition to the requirements set forth in California Vehicle Code Section 27700, City requires Contractor to equip each tow truck with red flares, lanterns or reflectors, hand tools (screw drivers, pliers, ratchet and sockets, crescent wrenches, metric and standard lug wrenches), bolt cutters, six foot crowbar, rope, broom, shovel, dustpan, fire extinguisher (dry chemical or carbon dioxide type), utility flood lamps, portable red taillights and stoplights for towed vehicles, equipment for opening locked vehicles, safety snubber chains, and a trash can with absorbent material.

Each tow truck shall be equipped with disposable (one time use) latex or rubber gloves for use by Contractor's employees to prevent contamination or contact with potential blood borne pathogens. The decision to use said equipment rests solely with Contractor.

9.2 Tow Truck Identification

Each tow truck responding to police initiated towing and impound services shall, on both sides of the vehicle, conspicuously bear Contractor's company name, local address, and local phone number(s) in lettering that complies with California Vehicle Code Section 27907.

9.3 Tow Truck Lighting Equipment

Each tow truck responding to police initiated towing and impound services shall be equipped with lighting systems as required by California Vehicle Code Sections 24605, 24606 and 25253. Additionally, tow trucks shall be equipped with utility lamp lighting systems than comply with California Vehicle Code Section 25110.

9.4 California Highway Patrol Inspection Certification

During each year of this Agreement, Contractor shall obtain and retain an annual California Highway Patrol (CHP) tow truck safety inspection certification. Contractor shall annually be able to show proof that every vehicle in each category required for service under this Agreement providing services to the City has passed a CHP tow truck safety inspection. Tow trucks not passing inspections or meeting the requirements of this section shall immediately be removed from rotation. The tow truck may return to rotation once the truck has successfully passed a re-inspection by the original inspecting agency.

Nothing in this section is intended to prevent, or preclude the National City Police Department from performing periodic unscheduled inspections to insure compliance with the requirements of the California Vehicle Code and this Agreement.

9.5 Tow Truck Maintenance

Each tow truck responding to police initiated towing and impound services shall be well maintained and reasonably clean on the exterior and interior and should reflect the clean, professional image of the City of National City.

9.6 Storage Lot. Minimum Requirements

There shall be a minimum of one (1) vehicle storage yard within a ten (10) mile radius from City Hall, 1243 National City Boulevard, National City, with adequate storage capabilities for all vehicles retrieved from the City and requiring storage. The Contractor shall identify the exact location and size of any storage yards to be used pursuant to this contract.

The storage yard shall be approximately 10,000 sq. ft. and have space necessary to accommodate all Police Department tows and comply with all applicable Building Codes and Zoning Regulations (including but not limited to: Fire, Sign, Zoning, and Building Codes). There shall also be the following:

1. Be completely enclosed by an 8-foot solid high fence with a lockable gate. Construction of the fence and gates must be of sufficient construction to prevent entry into the storage area of unauthorized persons or vehicles.

2. Alarms and intrusion sensors that provide immediate notification capabilities at all times or similar devices or security measures.
3. Sufficient lighting to detect unauthorized entrance at night.
4. The storage yard shall be served by drainage facilities adequate to prevent the accumulation of standing water. The vehicle storage area must remain free of mud, pools of standing water, debris, or other elements that would be harmful to the stored vehicle, vehicle contents, or to persons viewing, inspecting or recovering the vehicles. The vehicle storage area, including all driveways and access roads, shall be surfaced in a manner so as to prevent the listed conditions. An acceptable surface includes concrete, asphalt, asphaltic concrete, or decomposed granite with oil.
5. All areas open to vehicular traffic shall be paved with cement, asphalt surfacing or oil and aggregate mixture.
6. The entire site is to be continuously maintained to prevent accumulation of trash, combustible waste, and hazardous debris.
7. The storage yard must be a reasonable distance from public transportation.
8. Stored vehicles shall be arranged to provide reasonable and immediate inspection at any time by the City's agents.

The Contractor shall provide service to the public twenty-four (24) hours a day, seven (7) days a week so that an owner may pay towing and storage fees at the Storage Yard where their vehicle is stored and obtain its release.

The Contractor is responsible for the reasonable care, custody, security, and control of any property contained in towed or stored vehicles. All items removed from a vehicle or left stored within the vehicle shall be released to the owner or agent of the impounded vehicle upon demand during normal business hours unless the vehicle is under law enforcement Hold.

Vehicles may not be taken off-site of the Storage Yard, without the City's permission.

9.7 Minimum Lighting Requirements - Storage Lot

There must be adequate lighting, and all yard and office construction must comply with applicable building codes, fire codes, and zoning regulations. The minimum lighting requirements per ten thousand (10,000) square feet are in effect unless zoning or other local regulations dictate increased or diminished lighting requirements:

1. Four (4) 300-Watt incandescent medium-wide flood lights, or
2. Three (3) 300-Watt quartz halogen lights, or
3. Two (2) 100-Watt high-pressure sodium lights.

9.8 Vehicle Examination Area

Contractor will set aside an area of sufficient size to place a standard sized passenger sedan and have a minimum of forty-eight (48") inches from each side, the front, and rear of the vehicle for the purpose of inspecting the vehicle. This examination area must be flat, level, and paved with concrete, asphalt or asphaltic-concrete, or other suitable all weather surfaces.

9.9 Secure Area - Evidentiary Vehicles

Vehicles impounded by City for investigative purposes shall be held in a maximally secured, non-public area of Contractor's property until released by City. Contractor shall insure, by the use of various security devices and measures, including but not limited to walls, fences, containers, buildings or the like, that no unauthorized person, whether intentionally or accidentally can come into physical contact with evidentiary vehicles. Located within the storage yard, Contractor shall set aside a secure area, sufficient in size to hold four (4) vehicles, with sufficient room to walk around, open doors, and examine each separate vehicle.

9.10 Special Operations

During the Contract period, it is anticipated that numerous special police operations may be conducted that require the towing of vehicles. An example of this type of operation is a Sobriety/Driver's License checkpoint. The Police Department will attempt to equally distribute these special operations between the Contractors. However, many of these operations have special date or period requirements beyond the control of the Police Department. Due to these special requirements, a Contractor may obtain more operations than the other Contractor(s). The Contractors agree to this potentially inequitable distribution of special operations as a City Contractor.

INSURANCE REQUIREMENTS

10.0 Minimum Insurance Requirements

All required insurance shall be submitted to the City prior to the granting of the provisional award. Failure to provide the insurance certificates as previously set out shall cause the bid to be rejected as non-responsive. The Contractor shall maintain insurance in full force and effect during the entire period of performance under contract. Failure to do so shall be cause for immediate termination of the contract.

All policies must have a thirty (30) day cancellation clause, giving the City thirty (30) days prior written notice in the event a policy is cancelled.

At the end of each contract year, the City reserves the right to review insurance requirements and to require more or less coverage, depending upon assessment of the risk, the Contractor's past experience, and the availability and affordability of increased liability insurance coverage.

Insurance shall be written with only insurers authorized to conduct business in California which hold a current policy holder's alphabetic and financial size category rating of not less than A: VII according to the current Best's Key Rating Guide, or a company of equal financial stability that the City's Risk Manager approves. In the event coverage is provided by non-admitted "surplus lines" carriers, they must be included on the most recent List of Approved Surplus Line Insurers ("LASLI") and otherwise meet rating requirements

All policies must be endorsed to provide that the insurance afforded by Contractor is primary to any insurance or self-insurance maintained by City and its elected officials, officers, employees, agents, and representatives as respects operations of the Named Insured. Any insurance or self-insurance maintained by City and its elected officials, officers, employees, agents, and representatives shall be in excess of Contractor's insurance and shall not contribute to it.

The following coverage is required:

Commercial General Liability Insurance, with minimum limits of either \$2,000,000 per occurrence and \$4,000,000 aggregate, covering all bodily injury and property damage arising out of its operations, work, or performance under this Agreement. The policy shall name the City and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided. The general aggregate limit must apply solely to this "project" or "location." The "project" or "location" should be noted with specificity on an endorsement that shall be incorporated into the policy. .

Automobile Liability for a minimum of two million dollars combined single limit (\$2,000,000.00 CSL) per person and four million dollars (\$4,000,000.00) per accident. The City of National City must be named as an additional insured on the certificate.

Garage Keepers minimum of one million dollars each occurrence (\$1,000,000.00 EO).

On Hook/Cargo in amounts not less than fifty thousand dollars (\$50,000.00) / twenty thousand dollars (\$20,000.00) /one hundred thousand dollars (\$100,000.00), the maximum deductible shall be no more than two thousand five hundred dollars (\$2,500.00).

Workers' compensation insurance in an amount sufficient to meet statutory requirements covering all of the Contractor's employees and employers' liability insurance with limits of at least \$1,000,000 per accident. In addition, the policy shall be endorsed with a waiver of subrogation in favor of the City. Said endorsement shall be provided prior to commencement of work under this Agreement..

The City does not require a performance bond.

If required insurance coverage is provided on a 'claims made' rather than 'occurrence' form, the contractor shall maintain such insurance coverage for three years after expiration of the term (and any extensions) of the contract.

Any aggregate insurance limits must apply solely to the Contract.

The Certificate Holder for all policies of insurance required by this Agreement shall be:

City of National City
c/o Risk Manager
1243 National City Boulevard
National City, CA. 91950-4397

This Agreement shall not take effect until certificate(s) or other sufficient proof that these insurance provisions have been complied with, are filed with, and approved by the City's Risk Manager.

11.0 CONSTRUCTION OF AGREEMENT

The parties acknowledge and agree that (1) each party is of equal bargaining strength; (2) each party has actively participated in the drafting, preparation and negotiation of this Agreement; (3) each such party has consulted with or has had the opportunity to consult with its own, independent counsel and such other professional advisors as such party has deemed appropriate, relative to any and all matters contemplated under this Agreement; (4) each party and such party's counsel and advisors have reviewed this Agreement; (5) each party has agreed to enter into this Agreement following such review and the rendering of such advice; and (6) any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement, or any portions hereof, or any attachments, or any amendments hereto.


IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

[Signature Page to Follow]

CITY OF NATIONAL CITY

ALEXANDRA INVESTMENTS, INC.,
DBA ANGELO'S TOWING & RECOVERY

By: _____
Alejandra Sotelo Solis, Mayor

By: 
NASHWAN HABIB, Owner

APPROVED AS TO FORM:

By: 
Alexandra Habib Owner

Charles E. Bell, Jr.
City Attorney

**ATTACHMENT A
TOWING FEE SCHEDULE**

SERVICE	FEE
<ul style="list-style-type: none"> BASIC TOWING Includes first hour hookup, labor, standby time, for vehicles under 9,500 GVW (unloaded). 	\$ 180.00
<ul style="list-style-type: none"> MEDIUM SIZE - BASIC TOWING Includes first hour hookup, labor, standby time, for vehicles over 9,500 GVW but less than 22,000 GVW (unloaded). 	\$ 205.00
<ul style="list-style-type: none"> LARGE SIZE - BASIC TOWING Includes first hour hookup, labor, standby time, for vehicles over 22,000 GVW (Unloaded). 	\$ 240.00
<ul style="list-style-type: none"> ON-SCENE OR STAND-BY Labor = Each 15-minute increment, beyond first hour is charged only when extra ordinary labor must be expended to recover a vehicle. Stand-by is charged when the job cannot be started and must be explained on the tow bill. 	\$ 40.00
<ul style="list-style-type: none"> DOLLIES Will only be used when there is not a less expensive, safe manner of handling the situation. 	\$ 55.00
<ul style="list-style-type: none"> DRY RUN May also be known as a "hook-up – drop fee" and is charged when the vehicle is hooked up and the owner returns before the vehicle is in transit. 	\$ 50.00
<ul style="list-style-type: none"> PER MILE TOWING Applies only to vehicles recovered outside the jurisdiction of the City of National City. 	\$ 5.00
<ul style="list-style-type: none"> MAXIMUM STORAGE - PER DAY Per day is defined as a 24-hour period. 	\$ 50.00
<ul style="list-style-type: none"> STORAGE PER HOUR Up to maximum of \$15.00 per hour. 	\$15.00
<ul style="list-style-type: none"> AFTER HOURS VEHICLE RELEASE After 6 p.m. and before 8 a.m., including weekends and all holidays. 	\$ 65.00
<ul style="list-style-type: none"> NOTIFICATION OF LIEN SALE Vehicle valued at less than \$4,000 (22851.12 CVC). 	\$ 70.00

<ul style="list-style-type: none"> • NOTIFICATION OF LIEN SALE Vehicle valued at over \$4,000. (22851.12 CVC). 	\$ 100.00
<ul style="list-style-type: none"> • POLICE EQUIPMENT TOWING Inside jurisdictional limits of National City. 	No Charge
<ul style="list-style-type: none"> • CITY EQUIPMENT TOWING Includes all City vehicles. Also includes police vehicles towed from outside jurisdictional limits of National City. 	25% Basic Towing Fee
<ul style="list-style-type: none"> • EVIDENTIARY TOWING AND STORAGE Daily storage fees for City/vehicles, seized vehicles, and vehicles for basic evidentiary purposes. 	25% of daily storage fee 25% of Basic Towing Fee
<ul style="list-style-type: none"> • TOWING OF VICTIMS VEHICLES 	\$60.00

CITY ADMINISTRATIVE

FEE'S

<ul style="list-style-type: none"> • NEGLIGENT VEHICLE IMPOUND RELEASE 	\$124.00
<ul style="list-style-type: none"> • SERIOUS TRAFFIC OFFENDER PROGRAM 	\$150.00

ATTACHMENT B

Pursuant to Section 7.9 of this Agreement, the Negligent Vehicle Impound Release Fee shall apply to vehicles impounded pursuant to the following California Vehicle Code sections and/or National City Municipal Code sections. One or more the listed sections must be included on the impounding documents.

California Vehicle Code

- 22500 et seq. Prohibited Stopping, Standing, or Parking
- 22500.1 Prohibited Stopping, Standing, or Parking: Fire Lane
- 22651 (a) Unattended on Bridge
- 22651 (b) Hazard to flow of traffic
- 22651 (d) Blocking a driveway
- 22651 (e) Blocking fire hydrant access
- 22651 (h) Operator taken into custody - not practical to park or lock
- 22651 (i) Unpaid parking citations
- 22651 (j) Illegally parked and no evidence of registration displayed
- 22651 (k) Parking over 72 hours
- 22651 (l) Temporary tow away signs for street repair
- 22651 (m) Highway authorization for other use, with 24-hour notice
- 22651 (n) No parking tow away signs posted
- 22651 (o) (1) Expired registration in excess of six months
- 22651 (p) Unlicensed or suspended/ revoked license in violation of 12500, 14601, 14601.1, 14601.2, 14601.3, 14601.4, 14601.5, or 14604.
- 22651 (r) Illegally parked, blocking a legally parked vehicle
- 22652 Illegally parked in designated handicapped parking space
- 22653 (c) Removal from private property, at request of property owner, when operator is taken into custody
- 22655 (a) Hit & Run suspect vehicle
- 22656 Illegally parked or abandoned within 7-1/2 feet of nearest railroad rail
- 22669 et seq. Removal of Abandoned Vehicles as determined pursuant to section 22523 CVC

National City Municipal Code

- 11.32.060 Illegally parked - 72 hour violation - vehicle removal
- 11.32.070 Illegally parked - Restricted hours - vehicle removal
- 11.32.160 Illegally parked - Emergency parking - vehicle removal
- 11.32.250 (e) Illegally parked - Taxi Stand - vehicle removal

ATTACHMENT C

Pursuant to Section 7.14 of this Agreement, the Serious Traffic Offender Program Fee shall apply to vehicles impounded pursuant to the following California Vehicle Code Sections. One or more of the following sections must be included on the impounding documents.

California Vehicle Code

- 22651(p)** Includes Sections 12500, 14601, 14601.1, 14601.2, 14601.3, 14601.4, 14601.5 or 14604.
- 22651(h)(2)** Upon service of notice of an order of Suspension or Revocation, pursuant to 13388 CVC.
- 14602.6** Unlicensed, Suspended or Revoked and involved in traffic collision. Sub-section (b) - Certified Mail, 2-day notice to legal owner. Failure to notify legal owner results in maximum fee for 15 days vehicle storage.
- 14602.7** Fleeing a Peace Officer - Court Order upon affidavit of Peace Officer, to seize vehicle, not to exceed 30 days. Failure to notify legal owner (2 days' notice) results in maximum fee for 15 days vehicle storage.
- 14607.6** Impoundment and Forfeiture of Motor Vehicle.

RESOLUTION NO. 2021 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, AWARDED AND AUTHORIZING THE MAYOR TO EXECUTE AGREEMENTS FOR TOWING AND IMPOUND SERVICES WITH THE TOP TWO RANKED PROVIDERS: A TO Z ENTERPRISES, INC., DBA ROAD ONE TOWING, AND ALEXANDRA INVESTMENTS, INC., DBA ANGELO'S TOWING AND RECOVERY WITH A TERM OF OCTOBER 1, 2021 – SEPTEMBER 30, 2023

WHEREAS, the City of National City ("City) Police Department requires professional towing and impound services to maintain the safety of the public right-of-way and to seize and secure vehicles in accordance with the laws of the State of California and the National City Municipal Code and City regulations; and

WHEREAS, the City adopted a process for selecting and designating professional towing contractors to provide towing, impound, and storage services upon the request of the National City Police Department; and

WHEREAS, on May 4, 2021, the City Council authorized Request for Proposal ("RFP") No. GS2021 -1 for towing and impound services, issued on May 6, 2021, with a deadline of June 8, 2021, for Contractors to respond; and

WHEREAS, the Tow Contract Working Group, comprised of City staff, evaluated the proposals and prepared a report for the City Council's consideration detailing the evaluation process and explaining the evaluations of the proposals, including whether the proposals met the RFP requirements; and

WHEREAS, on September 7, 2021, City staff presented its recommendation of the top two ranked tow operators and responded to all protests; and

WHEREAS, the two (2) top-ranked tow operators, A to Z Enterprises dba Road One Towing and Alexandra Investments, Inc., dba Angelo's Towing and Recovery, each have a history of accurate, dependable, and reliable service, have participated in a competitive process through the RFP, have been found to provide the best overall value to the City, including having the best qualifications and capability of delivering the highest quality, professional towing services for the City; and

WHEREAS, the City desires to have two (2) towing and impound operators perform exclusive towing service within the City of National City; and

WHEREAS, A to Z Enterprises dba Road One Towing and Alexandra Investments, Inc., dba Angelo's Towing and Recovery represent and warrant they are experienced and staffed in a manner such that they are capable and prepared to deliver the services required by the City of National City, all in accordance with the terms and conditions of the Agreement.

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NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: Overrides all protests and authorizes the Mayor to execute Agreements for the National City Police Department Towing and Impound Services with A to Z Enterprises dba Road One Towing and Alexandra Investments, Inc., dba Angelo's Towing and Recovery, for a term beginning October 1, 2021, and ending September 30, 2023.

Section 2: The City Clerk shall certify the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED and ADOPTED this 7th day of September, 2021.

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City: 1\) authorizing the Mayor to execute a three-year Agreement with Neri Landscape Architecture for a not-to-exceed amount of \\$2,000,000 to provide on-call project support services for National City's Capital Improvement Program \(CIP\), including, but not limited to, landscape architecture \(including urban planning and design\); and 2\) authorizing the City Manager to execute any project-specific supplemental agreements, as may be required for grant funded projects. \(Engineering/Public Works\)](#)
Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.:

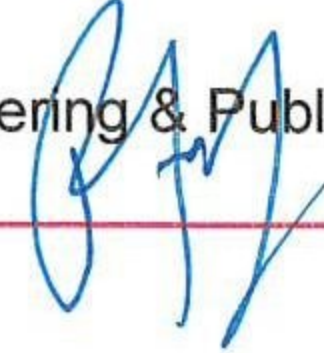
ITEM TITLE:

Resolution of the City Council of the City of National City, 1) authorizing the Mayor to execute a three-year Agreement with Neri Landscape Architecture for a not-to-exceed amount of \$2,000,000 to provide on-call project support services for National City's Capital Improvement Program (CIP), including, but not limited to, landscape architecture (including urban planning and design); and 2) authorizing the City Manager to execute any project-specific supplemental agreements, as may be required for grant funded projects.

PREPARED BY: Tirza Gonzales, Management Analyst II
PHONE: 619-336-4318

DEPARTMENT: Engineering & Public Works

APPROVED BY: _____



EXPLANATION:

See staff report.

FINANCIAL STATEMENT:

APPROVED: _____ **FINANCE**

ACCOUNT NO.

APPROVED: _____ **MIS**

Funds are appropriated in various CIP accounts for FY 2022; funding for subsequent fiscal years is dependent on future CIP appropriations as part of annual budget and/or future grant awards

ENVIRONMENTAL REVIEW:

This is not a project and, therefore, not subject to environmental review.

ORDINANCE: INTRODUCTION FINAL ADOPTION

STAFF RECOMMENDATION:

Adopt Resolution executing an Agreement with Neri Landscape Architecture for a not-to-exceed amount of \$2,000,000 to provide on-call project support services for National City's CIP.

BOARD / COMMISSION RECOMMENDATION:

ATTACHMENTS:

1. Explanation
2. Agreement
3. Resolution

Explanation:

National City's Capital Improvement Program (CIP) estimates approximately \$73 million in capital needs over the next five years. Projects include, for example, corridor enhancements for traffic calming, pedestrian / bicycle safety (including Americans with Disabilities Act compliance) and smart growth redevelopment; road diets and complete streets; safe routes to school; traffic signal modifications; new street lights; sewer replacement and upsizing; storm drain improvements and implementation of Low-Impact Development (LID) measures for treatment of urban storm water runoff; drought tolerant landscaping; facilities improvements; and park amenities.

In order to successfully design, manage, and construct these projects, the Engineering & Public Works Department advertised a Request for Qualifications (RFQ) for various engineering, architectural, and construction support services on May 1, 2019. Additional services requested via the RFQ include, for example, plan and map reviews, preparation of plat and legal descriptions, sewer system management and financial administration, housing and real estate development services, Building Department support services, and environmental compliance involving storm water, wastewater and hazardous materials.

The RFQ was advertised on the City's website, published in the San Diego Union Tribune, e-mailed to over 100 professional consulting firms, and also advertised on PlanetBids where over 400 firms were notified. Additionally, the City hosted an Information Session regarding the RFQ process on May 14, 2019 at the MLK Jr. Community Center, which was attended by over 100 people. The Department received 71 Statement of Qualifications (SOQs) from various firms by the June 10, 2019 deadline. Copies of the SOQs received are available in the Office of the City Engineer.

Based on the strength of their SOQ, interview, and past performance, staff recommends executing a three-year Agreement (with the option to extend for two, one-year extensions) with Neri Landscape Architecture for a not-to-exceed amount of \$2,000,000 to provide on-call project support services for National City's CIP, including, but not limited to, landscape architecture (including urban planning and design). See Exhibit "A" for general scope of work and Exhibit "B" for schedule of fees. Services will be provided "as-needed" based on available funding and capital priorities.

In addition, staff recommends authorizing the City Manager to execute any project-specific supplemental agreements, as may be required for grant funded projects. These supplemental agreements would reference the terms and conditions of the attached master on-call Agreement, while incorporating additional project-specific grant requirements for use of consultant support services. Authorization to accept and appropriate grant funds, and execute grant agreements with the awarding agency (e.g. Caltrans, SANDAG, etc.) would still require separate City Council action.

Funds are appropriated in various accounts for FY 2022; funding for subsequent fiscal years is dependent on future appropriations as part of annual budget.

**AGREEMENT
BY AND BETWEEN
THE CITY OF NATIONAL CITY
AND
NERI LANDSCAPE ARCHITECTURE**

THIS AGREEMENT is entered into on this 7th day of September, 2021, by and between the CITY OF NATIONAL CITY, a municipal corporation (the "CITY"), and NERI LANDSCAPE ARCHITECTURE, a California corporation (the "CONSULTANT").

R E C I T A L S

WHEREAS, the CITY desires to employ a CONSULTANT to provide on-call project support services for the CITY 's Capital Improvement Program (CIP);

WHEREAS, on May 1, 2019, the Engineering & Public Works Department advertised a Request for Qualifications (RFQ) for on-call project support services for the CITY 's CIP;

WHEREAS, on June 10, 2019, the CONSULTANT submitted a Statement of Qualifications (SOQ) in response to the RFQ, consistent with the requirements of the RFQ;

WHEREAS, the CITY has determined that the CONSULTANT is landscape engineering firm; and

WHEREAS, based on evaluation of the CONSULTANT SOQ and interview, the CITY has determined that the CONSULTANT is qualified by experience and ability to perform the services desired by the CITY, and the CONSULTANT is willing to perform such services.

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY AGREE AS FOLLOWS:

1. **ENGAGEMENT OF CONSULTANT.** The CITY agrees to engage the CONSULTANT to provide on-call CIP project support services for the CITY, and the CONSULTANT agrees to perform the services set forth here in accordance with all terms and conditions contained herein.

The CONSULTANT represents that all services shall be performed directly by the CONSULTANT or under direct supervision of the CONSULTANT.

2. **EFFECTIVE DATE AND LENGTH OF AGREEMENT.** This Agreement will become effective on September 7, 2021. The duration of this Agreement is for the period of September 7, 2021 through September 6, 2024. This Agreement may be extended by mutual agreement upon the same terms and conditions for an additional one (1) year term. The Parties may exercise up to two one-year extensions. Any extension of this Agreement must be approved in writing by the City Council.

3. **SCOPE OF SERVICES.** The CONSULTANT will perform services as set forth in the attached Exhibit "A", including, but not limited to, landscape architecture (including urban planning and design).

The CONSULTANT will be expected to submit proposals for individual task orders in a timely manner, consistent with the general scope of services described in Exhibit "A". Task order proposals shall include a detailed scope of work, schedule of deliverables, and a "not-to-exceed" cost estimate. The Project Coordinator will issue a Notice to Proceed upon approval of each individual task order. After issuance of a Notice to Proceed for each individual task order, the CONSULTANT will only receive compensation for actual work performed, on a time-and-materials basis, consistent with the detailed scope of work, and within the limits of the "not-to-exceed" cost estimate.

The CONSULTANT shall be responsible for all research and reviews related to the work and shall not rely on personnel of the CITY for such services, except as authorized in advance by the CITY.

The CITY may unilaterally, or upon request from the CONSULTANT, from time to time reduce or increase the Scope of Services to be performed by the CONSULTANT under this Agreement. Upon doing so, the CITY and the CONSULTANT agree to meet in good faith and confer for the purpose of negotiating a corresponding reduction or increase in the compensation associated with said change in services.

4. **PROJECT COORDINATION AND SUPERVISION.** The Director of Public Works/City Engineer hereby is designated as the Project Coordinator for the CITY and will monitor the progress and execution of this Agreement. The CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this Agreement for the CONSULTANT. James Neri thereby is designated as the Project Director for the CONSULTANT.

5. **COMPENSATION AND PAYMENT.** The compensation for the CONSULTANT shall be based on monthly billings covering actual work performed. Billings shall include labor classifications, respective rates, hours worked and also materials, if any. The total cost for all work described in Exhibit "A" shall not exceed \$2,000,000. The compensation for the CONSULTANT'S work shall not exceed the rates set forth in Exhibit "B". Monthly invoices will be processed for payment and remitted within thirty (30) days from receipt of invoice, provided that work is accomplished consistent with Exhibit "A", as determined by the CITY.

The CONSULTANT shall maintain all books, documents, papers, employee time sheets, accounting records, and other evidence pertaining to costs incurred, and shall make such materials available at its office at all reasonable times during the term of this Agreement and for three (3) years from the date of final payment under this Agreement, for inspection by the CITY, and for furnishing of copies to the CITY, if requested.

6. **ACCEPTABILITY OF WORK.** The CITY shall decide any and all questions which may arise as to the quality or acceptability of the services performed and the manner of performance, the acceptable completion of this Agreement, and the amount of compensation due. In the event the CONSULTANT and the CITY cannot agree to the quality or acceptability of the work, the manner of performance and/or the compensation payable to the CONSULTANT in this Agreement, the CITY or the CONSULTANT shall give to the other written notice. Within ten (10) business days, the CONSULTANT and the CITY shall each prepare a report which supports their position and file the same with the other party. The CITY shall, with reasonable diligence,

determine the quality or acceptability of the work, the manner of performance and/or the compensation payable to the CONSULTANT.

7. **DISPOSITION AND OWNERSHIP OF DOCUMENTS.** The Memoranda, Reports, Maps, Drawings, Plans, Specifications, and other documents prepared by the CONSULTANT for this project, whether paper or electronic, shall: (1) be free from defects; (2) become the property of the CITY for use with respect to this project; and (3) shall be turned over to the CITY upon completion of the project, or any phase thereof, as contemplated by this Agreement.

Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the CITY, and CONSULTANT thereby expressly waives and disclaims any copyright in, and the right to reproduce, all written material, drawings, plans, specifications, or other work prepared under this Agreement, except upon the CITY'S prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the CITY, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

The CONSULTANT agrees that the CITY may use, reuse, alter, reproduce, modify, assign, transfer, or in any other way, medium, or method utilize the CONSULTANT'S written work product for the CITY'S purposes, and the CONSULTANT expressly waives and disclaims any residual rights granted to it by Civil Code Sections 980 through 989 relating to intellectual property and artistic works.

Any modification or reuse by the CITY of documents, drawings, or specifications prepared by the CONSULTANT shall relieve the CONSULTANT from liability under Section 14, but only with respect to the effect of the modification or reuse by the CITY, or for any liability to the CITY should the documents be used by the CITY for some project other than what was expressly agreed upon within the Scope of Services of this project, unless otherwise mutually agreed.

8. **INDEPENDENT CONSULTANT.** Both parties hereto in the performance of this Agreement will be acting in an independent capacity and not as agents, employees, partners, or joint venturers with one another. Neither the CONSULTANT nor the CONSULTANT'S employees are employees of the CITY, and are not entitled to any of the rights, benefits, or privileges of the CITY'S employees, including but not limited to retirement, medical, unemployment, or workers' compensation insurance.

This Agreement contemplates the personal services of the CONSULTANT and the CONSULTANT'S employees, and it is recognized by the parties that a substantial inducement to the CITY for entering into this Agreement was, and is, the professional reputation and competence of the CONSULTANT and its employees. Neither this Agreement, nor any interest herein, may be assigned by the CONSULTANT without the prior written consent of the CITY. Nothing herein contained is intended to prevent the CONSULTANT from employing or hiring as many employees, or SUBCONSULTANTS, as the CONSULTANT may deem necessary for the proper and efficient performance of this Agreement. All agreements by CONSULTANT with its SUBCONSULTANT(S) shall require the SUBCONSULTANT(S) to adhere to the applicable terms of this Agreement.

9. **CONTROL.** Neither the CITY, nor its officers, agents, or employees shall have any control over the conduct of the CONSULTANT or any of the CONSULTANT'S employees,

except as set forth in this Agreement. The CONSULTANT, or the CONSULTANT'S agents, servants, or employees are not in any manner agents, servants, or employees of the CITY. The CONSULTANT and its agents, servants, and employees are wholly independent from the CITY and CONSULTANT'S obligations to the CITY are solely prescribed by this Agreement.

10. **COMPLIANCE WITH APPLICABLE LAW.** The CONSULTANT, in the performance of the services to be provided herein, shall comply with all applicable state and federal statutes and regulations, and all applicable ordinances, rules, and regulations of the City of National City, whether now in force or subsequently enacted. The CONSULTANT and each of its SUBCONSULTANT(S), shall obtain and maintain a current City of National City business license prior to and during performance of any work pursuant to this Agreement.

11. **LICENSES, PERMITS, ETC.** The CONSULTANT represents and covenants that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession. CONSULTANT must promptly produce a copy of any such license, permit, or approval to CITY upon request. The CONSULTANT represents and covenants that the CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, or approval which is legally required for the CONSULTANT to practice its profession.

12. **STANDARD OF CARE.**

A. The CONSULTANT, in performing any services under this Agreement, shall perform in a manner consistent with that level of care and skill ordinarily exercised by members of the CONSULTANT'S trade or profession currently practicing under similar conditions and in similar locations. The CONSULTANT shall take all special precautions necessary to protect the CONSULTANT'S employees and members of the public from risk of harm arising out of the nature of the work and/or the conditions of the work site.

B. Unless disclosed in writing prior to the date of this Agreement, the CONSULTANT warrants to the CITY that it is not now, nor has it for the five (5) years preceding, been debarred by a governmental agency or involved in debarment, arbitration or litigation proceedings concerning the CONSULTANT'S professional performance or the furnishing of materials or services relating thereto.

C. The CONSULTANT is responsible for identifying any unique products, treatments, processes or materials whose availability is critical to the success of the project the CONSULTANT has been retained to perform, within the time requirements of the CITY, or, when no time is specified, then within a commercially reasonable time. Accordingly, unless the CONSULTANT has notified the CITY otherwise, the CONSULTANT warrants that all products, materials, processes or treatments identified in the project documents prepared for the CITY are reasonably commercially available. Any failure by the CONSULTANT to use due diligence under this sub-section will render the CONSULTANT liable to the CITY for any increased costs that result from the CITY'S later inability to obtain the specified items or any reasonable substitute within a price range that allows for project completion in the time frame specified or, when not specified, then within a commercially reasonable time.

13. **NON-DISCRIMINATION PROVISIONS.** The CONSULTANT shall not discriminate against any employee or applicant for employment because of age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or

medical condition. The CONSULTANT will take positive action to insure that applicants are employed without regard to their age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the CITY setting forth the provisions of this non-discrimination clause.

14. **CONFIDENTIAL INFORMATION.** The CITY may from time to time communicate to the CONSULTANT certain confidential information to enable the CONSULTANT to effectively perform the services to be provided herein. The CONSULTANT shall treat all such information as confidential and shall not disclose any part thereof without the prior written consent of the CITY. The CONSULTANT shall limit the use and circulation of such information, even within its own organization, to the extent necessary to perform the services to be provided herein. The foregoing obligation of this Section 14, however, shall not apply to any part of the information that (i) has been disclosed in publicly available sources of information; (ii) is, through no fault of the CONSULTANT, hereafter disclosed in publicly available sources of information; (iii) is already in the possession of the CONSULTANT without any obligation of confidentiality; or (iv) has been or is hereafter rightfully disclosed to the CONSULTANT by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party.

The CONSULTANT shall not disclose any reports, recommendations, conclusions or other results of the services or the existence of the subject matter of this Agreement without the prior written consent of the CITY. In its performance hereunder, the CONSULTANT shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm or corporation.

CONSULTANT shall be liable to CITY for any damages caused by breach of this condition, pursuant to the provisions of Section 15.

15. **INDEMNIFICATION AND HOLD HARMLESS.** To the maximum extent provided by law, the CONSULTANT agrees to defend, indemnify, and hold harmless the City of National City, its officers, officials, agents, employees, and volunteers against and from any and all liability, loss, damages to property, injuries to, or death of any person or persons, and all claims, demands, suits, actions, proceedings, reasonable attorneys' fees, and defense costs, of any kind or nature, including workers' compensation claims, of or by anyone whomsoever, resulting from or arising out of the CONSULTANT'S negligence, recklessness, or willful misconduct in the performance of this Agreement. CITY will cooperate reasonably in the defense of any action, and CONSULTANT shall employ competent counsel, reasonably acceptable to the City Attorney.

The indemnity, defense and hold harmless obligations contained herein shall survive the termination of this Agreement for any alleged or actual omission, act, or negligence under this Agreement that occurred during the term of this Agreement.

16. **EMPLOYEE PAYMENTS AND INDEMNIFICATION.**

16.1 **PERS Eligibility Indemnification.** If CONSULTANT's employee(s) 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 of the CITY, CONSULTANT shall indemnify, defend, and hold harmless CITY for the payment of any employer and employee contributions for PERS benefits on behalf of the employee as well as for payment of any penalties and interest on such contributions which would otherwise be the responsibility of the CITY.

CONSULTANT'S employees providing service under this Agreement shall not: (1) qualify for any compensation and benefit under PERS; (2) be entitled to any benefits under PERS; (3) enroll in PERS as an employee of CITY; (4) receive any employer contributions paid by CITY for PERS benefits; or (5) be entitled to any other PERS-related benefit that would accrue to a CITY employee. CONSULTANT's employees hereby waive any claims to benefits or compensation described in this Section 16. This Section 16 applies to CONSULTANT notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary.

16.2 Limitation of CITY Liability. The payment made to CONSULTANT under this Agreement shall be the full and complete compensation to which CONSULTANT and CONSULTANT's officers, employees, agents, and subCONSULTANTS are entitled for performance of any work under this Agreement. Neither CONSULTANT nor CONSULTANT's officers, employees, agents, and subCONSULTANTS are entitled to any salary or wages, or retirement, health, leave or other fringe benefits applicable to CITY employees. The CITY will not make any federal or state tax withholdings on behalf of CONSULTANT. The CITY shall not be required to pay any workers' compensation insurance on behalf of CONSULTANT.

16.3 Indemnification for Employee Payments. CONSULTANT agrees to defend and indemnify the CITY for any obligation, claim, suit, or demand for tax, retirement contribution including any contribution to PERS, social security, salary or wages, overtime payment, or workers' compensation payment which the CITY may be required to make on behalf of (1) CONSULTANT, (2) any employee of CONSULTANT, or (3) any employee of CONSULTANT construed to be an employee of the CITY, for work performed under this Agreement. This is a continuing obligation that survives the termination of this Agreement.

17. WORKERS' COMPENSATION. The CONSULTANT shall comply with all of the provisions of the Workers' Compensation Insurance and Safety Acts of the State of California, the applicable provisions of Division 4 and 5 of the California Labor Code and all amendments thereto; and all similar State or federal acts or laws applicable; and shall indemnify, and hold harmless the CITY and its officers, employees, and volunteers from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description, including reasonable attorney's fees and defense costs presented, brought or recovered against the CITY or its officers, employees, or volunteers, for or on account of any liability under any of said acts which may be incurred by reason of any work to be performed by the CONSULTANT under this Agreement.

18. INSURANCE. The CONSULTANT, at its sole cost and expense, shall purchase and maintain, and shall require its SUBCONSULTANT(S), when applicable, to purchase and maintain throughout the term of this Agreement, the following insurance policies:

A. If checked, **Professional Liability Insurance** (errors and omissions) with minimum limits of \$1,000,000 per occurrence.

B. **Automobile Insurance** covering all bodily injury and property damage incurred during the performance of this Agreement, with a minimum coverage of \$1,000,000 combined single limit per accident. Such automobile insurance shall include owned, non-owned, and hired vehicles. The policy shall name the CITY and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided.

C. **Commercial General Liability Insurance**, with minimum limits of either \$2,000,000 per occurrence and \$4,000,000 aggregate, or \$1,000,000 per occurrence and \$2,000,000 aggregate with a \$2,000,000 umbrella policy, covering all bodily injury and property damage arising out of its operations, work, or performance under this Agreement. The policy shall name the CITY and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided. The general aggregate limit must apply solely to this "project" or "location". The "project" or "location" should be noted with specificity on an endorsement that shall be incorporated into the policy.

D. **Workers' Compensation Insurance** in an amount sufficient to meet statutory requirements covering all of CONSULTANT'S employees and employers' liability insurance with limits of at least \$1,000,000 per accident. In addition, the policy shall be endorsed with a waiver of subrogation in favor of the CITY. Said endorsement shall be provided prior to commencement of work under this Agreement.

If CONSULTANT has no employees subject to the California Workers' Compensation and Labor laws, CONSULTANT shall execute a Declaration to that effect. Said Declaration shall be provided to CONSULTANT by CITY.

E. The aforesaid policies shall constitute primary insurance as to the CITY, its officers, officials, employees, and volunteers, so that any other policies held by the CITY shall not contribute to any loss under said insurance. Said policies shall provide for thirty (30) days prior written notice to the CITY'S Risk Manager, at the address listed in subsection G below, of cancellation or material change.

F. If required insurance coverage is provided on a "claims made" rather than "occurrence" form, the CONSULTANT shall maintain such insurance coverage for three years after expiration of the term (and any extensions) of this Agreement. In addition, the "retro" date must be on or before the date of this Agreement.

G. The Certificate Holder for all policies of insurance required by this Section shall be:

City of National City
c/o Risk Manager
1243 National City Boulevard
National City, CA 91950-4397

H. Insurance shall be written with only insurers authorized to conduct business in California that hold a current policy holder's alphabetic and financial size category rating of not less than A:VII according to the current Best's Key Rating Guide, or a company of equal financial stability that is approved by the CITY'S Risk Manager. In the event coverage is provided by non-admitted "surplus lines" carriers, they must be included on the most recent List of Approved Surplus Line Insurers ("LASLI") and otherwise meet rating requirements.

I. This Agreement shall not take effect until certificate(s) or other sufficient proof that these insurance provisions have been complied with, are filed with and approved by the

CITY'S Risk Manager. If the CONSULTANT does not keep all insurance policies required by this Section 18 in full force and effect at all times during the term of this Agreement, the CITY may treat the failure to maintain the requisite insurance as a breach of this Agreement and terminate the Agreement as provided herein.

J. All deductibles and self-insured retentions in excess of \$10,000 must be disclosed to and approved by the CITY. CITY reserves the right to modify the insurance requirements of this Section 18, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

K. If the CONSULTANT maintains broader coverage or higher limits (or both) than the minimum limits shown above, the CITY shall be entitled to the broader coverage or higher limits (or both) maintained by the CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the CITY.

19. **LEGAL FEES.** If any party brings a suit or action against the other party arising from any breach of any of the covenants or agreements or any inaccuracies in any of the representations and warranties on the part of the other party arising out of this Agreement, then in that event, the prevailing party in such action or dispute, whether by final judgment or out-of-court settlement, shall be entitled to have and recover of and from the other party all costs and expenses of suit, including attorneys' fees.

For purposes of determining who is to be considered the prevailing party, it is stipulated that attorney's fees incurred in the prosecution or defense of the action or suit shall not be considered in determining the amount of the judgment or award. Attorney's fees to the prevailing party if other than the CITY shall, in addition, be limited to the amount of attorney's fees incurred by the CITY in its prosecution or defense of the action, irrespective of the actual amount of attorney's fees incurred by the prevailing party.

20. **TERMINATION.**

A. This Agreement may be terminated with or without cause by the CITY. Termination without cause shall be effective only upon 60-day's written notice to the CONSULTANT. During said 60-day period the CONSULTANT shall perform all services in accordance with this Agreement.

B. This Agreement may also be terminated immediately by the CITY for cause in the event of a material breach of this Agreement, misrepresentation by the CONSULTANT in connection with the formation of this Agreement or the performance of services, or the failure to perform services as directed by the CITY.

C. Termination with or without cause shall be effected by delivery of written Notice of Termination to the CONSULTANT as provided for herein.

D. In the event of termination, all finished or unfinished Memoranda Reports, Maps, Drawings, Plans, Specifications and other documents prepared by the CONSULTANT, whether paper or electronic, shall immediately become the property of and be delivered to the CITY, and the CONSULTANT shall be entitled to receive just and equitable compensation for any work satisfactorily completed on such documents and other materials up to the effective date of the Notice of Termination, not to exceed the amounts payable hereunder, and less any damages caused the CITY by the CONSULTANT'S breach, if any. Thereafter, ownership of said written material shall vest in the CITY all rights set forth in Section 7.

E. The CITY further reserves the right to immediately terminate this Agreement upon: (1) the filing of a petition in bankruptcy affecting the CONSULTANT; (2) a reorganization of the CONSULTANT for the benefit of creditors; or (3) a business reorganization, change in business name or change in business status of the CONSULTANT.

21. **NOTICES.** All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered; or sent by overnight mail (Federal Express or the like); or sent by registered or certified mail, postage prepaid, return receipt requested; or sent by ordinary mail, postage prepaid; or telegraphed or cabled; or delivered or sent by telex, telecopy, facsimile or fax; and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if sent by overnight mail, the business day following its deposit in such overnight mail facility, (iii) if mailed by registered, certified or ordinary mail, five (5) days (ten (10) days if the address is outside the State of California) after the date of deposit in a post office, mailbox, mail chute, or other like facility regularly maintained by the United States Postal Service, (iv) if given by telegraph or cable, when delivered to the telegraph company with charges prepaid, or (v) if given by telex, telecopy, facsimile or fax, when sent. Any notice, request, demand, direction or other communication delivered or sent as specified above shall be directed to the following persons:

To CITY: Roberto Yano
Director of Public Works/City Engineer
Engineering/Public Works
City of National City
1243 National City Boulevard
National City, CA 91950-4397

To CONSULTANT:
James Neri
ASLA
Neri Landscape Architects
928 Hornblend Street
San Diego, CA 92109

Notice of change of address shall be given by written notice in the manner specified in this Section. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or communication sent. Any notice, request, demand, direction or other communication sent by cable, telex, telecopy, facsimile or fax must be confirmed within forty-eight (48) hours by letter mailed or delivered as specified in this Section.

22. **CONFLICT OF INTEREST AND POLITICAL REFORM ACT OBLIGATIONS.** During the term of this Agreement, the CONSULTANT shall not perform services of any kind for any person or entity whose interests conflict in any way with those of the City of National City. The CONSULTANT also agrees not to specify any product, treatment, process or material for the project in which the CONSULTANT has a material financial interest, either direct or indirect, without first notifying the CITY of that fact. The CONSULTANT shall at

all times comply with the terms of the Political Reform Act and the National City Conflict of Interest Code. The CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the CITY in which the CONSULTANT has a financial interest as defined in Government Code Section 87103. The CONSULTANT represents that it has no knowledge of any financial interests that would require it to disqualify itself from any matter on which it might perform services for the CITY.

If checked, the CONSULTANT shall comply with all of the reporting requirements of the Political Reform Act and the National City Conflict of Interest Code. Specifically, the CONSULTANT shall file a Statement of Economic Interests with the City Clerk of the City of National City in a timely manner on forms which the CONSULTANT shall obtain from the City Clerk.

The CONSULTANT shall be strictly liable to the CITY for all damages, costs or expenses the CITY may suffer by virtue of any violation of this Section 22 by the CONSULTANT.

23. **PREVAILING WAGES.** State prevailing wage rates may apply to work performed under this Agreement. State prevailing wages rates apply to all public works contracts as set forth in California Labor Code, including but not limited to, Sections 1720, 1720.2, 1720.3, 1720.4, and 1771. CONSULTANT is solely responsible to determine if State prevailing wage rates apply and, if applicable, pay such rates in accordance with all laws, ordinances, rules, and regulations.

24. **ADMINISTRATIVE PROVISIONS.**

A. *Computation of Time Periods.* If any date or time period provided for in this Agreement is or ends on a Saturday, Sunday or federal, state or legal holiday, then such date shall automatically be extended until 5:00 p.m. Pacific Time of the next day which is not a Saturday, Sunday or federal, state, or legal holiday.

B. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

C. *Captions.* Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

D. *No Obligations to Third Parties.* Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, or obligate any of the parties hereto, to any person or entity other than the parties hereto.

E. *Exhibits and Schedules.* The Exhibits and Schedules attached hereto are hereby incorporated herein by this reference for all purposes. To the extent any exhibits, schedules, or provisions thereof conflict or are inconsistent with the terms and conditions contained in this Agreement, the terms and conditions of this Agreement shall control.

F. *Amendment to this Agreement.* The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

G. *Assignment & Assumption of Rights.* CONSULTANT shall not assign this Agreement, in whole or in part, to any other party without first obtaining the written consent of CITY.

H. *Waiver.* The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

I. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California. The venue for any legal action arising under this Agreement shall be in either state or federal court in the County of San Diego, State of California.

J. *Audit.* If this Agreement exceeds ten-thousand dollars (\$10,000), the parties shall be subject to the examination and audit of the State Auditor for a period of three (3) years after final payment under the Agreement, per Government Code Section 8546.7.

K. *Entire Agreement.* This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of any party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

L. *Successors and Assigns.* This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

M. *SubCONSULTANTS or Subconsultants.* The CITY is engaging the services of the CONSULTANT identified in this Agreement. The CONSULTANT shall not subcontract any portion of the work, unless such subcontracting was part of the original proposal or is allowed by the CITY in writing. In the event any portion of the work under this Agreement is subcontracted, the subconsultant(s) shall be required to comply with and agree to, for the benefit of and in favor of the CITY, both the insurance provisions in Section 18 and the indemnification and hold harmless provision of Section 15 of this Agreement.

N. *Construction.* The parties acknowledge and agree that (i) each party is of equal bargaining strength, (ii) each party has actively participated in the drafting, preparation and negotiation of this Agreement, (iii) each such party has consulted with or has had the opportunity to consult with its own, independent counsel and such other professional advisors as such party has deemed appropriate, relative to any and all matters contemplated under this Agreement, (iv) each party and such party's counsel and advisors have reviewed this Agreement, (v) each party has agreed to enter into this Agreement following such review and the rendering of such advice, and (vi) any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement, or any portions hereof, or any amendments hereto.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

CITY OF NATIONAL CITY

By: _____
Alejandra Sotelo Solis, Mayor

APPROVED AS TO FORM:

By: _____
Charles E. Bell Jr.
City Attorney

NERI LANDSCAPE ARCHITECTURE

*(Corporation – signatures of two corporate officers required)
(Partnership or Sole proprietorship – one signature)*

By: James Neri
(Name)

Jim Neri
(Print)

Principal, CEO
(Title)

By: Wendy Neri
(Name)

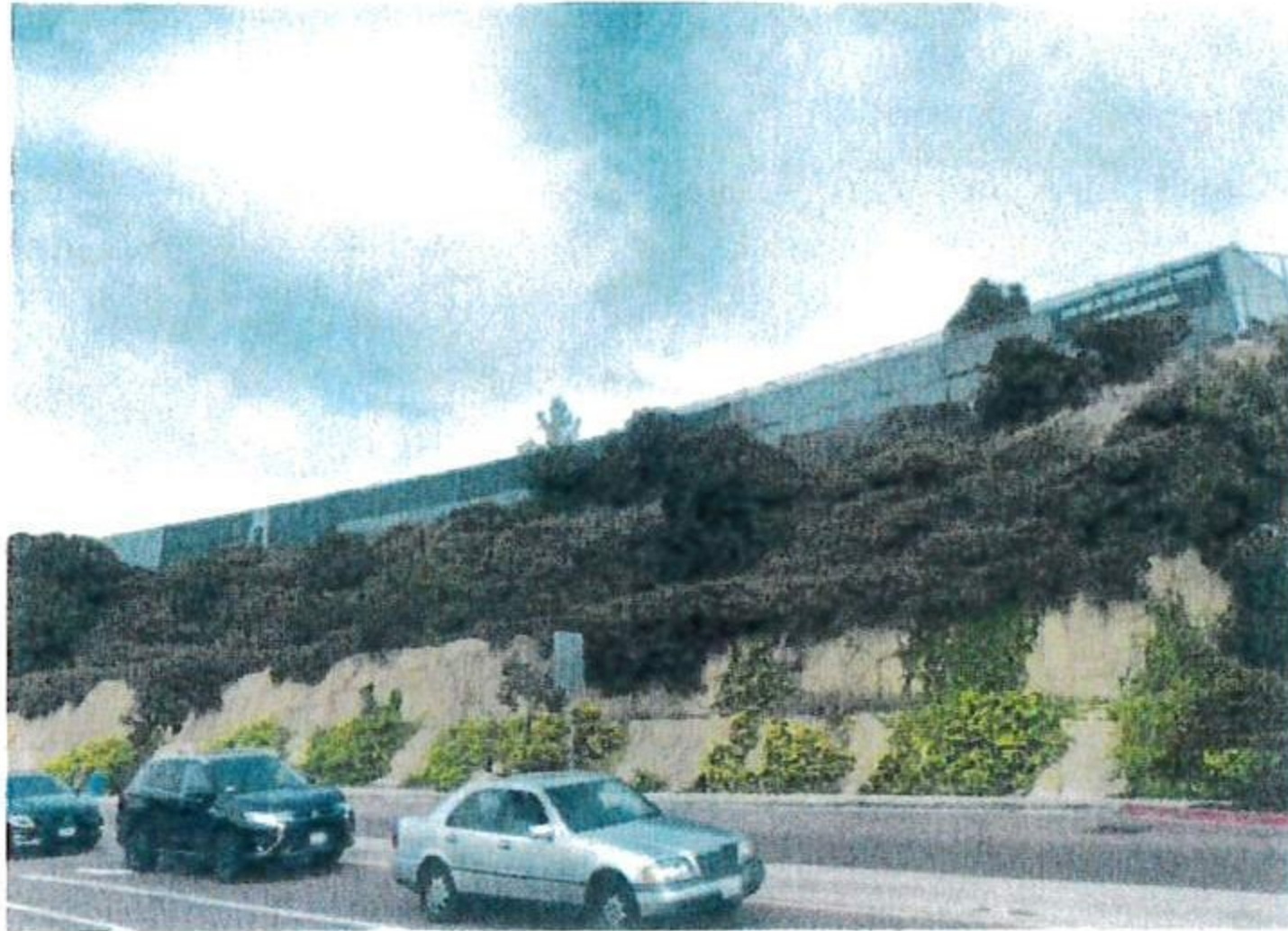
Wendy Neri
(Print)

Principal CFO
(Title)

COVER LETTER

Dear City of National City,

We would like to be the Landscape Architect for the City of National City's Engineering and Public Works Department. We have been fortunate enough to work with the City of National City Parks & Recreation Department as their As-Needed Landscape Architect for the past two years and have come to understand the City of National City's expectations; this knowledge will be



invaluable in working with the Engineering and Public Works Department. We would like the opportunity to broaden this understanding by working with both departments to: identify common goals, streamline for efficiency and clarify the City's vision for the future.

We are a City of San Diego certified Small Local Business Enterprise/Emerging Local Business Enterprise with over 22 years of experience in public works projects, taking them from design to close of

construction for a diverse array of clients in addition to the City of National City, such as the City of San Diego, Zoological Society of San Diego, County of San Diego, and many other agencies, school districts, colleges, and private developers. This diversity has enabled NLA to creatively respond to a wide array of challenges in a cost-efficient yet beautiful way. For instance, almost 20 years ago, when the City of San Diego needed to create a large retaining wall as the result of re-directing a street, they initially were planning on a regular cement block wall. Because of our work at the San Diego Zoo's Hippo Beach project, we were able to recommend the more attractive solution of a natural-looking shotcrete wall with pockets of vibrant bougainvillea (at savings of 30%). We also have extensive experience with the United States Green Building Council LEED program and are proud to have been involved in projects awarded Silver, Gold and Platinum status.

NLA has extensive experience working with communities while planning new public right-of-way, park and other civic improvements. We have lead community focus groups in consensus building, facilitating productive sessions to determine community priorities then delivering localized design solutions that exceed expectations. For example, when working on renovations at Windansea Beach in La Jolla, there was a very vocal segment of the community that did not want any changes at all to this iconic parking area known locally as "The Lot". Community workshops and presentations helped to allay fears as well as communicate the desire of the City and design team to naturally restore the area and create a safer, more beautiful walkway.

Our skilled workforce is ready to turn approved designs into thorough construction documents and specifications. Working with AutoCad, LandFX, Sketchup, Photoshop and Excel, we develop universal access designs and track costs at every level, maintaining a quality control check

system to ensure that every submittal has had two sets of eyes on it. Value engineering options are identified early and contractor requests for information during bidding are answered, routed and tracked according to Client protocols. During construction, regardless of contractor means and methods, NLA verifies that work has been performed according to construction and local standards and that the design intent has been implemented to protect the health, safety and welfare of the public. After construction, a landscape maintenance plan guides ongoing maintenance.

We have put together a team of great consultants that we have worked with for years so that no matter what the needs of a project are, we can meet them. Our wealth of knowledge, experience, creativity, cost-effectiveness and enthusiasm makes us a great partner to work with and we know we could be a definite asset to the City of National City!

Thank you for your consideration of these qualifications.

**Jim Neri, Principal, Neri Landscape Architecture
928 Hornblend Street #3, San Diego, CA 92109
858/274-3222 x201 jim@nerila.com**

EXPERIENCE AND TECHNICAL COMPETENCE

OVERVIEW

Neri Landscape Architecture is a boutique firm with highly efficient and productive members. With a team of four employees that have worked together for years, NLA has been able to stream-line our design and production services to satisfy both large and small clients and to complete projects *on-time* and *on-budget*. If we are awarded this contract with the City, we will consider only consider other client work if we have the resources to keep up with the work. We have a great working relationship with each of the sub-consultants listed in this SOQ. As delineated by the Organizational Chart, Jim Neri will manage all projects assisted by Jennifer Stahlhammer and Onie Hadloc in our office. Any financial or grants assistance will be handled by Wendy Neri.

If other disciplines are needed to complete a request from the City, Jim will manage all tasks and correspondence to make sure that all projects are submitted and coordinated successfully.

The resumes attached have each team member's licenses, affiliations as well as examples of their competence, technical expertise and knowledge and understanding of state and local regulations. Each consultant is qualified to provide complete services for any project identified by the City. They have worked extensively on civic development projects and thus have an intimate knowledge of requirements in their respective fields.

The project examples given after the resumes contain all information requested as well as a description about each project that includes interesting facts, conditions or problems overcome for each job. They show the ability NLA has to guide their team to overcome issues that occur on each project as well as proves our expertise and competence in taking projects from design through construction, whether small or large..

Our Firm Approach Section will address the steps NLA will take on each project with the City, from identifying scope all the way through construction services provided for the completion of the project.

These items will show how able NLA is ready and willing to help the City in any way they need!.

EXHIBIT B

SAMPLE SCHEDULE OF FEES

Consultant Neri Landscape Architecture

DIRECT LABOR COSTS

Labor Classification/Title	Hourly Labor Rate
Principal Landscape Architect	\$ 175.00
Landscape Architect	\$ 140.00
Landscape Designer	\$ 120.00
Drafter	\$ 70.00
	\$
	\$
	\$

TOTAL DIRECT LABOR COSTS (a) \$ n/a

INDIRECT COSTS

b) Fringe Benefits (Rate: n/a%)

e) Total Fringe Benefits [(a) x (b)] \$ n/a

d) Overhead (Rate: n/a%)

e) Overhead [(a) x (d)] \$ n/a

f) General and Administrative (Rate n/a%)

g) Gen & Admin [(a) x (f)] \$ n/a

(h) TOTAL INDIRECT COSTS [(c) + (e) + (g)] \$ n/a

REIMBURSEABLE EXPENSES

- a) Mileage/Parking
- b) Printing/Copies
- c) Equipment Rentals

Certification of Costs:

I, the undersigned, certify to the best of my knowledge and belief that all costs identified in our Schedule of Fees are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and conditions. Furthermore, I acknowledge that "mark-ups" for sub-consultant services will not be accepted.

Name Wendy Neri

Title Principal

Date 07/14/2021

RESOLUTION NO. 2021 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, AUTHORIZING THE MAYOR TO EXECUTE A THREE-YEAR AGREEMENT WITH NERI LANDSCAPE ARCHITECTURE FOR A NOT-TO-EXCEED AMOUNT OF \$2,000,000 TO PROVIDE ON-CALL PROJECT SUPPORT SERVICES FOR NATIONAL CITY'S CAPITAL IMPROVEMENT PROGRAM (CIP) AND AUTHORIZING THE CITY MANAGER TO EXECUTE ANY PROJECT-SPECIFIC SUPPLEMENTAL AGREEMENTS, AS MAY BE REQUIRED FOR GRANT-FUNDED PROJECTS

WHEREAS, the City of National City's ("City") Capital Improvement Program ("CIP") estimates approximately \$73 million in capital needs over the next five years to include, for example, corridor enhancements for traffic calming, pedestrian/bicycle safety (including Americans with Disabilities Act compliance) and smart growth redevelopment; road diets and complete streets; safe routes to school; traffic signal modifications; new street lights; sewer replacement and upsizing; storm drain improvements and implementation of Low-Impact Development (LID) measures for the treatment of urban stormwater runoff; drought-tolerant landscaping; facilities improvements; and park amenities; and

WHEREAS, to successfully design, manage and construct these projects, the City's Engineering & Public Works Department advertised a Request for Qualifications ("RFQ") for various engineering, architectural, and construction support services on May 1, 2019; and

WHEREAS, the RFQ was advertised on the City's website, published in the San Diego Union-Tribune, e-mailed to over 100 professional consulting firms, and also advertised on PlanetBids, providing over 400 firms with notification; and

WHEREAS, the City also hosted an Information Session regarding the RFQ process on May 14, 2019, at the Martin Luther King Jr. Community Center, which over 100 people attended; and

WHEREAS, the City received 71 Statement of Qualifications ("SOQs") from various firms by the June 10, 2019 deadline and reviewed, taking into consideration, among other things, past performance history, knowledge of the environment, the type of services offered, and the cost to the City; and

WHEREAS, based on an interview, qualifications, and past performance, City staff recommends executing a three-year Agreement (with the option to extend for two, one-year extensions) with Neri Landscape Architecture, Inc. for a not-to-exceed amount of \$2,000,000 to provide on-call project support services for the City's CIP, including, but not limited to, landscape architecture (including urban planning and design); and

WHEREAS, City staff also recommends authorizing the City Manager to execute any project-specific supplemental agreements, as may be required for grant-funded projects.

///

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: Authorizes the Mayor to execute a three-year Agreement with Neri Landscape Architecture for a not-to-exceed amount of \$2,000,000 to provide on-call project support services for the City's Capital Improvement Program (CIP), including, but not limited to, landscape architecture (including urban planning and design).

Section 2: Authorizes the City Manager to execute any project-specific supplemental agreements required for grant-funded projects.

Section 3: The City Clerk shall certify the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED and ADOPTED this 7th day of September, 2021.

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City: 1\) authorizing the Mayor to execute a three-year Agreement with Schmidt Design Group, Inc. for a not-to-exceed amount of \\$2,000,000 to provide on-call project support services for National City's Capital Improvement Program \(CIP\), including, but not limited to, landscape architecture \(including urban planning and design\); and 2\) authorizing the City Manager to execute any project-specific supplemental agreements, as may be required for grant funded projects. \(Engineering/Public Works\)](#)
Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.:

ITEM TITLE:

Resolution of the City Council of the City of National City, 1) authorizing the Mayor to execute a three-year Agreement with Schmidt Design Group, Inc. for a not-to-exceed amount of \$2,000,000 to provide on-call project support services for National City's Capital Improvement Program (CIP), including, but not limited to, landscape architecture (including urban planning and design); and 2) authorizing the City Manager to execute any project-specific supplemental agreements, as may be required for grant funded projects.

PREPARED BY: Tirza Gonzales, Management Analyst II

DEPARTMENT: Engineering & Public Works

PHONE: 619-336-4318

APPROVED BY: _____

EXPLANATION:

See staff report.

FINANCIAL STATEMENT:

APPROVED: _____ **FINANCE**

ACCOUNT NO.

APPROVED: _____ **MIS**

Funds are appropriated in various CIP accounts for FY 2022; funding for subsequent fiscal years is dependent on future CIP appropriations as part of annual budget and/or future grant awards

ENVIRONMENTAL REVIEW:

This is not a project and, therefore, not subject to environmental review.

ORDINANCE: INTRODUCTION FINAL ADOPTION

STAFF RECOMMENDATION:

Adopt Resolution executing an Agreement with Schmidt Design Group, Inc. for a not-to-exceed amount of \$2,000,000 to provide on-call project support services for National City's CIP.

BOARD / COMMISSION RECOMMENDATION:

ATTACHMENTS:

1. Explanation
2. Agreement
3. Resolution

Explanation:

National City's Capital Improvement Program (CIP) estimates approximately \$73 million in capital needs over the next five years. Projects include, for example, corridor enhancements for traffic calming, pedestrian / bicycle safety (including Americans with Disabilities Act compliance) and smart growth redevelopment; road diets and complete streets; safe routes to school; traffic signal modifications; new street lights; sewer replacement and upsizing; storm drain improvements and implementation of Low-Impact Development (LID) measures for treatment of urban storm water runoff; drought tolerant landscaping; facilities improvements; and park amenities.

In order to successfully design, manage, and construct these projects, the Engineering & Public Works Department advertised a Request for Qualifications (RFQ) for various engineering, architectural, and construction support services on May 1, 2019. Additional services requested via the RFQ include, for example, plan and map reviews, preparation of plat and legal descriptions, sewer system management and financial administration, housing and real estate development services, Building Department support services, and environmental compliance involving storm water, wastewater and hazardous materials.

The RFQ was advertised on the City's website, published in the San Diego Union Tribune, e-mailed to over 100 professional consulting firms, and also advertised on PlanetBids where over 400 firms were notified. Additionally, the City hosted an Information Session regarding the RFQ process on May 14, 2019 at the MLK Jr. Community Center, which was attended by over 100 people. The Department received 71 Statement of Qualifications (SOQs) from various firms by the June 10, 2019 deadline. Copies of the SOQs received are available in the Office of the City Engineer.

Based on the strength of their SOQ, and interview, staff recommends executing a three-year Agreement (with the option to extend for two, one-year extensions) with Schmidt Design Group, Inc. for a not-to-exceed amount of \$2,000,000 to provide on-call project support services for National City's CIP, including, but not limited to, landscape architecture (including urban planning and design). See Exhibit "A" for general scope of work and Exhibit "B" for schedule of fees. Services will be provided "as-needed" based on available funding and capital priorities.

In addition, staff recommends authorizing the City Manager to execute any project-specific supplemental agreements, as may be required for grant funded projects. These supplemental agreements would reference the terms and conditions of the attached master on-call Agreement, while incorporating additional project-specific grant requirements for use of consultant support services. Authorization to accept and appropriate grant funds, and execute grant agreements with the awarding agency (e.g. Caltrans, SANDAG, etc.) would still require separate City Council action.

Funds are appropriated in various accounts for FY 2022; funding for subsequent fiscal years is dependent on future appropriations as part of annual budget.

**AGREEMENT
BY AND BETWEEN
THE CITY OF NATIONAL CITY
AND
SCHMIDT DESIGN GROUP, INC.**

THIS AGREEMENT is entered into on this 7th day of September, 2021, by and between the CITY OF NATIONAL CITY, a municipal corporation (the "CITY"), and SCHMIDT DESIGN GROUP, INC. a California corporation (the "CONSULTANT").

R E C I T A L S

WHEREAS, the CITY desires to employ a CONSULTANT to provide on-call project support services for CITY 's Capital Improvement Program (CIP);

WHEREAS, on May 1, 2019, the CITY's Engineering & Public Works Department advertised a Request for Qualifications (RFQ) for on-call project support services for CITY 's CIP;

WHEREAS, on June 10, 2019, the CONSULTANT submitted a Statement of Qualifications (SOQ) in response to the RFQ, consistent with the requirements of the RFQ;

WHEREAS, the CITY has determined that the CONSULTANT is landscape architecture (including urban planning and design) firm; and

WHEREAS, based on evaluation of the CONSULTANT SOQ and interview, the CITY has determined that the CONSULTANT is qualified by experience and ability to perform the services desired by the CITY, and the CONSULTANT is willing to perform such services.

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY AGREE AS FOLLOWS:

1. **ENGAGEMENT OF CONSULTANT.** The CITY agrees to engage the CONSULTANT to provide on-call CIP project support services for the CITY, and the CONSULTANT agrees to perform the services set forth here in accordance with all terms and conditions contained herein.

The CONSULTANT represents that all services shall be performed directly by the CONSULTANT or under direct supervision of the CONSULTANT.

2. **EFFECTIVE DATE AND LENGTH OF AGREEMENT.** This Agreement will become effective on September 7, 2021. The duration of this Agreement is for the period of September 7, 2021 through September 6, 2024. This Agreement may be extended by mutual agreement upon the same terms and conditions for an additional one (1) year term. The Parties may exercise up to two one-year extensions. Any extension of this Agreement must be approved in writing by the City Council.

3. **SCOPE OF SERVICES.** The CONSULTANT will perform services as set forth in the attached Exhibit "A", including, but not limited to, landscape architecture (including urban planning and design).

The CONSULTANT will be expected to submit proposals for individual task orders in a timely manner, consistent with the general scope of services described in Exhibit "A". Task order proposals shall include a detailed scope of work, schedule of deliverables, and a "not-to-exceed" cost estimate. The Project Coordinator will issue a Notice to Proceed upon approval of each individual task order. After issuance of a Notice to Proceed for each individual task order, the CONSULTANT will only receive compensation for actual work performed, on a time-and-materials basis, consistent with the detailed scope of work, and within the limits of the "not-to-exceed" cost estimate.

The CONSULTANT shall be responsible for all research and reviews related to the work and shall not rely on personnel of the CITY for such services, except as authorized in advance by the CITY.

The CITY may unilaterally, or upon request from the CONSULTANT, from time to time reduce or increase the Scope of Services to be performed by the CONSULTANT under this Agreement. Upon doing so, the CITY and the CONSULTANT agree to meet in good faith and confer for the purpose of negotiating a corresponding reduction or increase in the compensation associated with said change in services.

4. **PROJECT COORDINATION AND SUPERVISION.** The Director of Public Works/City Engineer hereby is designated as the Project Coordinator for the CITY and will monitor the progress and execution of this Agreement. The CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this Agreement for the CONSULTANT. Jeffrey T. (JT) Barr thereby is designated as the Project Director for the CONSULTANT.

5. **COMPENSATION AND PAYMENT.** The compensation for the CONSULTANT shall be based on monthly billings covering actual work performed. Billings shall include labor classifications, respective rates, hours worked and also materials, if any. The total cost for all work described in Exhibit "A" shall not exceed \$2,000,000. The compensation for the CONSULTANT'S work shall not exceed the rates set forth in Exhibit "B". Monthly invoices will be processed for payment and remitted within thirty (30) days from receipt of invoice, provided that work is accomplished consistent with Exhibit "A", as determined by the CITY.

The CONSULTANT shall maintain all books, documents, papers, employee time sheets, accounting records, and other evidence pertaining to costs incurred, and shall make such materials available at its office at all reasonable times during the term of this Agreement and for three (3) years from the date of final payment under this Agreement, for inspection by the CITY, and for furnishing of copies to the CITY, if requested.

6. **ACCEPTABILITY OF WORK.** The CITY shall decide any and all questions which may arise as to the quality or acceptability of the services performed and the manner of performance, the acceptable completion of this Agreement, and the amount of compensation due. In the event the CONSULTANT and the CITY cannot agree to the quality or acceptability of the work, the manner of performance and/or the compensation payable to the CONSULTANT in this Agreement, the CITY or the CONSULTANT shall give to the other written notice. Within ten (10) business days, the CONSULTANT and the CITY shall each prepare a report which supports their position and file the same with the other party. The CITY shall, with reasonable diligence,

determine the quality or acceptability of the work, the manner of performance and/or the compensation payable to the CONSULTANT.

7. **DISPOSITION AND OWNERSHIP OF DOCUMENTS.** The Memoranda, Reports, Maps, Drawings, Plans, Specifications, and other documents prepared by the CONSULTANT for this project, whether paper or electronic, shall: (1) be free from defects; (2) become the property of the CITY for use with respect to this project; and (3) shall be turned over to the CITY upon completion of the project, or any phase thereof, as contemplated by this Agreement.

Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the CITY, and CONSULTANT thereby expressly waives and disclaims any copyright in, and the right to reproduce, all written material, drawings, plans, specifications, or other work prepared under this Agreement, except upon the CITY'S prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the CITY, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

The CONSULTANT agrees that the CITY may use, reuse, alter, reproduce, modify, assign, transfer, or in any other way, medium, or method utilize the CONSULTANT'S written work product for the CITY'S purposes, and the CONSULTANT expressly waives and disclaims any residual rights granted to it by Civil Code Sections 980 through 989 relating to intellectual property and artistic works.

Any modification or reuse by the CITY of documents, drawings, or specifications prepared by the CONSULTANT shall relieve the CONSULTANT from liability under Section 14, but only with respect to the effect of the modification or reuse by the CITY, or for any liability to the CITY should the documents be used by the CITY for some project other than what was expressly agreed upon within the Scope of Services of this project, unless otherwise mutually agreed.

8. **INDEPENDENT CONTRACTOR.** Both parties hereto in the performance of this Agreement will be acting in an independent capacity and not as agents, employees, partners, or joint venturers with one another. Neither the CONSULTANT nor the CONSULTANT'S employees are employees of the CITY, and are not entitled to any of the rights, benefits, or privileges of the CITY'S employees, including but not limited to retirement, medical, unemployment, or workers' compensation insurance.

This Agreement contemplates the personal services of the CONSULTANT and the CONSULTANT'S employees, and it is recognized by the parties that a substantial inducement to the CITY for entering into this Agreement was, and is, the professional reputation and competence of the CONSULTANT and its employees. Neither this Agreement, nor any interest herein, may be assigned by the CONSULTANT without the prior written consent of the CITY. Nothing herein contained is intended to prevent the CONSULTANT from employing or hiring as many employees, or SUBCONSULTANTS, as the CONSULTANT may deem necessary for the proper and efficient performance of this Agreement. All agreements by CONSULTANT with its SUBCONSULTANT(S) shall require the SUBCONSULTANT(S) to adhere to the applicable terms of this Agreement.

9. **CONTROL.** Neither the CITY, nor its officers, agents, or employees shall have any control over the conduct of the CONSULTANT or any of the CONSULTANT'S employees,

except as set forth in this Agreement. The CONSULTANT, or the CONSULTANT'S agents, servants, or employees are not in any manner agents, servants, or employees of the CITY. The CONSULTANT and its agents, servants, and employees are wholly independent from the CITY and CONSULTANT'S obligations to the CITY are solely prescribed by this Agreement.

10. **COMPLIANCE WITH APPLICABLE LAW.** The CONSULTANT, in the performance of the services to be provided herein, shall comply with all applicable state and federal statutes and regulations, and all applicable ordinances, rules, and regulations of the City of National City, whether now in force or subsequently enacted. The CONSULTANT and each of its SUBCONSULTANT(S), shall obtain and maintain a current City of National City business license prior to and during performance of any work pursuant to this Agreement.

11. **LICENSES, PERMITS, ETC.** The CONSULTANT represents and covenants that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession. CONSULTANT must promptly produce a copy of any such license, permit, or approval to CITY upon request. The CONSULTANT represents and covenants that the CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, or approval which is legally required for the CONSULTANT to practice its profession.

12. **STANDARD OF CARE.**

A. The CONSULTANT, in performing any services under this Agreement, shall perform in a manner consistent with that level of care and skill ordinarily exercised by members of the CONSULTANT'S trade or profession currently practicing under similar conditions and in similar locations. The CONSULTANT shall take all special precautions necessary to protect the CONSULTANT'S employees and members of the public from risk of harm arising out of the nature of the work and/or the conditions of the work site.

B. Unless disclosed in writing prior to the date of this Agreement, the CONSULTANT warrants to the CITY that it is not now, nor has it for the five (5) years preceding, been debarred by a governmental agency or involved in debarment, arbitration or litigation proceedings concerning the CONSULTANT'S professional performance or the furnishing of materials or services relating thereto.

C. The CONSULTANT is responsible for identifying any unique products, treatments, processes or materials whose availability is critical to the success of the project the CONSULTANT has been retained to perform, within the time requirements of the CITY, or, when no time is specified, then within a commercially reasonable time. Accordingly, unless the CONSULTANT has notified the CITY otherwise, the CONSULTANT warrants that all products, materials, processes or treatments identified in the project documents prepared for the CITY are reasonably commercially available. Any failure by the CONSULTANT to use due diligence under this sub-section will render the CONSULTANT liable to the CITY for any increased costs that result from the CITY'S later inability to obtain the specified items or any reasonable substitute within a price range that allows for project completion in the time frame specified or, when not specified, then within a commercially reasonable time.

13. **NON-DISCRIMINATION PROVISIONS.** The CONSULTANT shall not discriminate against any employee or applicant for employment because of age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or

medical condition. The CONSULTANT will take positive action to insure that applicants are employed without regard to their age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the CITY setting forth the provisions of this non-discrimination clause.

14. **CONFIDENTIAL INFORMATION.** The CITY may from time to time communicate to the CONSULTANT certain confidential information to enable the CONSULTANT to effectively perform the services to be provided herein. The CONSULTANT shall treat all such information as confidential and shall not disclose any part thereof without the prior written consent of the CITY. The CONSULTANT shall limit the use and circulation of such information, even within its own organization, to the extent necessary to perform the services to be provided herein. The foregoing obligation of this Section 14, however, shall not apply to any part of the information that (i) has been disclosed in publicly available sources of information; (ii) is, through no fault of the CONSULTANT, hereafter disclosed in publicly available sources of information; (iii) is already in the possession of the CONSULTANT without any obligation of confidentiality; or (iv) has been or is hereafter rightfully disclosed to the CONSULTANT by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party.

The CONSULTANT shall not disclose any reports, recommendations, conclusions or other results of the services or the existence of the subject matter of this Agreement without the prior written consent of the CITY. In its performance hereunder, the CONSULTANT shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm or corporation.

CONSULTANT shall be liable to CITY for any damages caused by breach of this condition, pursuant to the provisions of Section 15.

15. **INDEMNIFICATION AND HOLD HARMLESS.** To the maximum extent provided by law, the CONSULTANT agrees to defend, indemnify, and hold harmless the City of National City, its officers, officials, agents, employees, and volunteers against and from any and all liability, loss, damages to property, injuries to, or death of any person or persons, and all claims, demands, suits, actions, proceedings, reasonable attorneys' fees, and defense costs, of any kind or nature, including workers' compensation claims, of or by anyone whomsoever, resulting from or arising out of the CONSULTANT'S negligence, recklessness, or willful misconduct in the performance of this Agreement. CITY will cooperate reasonably in the defense of any action, and CONSULTANT shall employ competent counsel, reasonably acceptable to the City Attorney.

The indemnity, defense and hold harmless obligations contained herein shall survive the termination of this Agreement for any alleged or actual omission, act, or negligence under this Agreement that occurred during the term of this Agreement.

16. **EMPLOYEE PAYMENTS AND INDEMNIFICATION.**

16.1 **PERS Eligibility Indemnification.** If CONTRACTOR's employee(s) 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 of the CITY, CONTRACTOR shall indemnify, defend, and hold harmless CITY for the payment of any employer and employee contributions for PERS benefits on behalf of the employee as well as for payment of any penalties and interest on such contributions which would otherwise be the responsibility of the CITY.

CONTRACTOR'S employees providing service under this Agreement shall not: (1) qualify for any compensation and benefit under PERS; (2) be entitled to any benefits under PERS; (3) enroll in PERS as an employee of CITY; (4) receive any employer contributions paid by CITY for PERS benefits; or (5) be entitled to any other PERS-related benefit that would accrue to a CITY employee. CONTRACTOR's employees hereby waive any claims to benefits or compensation described in this Section 16. This Section 16 applies to CONTRACTOR notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary.

16.2 Limitation of CITY Liability. The payment made to CONSULTANT under this Agreement shall be the full and complete compensation to which CONSULTANT and CONSULTANT's officers, employees, agents, and subcontractors are entitled for performance of any work under this Agreement. Neither CONSULTANT nor CONSULTANT's officers, employees, agents, and subcontractors are entitled to any salary or wages, or retirement, health, leave or other fringe benefits applicable to CITY employees. The CITY will not make any federal or state tax withholdings on behalf of CONSULTANT. The CITY shall not be required to pay any workers' compensation insurance on behalf of CONSULTANT.

16.3 Indemnification for Employee Payments. CONSULTANT agrees to defend and indemnify the CITY for any obligation, claim, suit, or demand for tax, retirement contribution including any contribution to PERS, social security, salary or wages, overtime payment, or workers' compensation payment which the CITY may be required to make on behalf of (1) CONSULTANT, (2) any employee of CONSULTANT, or (3) any employee of CONSULTANT construed to be an employee of the CITY, for work performed under this Agreement. This is a continuing obligation that survives the termination of this Agreement.

17. WORKERS' COMPENSATION. The CONSULTANT shall comply with all of the provisions of the Workers' Compensation Insurance and Safety Acts of the State of California, the applicable provisions of Division 4 and 5 of the California Labor Code and all amendments thereto; and all similar State or federal acts or laws applicable; and shall indemnify, and hold harmless the CITY and its officers, employees, and volunteers from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description, including reasonable attorney's fees and defense costs presented, brought or recovered against the CITY or its officers, employees, or volunteers, for or on account of any liability under any of said acts which may be incurred by reason of any work to be performed by the CONSULTANT under this Agreement.

18. INSURANCE. The CONSULTANT, at its sole cost and expense, shall purchase and maintain, and shall require its SUBCONSULTANT(S), when applicable, to purchase and maintain throughout the term of this Agreement, the following insurance policies:

A. If checked, **Professional Liability Insurance** (errors and omissions) with minimum limits of \$1,000,000 per occurrence.

B. **Automobile Insurance** covering all bodily injury and property damage incurred during the performance of this Agreement, with a minimum coverage of \$1,000,000 combined single limit per accident. Such automobile insurance shall include owned, non-owned, and hired vehicles. The policy shall name the CITY and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided.

C. **Commercial General Liability Insurance**, with minimum limits of either \$2,000,000 per occurrence and \$4,000,000 aggregate, or \$1,000,000 per occurrence and \$2,000,000 aggregate with a \$2,000,000 umbrella policy, covering all bodily injury and property damage arising out of its operations, work, or performance under this Agreement. The policy shall name the CITY and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided. The general aggregate limit must apply solely to this "project" or "location". The "project" or "location" should be noted with specificity on an endorsement that shall be incorporated into the policy.

D. **Workers' Compensation Insurance** in an amount sufficient to meet statutory requirements covering all of CONSULTANT'S employees and employers' liability insurance with limits of at least \$1,000,000 per accident. In addition, the policy shall be endorsed with a waiver of subrogation in favor of the CITY. Said endorsement shall be provided prior to commencement of work under this Agreement.

If CONSULTANT has no employees subject to the California Workers' Compensation and Labor laws, CONSULTANT shall execute a Declaration to that effect. Said Declaration shall be provided to CONSULTANT by CITY.

E. The aforesaid policies shall constitute primary insurance as to the CITY, its officers, officials, employees, and volunteers, so that any other policies held by the CITY shall not contribute to any loss under said insurance. Said policies shall provide for thirty (30) days prior written notice to the CITY'S Risk Manager, at the address listed in subsection G below, of cancellation or material change.

F. If required insurance coverage is provided on a "claims made" rather than "occurrence" form, the CONSULTANT shall maintain such insurance coverage for three years after expiration of the term (and any extensions) of this Agreement. In addition, the "retro" date must be on or before the date of this Agreement.

G. The Certificate Holder for all policies of insurance required by this Section shall be:

City of National City
c/o Risk Manager
1243 National City Boulevard
National City, CA 91950-4397

H. Insurance shall be written with only insurers authorized to conduct business in California that hold a current policy holder's alphabetic and financial size category rating of not less than A:VII according to the current Best's Key Rating Guide, or a company of equal financial stability that is approved by the CITY'S Risk Manager. In the event coverage is provided by non-admitted "surplus lines" carriers, they must be included on the most recent List of Approved Surplus Line Insurers ("LASLI") and otherwise meet rating requirements.

I. This Agreement shall not take effect until certificate(s) or other sufficient proof that these insurance provisions have been complied with, are filed with and approved by the CITY'S Risk Manager. If the CONSULTANT does not keep all insurance policies required by this Section 18 in full force and effect at all times during the term of this Agreement, the CITY may treat the failure to maintain the requisite insurance as a breach of this Agreement and terminate the Agreement as provided herein.

J. All deductibles and self-insured retentions in excess of \$10,000 must be disclosed to and approved by the CITY. CITY reserves the right to modify the insurance requirements of this Section 18, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

K. If the CONSULTANT maintains broader coverage or higher limits (or both) than the minimum limits shown above, the CITY shall be entitled to the broader coverage or higher limits (or both) maintained by the CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the CITY.

19. **LEGAL FEES.** If any party brings a suit or action against the other party arising from any breach of any of the covenants or agreements or any inaccuracies in any of the representations and warranties on the part of the other party arising out of this Agreement, then in that event, the prevailing party in such action or dispute, whether by final judgment or out-of-court settlement, shall be entitled to have and recover of and from the other party all costs and expenses of suit, including attorneys' fees.

For purposes of determining who is to be considered the prevailing party, it is stipulated that attorney's fees incurred in the prosecution or defense of the action or suit shall not be considered in determining the amount of the judgment or award. Attorney's fees to the prevailing party if other than the CITY shall, in addition, be limited to the amount of attorney's fees incurred by the CITY in its prosecution or defense of the action, irrespective of the actual amount of attorney's fees incurred by the prevailing party.

20. **TERMINATION.**

A. This Agreement may be terminated with or without cause by the CITY. Termination without cause shall be effective only upon 60-day's written notice to the CONSULTANT. During said 60-day period the CONSULTANT shall perform all services in accordance with this Agreement.

B. This Agreement may also be terminated immediately by the CITY for cause in the event of a material breach of this Agreement, misrepresentation by the CONSULTANT in connection with the formation of this Agreement or the performance of services, or the failure to perform services as directed by the CITY.

C. Termination with or without cause shall be effected by delivery of written Notice of Termination to the CONSULTANT as provided for herein.

D. In the event of termination, all finished or unfinished Memoranda Reports, Maps, Drawings, Plans, Specifications and other documents prepared by the CONSULTANT, whether paper or electronic, shall immediately become the property of and be delivered to the CITY, and the CONSULTANT shall be entitled to receive just and equitable compensation for any work satisfactorily completed on such documents and other materials up to the effective date of the Notice of Termination, not to exceed the amounts payable hereunder, and less any damages

caused the CITY by the CONSULTANT'S breach, if any. Thereafter, ownership of said written material shall vest in the CITY all rights set forth in Section 7.

E. The CITY further reserves the right to immediately terminate this Agreement upon: (1) the filing of a petition in bankruptcy affecting the CONSULTANT; (2) a reorganization of the CONSULTANT for the benefit of creditors; or (3) a business reorganization, change in business name or change in business status of the CONSULTANT.

21. **NOTICES.** All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered; or sent by overnight mail (Federal Express or the like); or sent by registered or certified mail, postage prepaid, return receipt requested; or sent by ordinary mail, postage prepaid; or telegraphed or cabled; or delivered or sent by telex, telecopy, facsimile or fax; and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if sent by overnight mail, the business day following its deposit in such overnight mail facility, (iii) if mailed by registered, certified or ordinary mail, five (5) days (ten (10) days if the address is outside the State of California) after the date of deposit in a post office, mailbox, mail chute, or other like facility regularly maintained by the United States Postal Service, (iv) if given by telegraph or cable, when delivered to the telegraph company with charges prepaid, or (v) if given by telex, telecopy, facsimile or fax, when sent. Any notice, request, demand, direction or other communication delivered or sent as specified above shall be directed to the following persons:

To CITY: Roberto Yano
Director of Public Works/City Engineer
Engineering/Public Works
City of National City
1243 National City Boulevard
National City, CA 91950-4397

To CONSULTANT:
Jeffrey T. (JT) Barr
Vice President
Schmidt Design Group
1310 Rosecrans St., Ste. G
San Diego, CA 92106

Notice of change of address shall be given by written notice in the manner specified in this Section. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or communication sent. Any notice, request, demand, direction or other communication sent by cable, telex, telecopy, facsimile or fax must be confirmed within forty-eight (48) hours by letter mailed or delivered as specified in this Section.

22. **CONFLICT OF INTEREST AND POLITICAL REFORM ACT OBLIGATIONS.** During the term of this Agreement, the CONSULTANT shall not perform services of any kind for any person or entity whose interests conflict in any way with those of the City of National City. The CONSULTANT also agrees not to specify any product, treatment,

process or material for the project in which the CONSULTANT has a material financial interest, either direct or indirect, without first notifying the CITY of that fact. The CONSULTANT shall at all times comply with the terms of the Political Reform Act and the National City Conflict of Interest Code. The CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the CITY in which the CONSULTANT has a financial interest as defined in Government Code Section 87103. The CONSULTANT represents that it has no knowledge of any financial interests that would require it to disqualify itself from any matter on which it might perform services for the CITY.

If checked, the CONSULTANT shall comply with all of the reporting requirements of the Political Reform Act and the National City Conflict of Interest Code. Specifically, the CONSULTANT shall file a Statement of Economic Interests with the City Clerk of the City of National City in a timely manner on forms which the CONSULTANT shall obtain from the City Clerk.

The CONSULTANT shall be strictly liable to the CITY for all damages, costs or expenses the CITY may suffer by virtue of any violation of this Section 22 by the CONSULTANT.

23. **PREVAILING WAGES.** State prevailing wage rates may apply to work performed under this Agreement. State prevailing wages rates apply to all public works contracts as set forth in California Labor Code, including but not limited to, Sections 1720, 1720.2, 1720.3, 1720.4, and 1771. Consultant is solely responsible to determine if State prevailing wage rates apply and, if applicable, pay such rates in accordance with all laws, ordinances, rules, and regulations.

24. **ADMINISTRATIVE PROVISIONS.**

A. *Computation of Time Periods.* If any date or time period provided for in this Agreement is or ends on a Saturday, Sunday or federal, state or legal holiday, then such date shall automatically be extended until 5:00 p.m. Pacific Time of the next day which is not a Saturday, Sunday or federal, state, or legal holiday.

B. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

C. *Captions.* Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

D. *No Obligations to Third Parties.* Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, or obligate any of the parties hereto, to any person or entity other than the parties hereto.

E. *Exhibits and Schedules.* The Exhibits and Schedules attached hereto are hereby incorporated herein by this reference for all purposes. To the extent any exhibits, schedules, or provisions thereof conflict or are inconsistent with the terms and conditions contained in this Agreement, the terms and conditions of this Agreement shall control.

F. *Amendment to this Agreement.* The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

G. *Assignment & Assumption of Rights.* CONSULTANT shall not assign this Agreement, in whole or in part, to any other party without first obtaining the written consent of CITY.

H. *Waiver.* The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

I. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California. The venue for any legal action arising under this Agreement shall be in either state or federal court in the County of San Diego, State of California.

J. *Audit.* If this Agreement exceeds ten-thousand dollars (\$10,000), the parties shall be subject to the examination and audit of the State Auditor for a period of three (3) years after final payment under the Agreement, per Government Code Section 8546.7.

K. *Entire Agreement.* This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of any party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

L. *Successors and Assigns.* This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

M. *Subcontractors or Subconsultants.* The CITY is engaging the services of the CONSULTANT identified in this Agreement. The CONSULTANT shall not subcontract any portion of the work, unless such subcontracting was part of the original proposal or is allowed by the CITY in writing. In the event any portion of the work under this Agreement is subcontracted, the subconsultant(s) shall be required to comply with and agree to, for the benefit of and in favor of the CITY, both the insurance provisions in Section 18 and the indemnification and hold harmless provision of Section 15 of this Agreement.

N. *Construction.* The parties acknowledge and agree that (i) each party is of equal bargaining strength, (ii) each party has actively participated in the drafting, preparation and negotiation of this Agreement, (iii) each such party has consulted with or has had the opportunity to consult with its own, independent counsel and such other professional advisors as such party has deemed appropriate, relative to any and all matters contemplated under this Agreement, (iv) each party and such party's counsel and advisors have reviewed this Agreement, (v) each party has agreed to enter into this Agreement following such review and the rendering of such advice, and (vi) any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement, or any portions hereof, or any amendments hereto.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

CITY OF NATIONAL CITY

SCHMIDT DESIGN GROUP, INC.
(Corporation – signatures of two corporate officers required)
(Partnership or Sole proprietorship – one signature)

By: _____
Alejandra Sotelo Solis, Mayor

By: 

(Name)


APPROVED AS TO FORM:

(Print) Glen Schmidt

President

(Title)

By: _____
Charles E. Bell Jr.
City Attorney

By: 

(Name)

Glen Schmidt

(Print)

Secretary

(Title)

Executive Summary

ADDITIONAL PUBLIC AGENCY COLLABORATIONS

CITIES

National City

Alhambra
Carlsbad
Chula Vista
Coronado
Costa Mesa
El Cajon
Encinitas
Escondido
Imperial Beach
La Mesa
La Puente
Lemon Grove
Oceanside
Poway
San Marcos
Santa Barbara
Santee
Solana Beach
Vista

SAN DIEGO COUNTY

Office of Education
Water Authority
Housing Commission

ADDITIONAL AGENCIES

CA Department of Transportation
Civic San Diego
County of Imperial/Public Works Department
County of Riverside/Regional Parks & Open Space District
Division of the State Architect
Olivenhain Municipal Water District

Schmidt Design Group provides comprehensive landscape architecture and planning services. We are a client-centered, service-oriented design firm dedicated to creating signature spaces that reflect the character and vision of the communities in which we work.

Founded in 1983, Schmidt Design Group has 36 years of experience providing expert landscape architecture and planning services to more than 65 municipalities throughout California. We are proud to have received more than 145 local, state, and national awards for design and technical excellence. The firm is headquartered in San Diego, California with a branch office in Fairfield, CA and Orange, CT. Staffing

The staff includes 23 employees, comprised of eight (8) licensed landscape architects, three (3) LEED accredited professionals, two (2) SITES accredited professionals, a certified arborist, a certified playground safety inspector, two (2) qualified SWPPP developers/preparers, and a certified landscape irrigation auditor.

PUBLIC AGENCY COLLABORATION

For more than 36 years, our firm has provided innovative design solutions and community facilitation for over 65 public municipalities throughout California. Schmidt Design Group, Inc. has extensive experience in providing "On-call" professional services, including working for numerous public agencies. We operate as an extension of City staff and approach each project with an open mind and collaborative spirit. A few recent public agency partnerships include:

PUBLIC AGENCY ON-CALL COLLABORATIONS

- **City of National City: On-Call 2014-2015 (Subconsultant)**
- City of San Diego: As-Needed Contracts 2006-2019
- City of Irvine: As-Needed Contract 2010, 2016
- San Diego Unified School District (SDUSD): As-Needed Contracts 2001-2019
- NAVFAQ Southwest Division: On-Call 2016-2021
- North County Transit District: As-Needed Contract 2015-2016
- County of Orange, OC Parks Division: On-Call Contract 2009



Maple Street Pedestrian Plaza, Escondido, CA

Prime Consultant

Schmidt Design Group
Landscape Architecture,
SBE-Micro
SLBE (Application pending)

Subconsultants

Chen Ryan Associates
Civil Engineering
WBE | DBE

Group Delta
Geotechnical Engineering

BSE Engineering
MEP Engineering
SBE | SLBE

Aark Engineering
Structural Engineering
SBE | SLBE

QUALIFIED TEAM

JT Barr, ASLA, PLA is the Vice President with the firm and will be the Principal in Charge for this effort. He will be involved in all aspects of the project and will bring his significant management and design expertise to each task authorization. He brings nearly two decades of design experience to the firm with an emphasis on creating authentic and memorable spaces within the public realm. He recently led the successful design and construction of the North End at Liberty Station, Charles Lewis III Memorial Park, and Kimball Park Renovation.

Our expertise is supported by a sincere commitment from all team members to exceed National City's expectations.

QUALIFIED EXPERIENCE

Schmidt Design Group, Inc. believes the team's qualifications are best demonstrated through the depth of our project experience. Our firm has successfully created more than 300 public places and projects for more than 65 municipalities within California. Below is a snapshot of recent experience highlights.

INFRASTRUCTURE/UTILITY

- Streetscapes
- Reservoir/Pipeline Projects
- Linear Trails and Corridors
- Interpretive Education Projects
- Transportation Projects

PUBLIC FACILITIES

- Public Buildings Landscaping
- Public Planning Projects
- Coastal Projects
- Public School Facilities

PARKS & RECREATION

- New Regional and Community Parks
- New Neighborhood Parks
- Public Park Renovations
- Skate Parks

SPECIAL SERVICES

- Community Outreach/Consensus Building
- Meeting Facilitation
- Public Art/Artist Collaboration
- Certified Playground Safety Inspections
- Arborist Services
- Identity Signage, Wayfinding, Interpretive Education
- Visual Simulations/3D Modeling
- Standardized Design Guidelines
- Expert Witness

SUSTAINABLE SERVICES

- USGBC LEED Design
- Low Impact Development
- Habitat Restoration/Revegetation
- Wetland Preservation
- Creek Restoration and Daylighting
- Water Quality and Conservation
- Irrigation Management (Drainage/Run off Mitigation)
- Green Roof Design
- Active Public Involvement/Awareness

Firm Information

DISCIPLINE OF INTEREST

Landscape Architecture

FIRM LOCATION

Headquarters:
1310 Rosecrans St. Suite G.
San Diego, CA 92106

LEGAL FORM

S Corporation
FIN 33-0443626

CERTIFICATIONS

Licensed Landscape
Architects
CA | NV | AZ | UT | OH

SELECT AWARDS

31

American Society of
Landscape Architects
San Diego Honor, Merit,
& President's Awards

13

San Diego Architectural
Foundation, People's
Choice Orchid Award

13

California Parks and
Recreation Society

24

American Public
Works Association

8

American Society of
Civil Engineers

CONTACT

JT Barr, PLA, ASLA
Vice President
1310 Rosecrans Street, St. G
San Diego, CA 92106
619.236.1462 x107
jtbarr@schmidtsgroup.com



Orange Park, Chula Vista, CA

SCHMIDT DESIGN GROUP provides comprehensive landscape architecture and planning services, with an emphasis on balancing artistic design with environmental sensitivity. We are a client-centered, service-oriented small business dedicated to creating signature spaces that reflect the character and vision of the communities in which we work.

FIRM BACKGROUND

Founded in 1983, Schmidt Design Group has 36 years of experience providing expert landscape architecture and planning services to more than 65 municipalities throughout California. We are proud to have received more than 145 local, state, and national awards for design and technical excellence. The firm is headquartered in San Diego, California with a branch office in Fairfield, CA and Orange, CT.

A portfolio of the firm's award-winning work can be viewed at www.schmidtsgroup.com.

EXPERTISE INCLUDES

Schmidt Design Group specializes in public-realm design and has provided innovative design solutions and community facilitation for public municipalities throughout California.

The firm is a recognized leader in promoting and implementing sustainable solutions in the built environment, including Low Impact Development (LID) water quality improvements. Long before State requirements, the firm was promoting sustainable solutions.

STAFFING

The staff includes 23 employees, comprised of eight (8) licensed landscape architects, three (3) LEED accredited professionals, two (2) SITES accredited professionals, a certified arborist, a certified playground safety inspector, two (2) qualified SWPPP developers/preparers, and a certified landscape irrigation auditor.

EXHIBIT B

EXHIBIT 10-H2 COST PROPOSAL Page 1 of 5

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-ups are Not Allowed

Consultant Schmidt Design Group, Inc. Prime Consultant Subconsultant 2nd Tier Subconsultant

Project No. On-Call Landscape Architecture – National City Contract No. _____ Participation Amount \$ _____ Date 7/22/21

For Combined Rate	Fringe Benefit % + General & Administrative %	44.7% + 11.9%	= 163.7	Combined ICR%
OR				
For Home Office Rate	Fringe Benefit % + General & Administrative %		=	Home Office ICR%
For Field Office Rate	Fringe Benefit % + General & Administrative %		=	Field Office ICR%
			Fee	12%

BILLING INFORMATION

Name/Job Title/Classification ¹	Hourly Billing Rates ²		Effective Date of Hourly Rate		Actual or Avg. Hourly Rate ⁴	% or \$ Increase	Hourly Range - for Classifications Only
	Straight ³	OT(1.5x)	OT(2x)	From			
Glen Schmidt* Principal/President	\$234.27	\$0.00	\$0.00	8/1/2021	7/31/2022		
	\$234.27	\$0.00	\$0.00	8/1/2022	7/31/2023	0.00%	N/A
	\$234.27	\$0.00	\$0.00	8/1/2023	7/31/2024	0.00%	
Principal/Partner	\$166.84	\$0.00	\$0.00	8/1/2021	7/31/2022		
	\$166.84	\$0.00	\$0.00	8/1/2022	7/31/2023	0.00%	\$52.88 - \$60.09
	\$166.84	\$0.00	\$0.00	8/1/2023	7/31/2024	0.00%	

CALCULATION INFORMATION

Associate	\$137.96	\$0.00	\$0.00	\$0.00	8/1/2021	7/31/2022	\$46.71	0.00%	\$45.00 - \$48.08
	\$137.96	\$0.00	\$0.00	\$0.00	8/1/2022	7/31/2023	\$46.71	0.00%	
	\$137.96	\$0.00	\$0.00	\$0.00	8/1/2023	7/31/2024	\$46.71	0.00%	
Senior Project Manager	\$135.86	\$0.00	\$0.00	\$0.00	8/1/2021	7/31/2022	\$46.00		\$46.00 - \$46.00
	\$135.86	\$0.00	\$0.00	\$0.00	8/1/2022	7/31/2023	\$46.00	0.00%	
	\$135.86	\$0.00	\$0.00	\$0.00	8/1/2023	7/31/2024	\$46.00	0.00%	
Project Manager	\$106.47	\$0.00	\$0.00	\$0.00	8/1/2021	7/31/2022	\$36.05		\$33.00 - \$38.46
	\$106.47	\$0.00	\$0.00	\$0.00	8/1/2022	7/31/2023	\$36.05	0.00%	
	\$106.47	\$0.00	\$0.00	\$0.00	8/1/2023	7/31/2024	\$36.05	0.00%	
Senior Designer	\$94.51	\$0.00	\$0.00	\$0.00	8/1/2021	7/31/2022	\$32.00		\$31.25 - \$34.00
	\$94.51	\$0.00	\$0.00	\$0.00	8/1/2022	7/31/2023	\$32.00	0.00%	
	\$94.51	\$0.00	\$0.00	\$0.00	8/1/2023	7/31/2024	\$32.00	0.00%	
Designer II	\$84.62	\$0.00	\$0.00	\$0.00	8/1/2021	7/31/2022	\$28.65		\$27.50 - \$31.00
	\$84.62	\$0.00	\$0.00	\$0.00	8/1/2022	7/31/2023	\$28.65	0.00%	
	\$84.62	\$0.00	\$0.00	\$0.00	8/1/2023	7/31/2024	\$28.65	0.00%	
Designer I	\$74.46	\$0.00	\$0.00	\$0.00	8/1/2021	7/31/2022	\$25.21		\$24.00 - \$26.00
	\$74.46	\$0.00	\$0.00	\$0.00	8/1/2022	7/31/2023	\$25.21	0.00%	
	\$74.46	\$0.00	\$0.00	\$0.00	8/1/2023	7/31/2024	\$25.21	0.00%	
Administrative	\$88.75	\$0.00	\$0.00	\$0.00	8/1/2021	7/31/2022	\$30.05		\$30.05 - \$30.05
	\$88.75	\$0.00	\$0.00	\$0.00	8/1/2022	7/31/2023	\$30.05	0.00%	
	\$88.75	\$0.00	\$0.00	\$0.00	8/1/2023	7/31/2024	\$30.05	0.00%	

(Add pages as necessary)

NOTES:

1. Key personnel must be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
2. The cost proposal format shall not be amended.
3. Billing rate = actual hourly rate * (1+ ICR) * (1+ Fee). Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans. All costs must comply with the Federal cost principles for reimbursement.
4. For named employees and key personnel enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

EXHIBIT 10-H2 COST PROPOSAL Page 4 of 5

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Consultant Schmidt Design Group, Inc. Prime Consultant Subconsultant

Project No. On-Call Landscape Architecture – National City Contract No. _____ Participation Amount \$ _____ Date 7/22/21

SCHEDULE OF OTHER DIRECT COST ITEMS (Add additional pages as necessary)				
Description of Item	Quantity	Unit	Unit Cost	Total
Mileage	Actual	Mile	IRS Rate	Actual
Printing – in house	Actual	Sq ft	1.50	Actual
Printing – External	Actual	Each	Actual	Actual

Note: Add additional pages if necessary.

NOTES:

1. Pre-approved travel and Per Diem will be reimbursed in accordance with the current Caltrans Travel Guide for consultants, and detailed in executed Task Order Cost Estimates. No charge will be invoiced for employee relocation costs. Vehicle mileage for special project-related trips with Client approval shall be charted as an additional cost at the lower of the County mileage reimbursement rate or the State-approved mileage reimbursement rate.
2. List other direct cost items with estimated costs. These costs should be competitive in their respective industries and supported with appropriate documentation.
3. Proposed ODC items should be consistently billed regardless of client and contract type.
4. Items when incurred for the same purpose, in like circumstance, should not be included in any indirect cost pool or in the overhead rate.
5. Items such as special tooling, will be reimbursed at actual cost with supporting documentation (invoice).
6. Items listed above that would be considered "tools of the trade" are not reimbursable as other direct cost.
7. Travel related costs should be pre-approved by the contracting agency and shall not exceed current State Department of Personnel Administration rules.
8. If mileage is claimed, the rate should be properly supported by the consultant's calculation of their actual costs for company vehicles. In addition, the miles claimed should be supported by mileage logs.
9. If a consultant proposes rental costs for a vehicle, the company must demonstrate that this is its standard procedure for all of their contracts and that they do not own any vehicles that could be used for the same purpose.
10. The cost proposal format shall not be amended. All costs must comply with the Federal cost principles.
11. Add additional pages if necessary.
12. Subconsultants must provide their own cost proposals.

EXHIBIT 10-H2 COST PROPOSAL Page 5 of 5

Certification of Direct Costs:

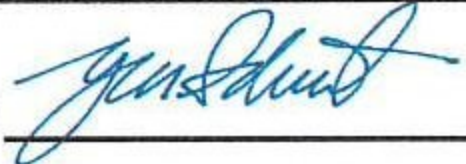
I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. [Title 23 United States Code Section 112](#) - Letting of Contracts
4. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
5. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
6. [48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board](#) (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Prime Consultant or Subconsultant Certifying:

Name: Glen Schmidt Title*: President

Signature:  Date of Certification (mm/dd/yyyy): 07/22/2021

Email: gschmidt@schmidt-design.com Phone Number: 619-236-1462

Address: 1310 Rosecrans Street, Ste. G, San Diego, CA 92106

* An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

Landscape Architecture

RESOLUTION NO. 2021 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, AUTHORIZING THE MAYOR TO EXECUTE A THREE-YEAR AGREEMENT WITH SCHMIDT DESIGN GROUP, INC. FOR A NOT-TO-EXCEED AMOUNT OF \$2,000,000 TO PROVIDE ON-CALL PROJECT SUPPORT SERVICES FOR NATIONAL CITY'S CAPITAL IMPROVEMENT PROGRAM (CIP), AND AUTHORIZING THE CITY MANAGER TO EXECUTE ANY PROJECT-SPECIFIC SUPPLEMENTAL AGREEMENTS, AS MAY BE REQUIRED FOR GRANT-FUNDED PROJECTS

WHEREAS, the City of National City's ("City") Capital Improvement Program ("CIP") estimates approximately \$73 million in capital needs over the next five years to include, for example, corridor enhancements for traffic calming, pedestrian/bicycle safety (including Americans with Disabilities Act compliance) and smart growth redevelopment; road diets and complete streets; safe routes to school; traffic signal modifications; new street lights; sewer replacement and upsizing; storm drain improvements and implementation of Low-Impact Development (LID) measures for the treatment of urban stormwater runoff; drought-tolerant landscaping; facilities improvements; and park amenities; and

WHEREAS, to successfully design, manage and construct these projects, the Engineering & Public Works Department advertised a Request for Qualifications ("RFQ") on May 1, 2019, for various engineering, architectural, and construction support services such as plan and map reviews, preparation of plat and legal descriptions, sewer system management and financial administration, housing and real estate development services, Building Department support services, and environmental compliance involving stormwater, wastewater, and hazardous materials; and

WHEREAS, the RFQ was advertised on the City's website, published in the San Diego Union-Tribune, e-mailed to over 100 professional consulting firms, and also advertised on PlanetBids, providing over 400 firms with notice; and

WHEREAS, the City also hosted an Information Session regarding the RFQ process on May 14, 2019, at the Martin Luther King Jr. Community Center, which over 100 people attended; and

WHEREAS, the City received 71 Statement of Qualifications ("SOQs") from various firms by the June 10, 2019 deadline and reviewed, taking into consideration, among other things, past performance history, knowledge of the environment, the type of services offered, and the cost to the City; and

WHEREAS, based on an interview, qualifications, and past performance, City staff recommends City Council authorize the Mayor to execute a three-year Agreement (with the option to extend for two, one year extensions) with Schmidt Design Group, Inc. for a not-to-exceed amount of \$2,000,000 to provide on-call project support services for the City's CIP, including, but not limited to, landscape architecture (including urban planning and design); and

WHEREAS, City staff also recommends authorizing the City Manager to execute any project-specific supplemental agreements, as may be required for grant-funded projects.

///

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: Authorizes the Mayor to execute a three-year Agreement with Schmidt Design Group, Inc. for a not-to-exceed amount of \$2,000,000 to provide on-call project support services for the City's Capital Improvement Program (CIP), including, but not limited to, landscape architecture (including urban planning and design).

Section 2: Authorizes the City Manager to execute any project-specific supplemental agreements required for grant-funded projects.

Section 3: The City Clerk shall certify the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED and ADOPTED this 7th day of September, 2021.

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City authorizing the Mayor to execute a First Amendment to the Agreement with Project Professionals Corporation, increasing the not-to-exceed amount by \\$1,000,000 for a total Agreement amount of \\$3,000,000, to provide on-call project support services for National City's Capital Improvement Program \(CIP\), including, but not limited to, project management; engineering; construction management, inspections and certified payroll; plan reviews; constructability reviews; community outreach and communications. \(Engineering/Public Works\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.:

ITEM TITLE:

Resolution of the City Council of the City of National City authorizing the Mayor to execute a First Amendment to the Agreement with Project Professionals Corporation, increasing the not-to-exceed amount by \$1,000,000 for a total Agreement amount of \$3,000,000, to provide on-call project support services for National City's Capital Improvement Program (CIP), including, but not limited to, project management; engineering; construction management, inspections and certified payroll; plan reviews; constructability reviews; community outreach and communications.

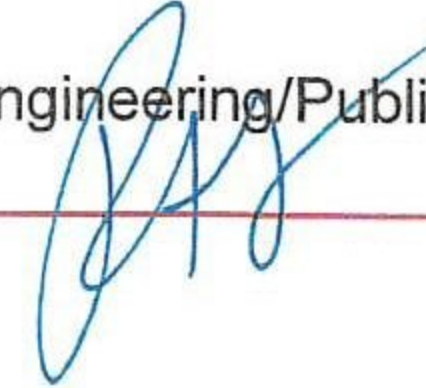
PREPARED BY: Jose Lopez, Deputy City Engineer



DEPARTMENT: Engineering/Public Works

PHONE: 619-336-4312

APPROVED BY: _____



EXPLANATION:

See staff report.

FINANCIAL STATEMENT:

APPROVED: _____ **FINANCE**

ACCOUNT NO.

APPROVED: _____ **MIS**

Funds are appropriated in various CIP accounts for FY 2022; funding for subsequent fiscal years is dependent on future appropriations as part of annual budget.

ENVIRONMENTAL REVIEW:

This is not a project and, therefore, not subject to environmental review.

ORDINANCE: INTRODUCTION FINAL ADOPTION

STAFF RECOMMENDATION:

Adopt Resolution executing a First Amendment to the Agreement with Project Professionals Corporation.

BOARD / COMMISSION RECOMMENDATION:

ATTACHMENTS:

1. Explanation
2. First Amendment to Agreement
3. Resolution

Explanation:

The Engineering & Public Works Department advertised a Request for Qualifications (RFQ) for various engineering, architectural and construction support services on May 1, 2019. Additional services requested via the RFQ include, for example, plan and map reviews, preparation of plat and legal descriptions, sewer system management and financial administration, housing and real estate development services, Building Department support services, and environmental compliance involving storm water, wastewater and hazardous materials.

The RFQ was advertised on the City's website, published in the San Diego Union Tribune, e-mailed to over 100 professional consulting firms and also advertised on PlanetBids where over 400 firms were notified. Additionally, the City hosted an Information Session regarding the RFQ process on May 14, 2019 at the MLK Jr. Community Center, which was attended by over 100 people. The Department received 71 Statement of Qualifications (SOQs) from various firms by the June 10, 2019 deadline. Copies of the SOQs received are available in the Office of the City Engineer.

Based on the strength of their SOQ, interview and past performance, the City of National City entered into an Agreement with Project Professionals Corporation on November 5, 2019, per City Council Resolution No. 2019-152, to provide on-call support services for National City's Capital Improvement Program (CIP), including, but not limited to, project management; engineering; construction management, inspections and certified payroll; plan reviews; constructability reviews; community outreach and communications. The original Agreement is for a not-to-exceed amount of \$2,000,000 and a term of three years, with the option to extend for two one-year extensions.

Both parties desire to execute a First Amendment to increase the not-to exceed amount by \$1,000,000, for a total Agreement amount of \$3,000,000 to allow Project Professionals Corporation to continue providing CIP support services. The City's 5-Year CIP estimates approximately \$73 million in capital improvements over the next five years. See attached First Amendment to Agreement. The City's implementation rate averages about fifteen projects a year totaling approximately \$15.3 million. Historically, Project Professionals Corporation has provided the City with an average of \$1,000,000 in services per year.

Project Professionals Corporation has assisted the City in the delivery of the following:

- Nine (9) grant funded projects: eight (8) traffic signal and ADA improvement projects citywide and the Paradise Creek Educational Park Expansion; and
- Two (2) sewer upsizing projects: one fully constructed, and the other recently finalized its construction plans; and
- Three (3) facility improvements projects: Camacho Gym, Las Palmas Municipal Pool, and City Hall.

The City pays Prevailing Wage to all contractors working on the CIP, as well as to Project Professionals Corporation's public works inspector as required by the State.

It should be noted that all Construction Management consultants go through a project task competitive process that follows state guidelines in order to be awarded each individual project task.

Staff recommends executing a First Amendment to the Agreement with Project Professionals Corporation.

Funds are appropriated in various CIP accounts and will be encumbered on an as-needed basis.

**AMENDMENT TO THE AGREEMENT
BY AND BETWEEN
THE CITY OF NATIONAL CITY
AND
PROJECT PROFESSIONALS CORPORATION**

THIS 1ST AMENDMENT TO THE AGREEMENT is entered into this 7TH day of September, 2021, by and between the CITY OF NATIONAL CITY, a municipal corporation ("CITY"), and PROJECT PROFESSIONALS CORPORATION, a California corporation (the "CONSULTANT").

RECITALS

WHEREAS, the CITY and the CONSULTANT entered into an Agreement on November 5, 2019 ("the Agreement"), wherein the CONSULTANT agreed to provide on-call project support services for CITY's Capital Improvement Program (CIP), including but not limited to, project management; engineering construction management; inspection and certified payroll; plan reviews; constructability reviews; community outreach and communications, for a not-to-exceed amount of \$2,000,000, and a term of three (3) years, with the option to extend this term for up to two (2), one-year extensions; and

WHEREAS, based on the CONSULTANT'S performance and quality of work, and to ensure timely completion of CIPs, the CITY desires to have the CONSULTANT continue providing on-call project support services for CITY's CIP, and the CONSULTANT is willing to perform such services; and

WHEREAS, the parties desire to amend the Agreement by increasing the \$2,000,000 not-to-exceed amount by \$1,000,000, for a total not-to-exceed amount of \$3,000,000.

AGREEMENT

NOW, THEREFORE, the parties hereto agree that:

1. The November 5, 2019 Agreement is hereby amended to increase the \$2,000,000 not-to-exceed amount by \$1,000,000, for a total not-to-exceed amount of \$3,000,000.
2. The parties further agree that, with the foregoing exceptions, each and every other term and provision of the November 5, 2019 Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this 1ST Amendment to the Agreement on the date and year first above written.

CITY OF NATIONAL CITY

PROJECT PROFESSIONALS CORPORATION

(Corporation – signatures of two corporate officers required)

By: _____
Alejandra Sotelo-Solis, Mayor


APPROVED AS TO FORM:

By: _____
Charles E. Bell Jr.
City Attorney

By: 
(Name)

JEFFREY S. WADE
(Print)

PRESIDENT / CEO
(Title)

By: 
(Name)

Leanne B. Wade
(Print)

CFO
(Title)

RESOLUTION NO. 2021

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, AUTHORIZING THE MAYOR EXECUTE A FIRST AMENDMENT TO THE AGREEMENT WITH PROJECT PROFESSIONALS CORPORATION, INCREASING THE NOT-TO-EXCEED AMOUNT BY \$1,000,000 FOR A TOTAL AGREEMENT AMOUNT OF \$3,000,000, TO PROVIDE ON-CALL PROJECT SUPPORT SERVICES FOR NATIONAL CITY'S CAPITAL IMPROVEMENT PROGRAM (CIP)

WHEREAS, on November 5, 2019, per City Council Resolution No. 2019-152, the City of National City ("City") entered into an Agreement with Project Professionals Corporation to provide on-call support services for National City's Capital Improvement Program ("CIP"), including, but not limited to, project management; engineering; construction management, inspections, and certified payroll; plan reviews; constructability reviews; community outreach and communications; and

WHEREAS, the November 5, 2019, Agreement is for a not-to-exceed amount of \$2,000,000 and a term of three years, with the option to extend for two one-year extensions; and

WHEREAS, the City staff requests the City Council authorize the Mayor to execute a First Amendment to the agreement to increase the not-to-exceed amount by \$1,000,000, for a total Agreement amount of \$3,000,000 to allow Project Professionals Corporation to continue providing CIP support services.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: Authorizes the Mayor to execute a First Amendment to the Agreement with Project Professionals Corporation, increasing the not-to-exceed amount by \$1,000,000 for a total Agreement amount of \$3,000,000, to provide on-call project support services for National City's Capital Improvement Program (CIP), including, but not limited to, project management; engineering; construction management, inspections, and certified payroll; plan reviews; constructability reviews; community outreach and communications.

Section 2: The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolution.

PASSED and ADOPTED this 7th day of September, 2021.

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City authorizing the Mayor to execute a First Amendment to the Agreement with Chen Ryan Associates, Inc., increasing the not-to-exceed amount by \\$1,000,000 for a total Agreement amount of \\$3,000,000, to provide on-call project support services for National City's Capital Improvement Program \(CIP\), including, but not limited to, project management; civil engineering; traffic engineering; transportation planning; plan reviews; constructability reviews; long-range planning; grants management; community outreach and communications. \(Engineering/Public Works\)](#)

Please scroll down to view the backup material.


**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.:

ITEM TITLE:

Resolution of the City Council of the City of National City authorizing the Mayor to execute a First Amendment to the Agreement with Chen Ryan Associates, Inc., increasing the not-to-exceed amount by \$1,000,000 for a total Agreement amount of \$3,000,000, to provide on-call project support services for National City's Capital Improvement Program (CIP), including, but not limited to, project management; civil engineering; traffic engineering; transportation planning; plan reviews; constructability reviews; long-range planning; grants management; community outreach and communications.

PREPARED BY: Jose Lopez, Deputy City Engineer 

PHONE: 619-336-4312

DEPARTMENT: Engineering/Public Works

APPROVED BY: 

EXPLANATION:

See staff report.

FINANCIAL STATEMENT:

APPROVED: _____ **FINANCE**

ACCOUNT NO.

APPROVED: _____ **MIS**

Funds are appropriated in various CIP accounts for FY 2022; funding for subsequent fiscal years is dependent on future appropriations as part of annual budget.

ENVIRONMENTAL REVIEW:

This is not a project and, therefore, not subject to environmental review.

ORDINANCE: INTRODUCTION FINAL ADOPTION

STAFF RECOMMENDATION:

Adopt Resolution executing a First Amendment to the Agreement with Chen Ryan Associates, Inc.

BOARD / COMMISSION RECOMMENDATION:

ATTACHMENTS:

1. Explanation
2. First Amendment to Agreement
3. Resolution

Explanation:

The Engineering & Public Works Department advertised a Request for Qualifications (RFQ) for various engineering, architectural and construction support services on May 1, 2019. Additional services requested via the RFQ include, for example, plan and map reviews, preparation of plat and legal descriptions, sewer system management and financial administration, housing and real estate development services, Building Department support services, and environmental compliance involving storm water, wastewater and hazardous materials.

The RFQ was advertised on the City's website, published in the San Diego Union Tribune, e-mailed to over 100 professional consulting firms and also advertised on PlanetBids where over 400 firms were notified. Additionally, the City hosted an Information Session regarding the RFQ process on May 14, 2019 at the MLK Jr. Community Center, which was attended by over 100 people. The Department received 71 Statement of Qualifications (SOQs) from various firms by the June 10, 2019 deadline. Copies of the SOQs received are available in the Office of the City Engineer.

Based on the strength of their SOQ, interview and past performance, the City of National City entered into an Agreement with Chen Ryan Associates, Inc., dba CR Associates, on November 19, 2019, per City Council Resolution No. 2019-163, to provide on-call support services for National City's Capital Improvement Program (CIP), including, but not limited to, project management; civil engineering; traffic engineering; transportation planning; plan reviews; constructability reviews; long-range planning; grants management; community outreach and communications. The original Agreement is for a not-to-exceed amount of \$2,000,000 and a term of three years, with the option to extend for two one-year extensions.

Both parties desire to execute a First Amendment to increase the not-to exceed amount by \$1,000,000, for a total Agreement amount of \$3,000,000 to allow Chen Ryan Associates, Inc. to continue providing CIP support services. The City's 5-Year CIP estimates approximately \$73 million in capital improvements over the next five years. See attached First Amendment to Agreement. The City's implementation rate averages about fifteen projects a year totaling approximately \$15.3 million. Historically, Chen Ryan has provided the City with an average of \$1,000,000 in services per year.

Chen Ryan Associates, Inc., a DBE (Disadvantaged Business Enterprise, SBE (Small Business Enterprise), WBE (Women Business Enterprise), and MBE (Minority Business Enterprise), has assisted the City with the design/planning of the following grant funded projects:

- 24th Street Transit Oriented Development Overlay
- National City Blvd Inter-City Bike Connection
- Sweetwater Road Protected Bikeway
- Bayshore Bikeway – Segment 5
- West 19th Street Greenway.

Chen Ryan Associates, Inc. has also assisted the City's aggressive grant application efforts, as we pursue a variety of funding opportunities to fund the CIP. It should be noted that all Civil Engineering consultants go through a project task competitive process that follows state guidelines in order to be awarded each individual project task.

Staff recommends executing a First Amendment to the Agreement with Chen Ryan Associates, Inc.

Funds are appropriated in various CIP accounts and will be encumbered on an as-needed basis.

**AMENDMENT TO THE AGREEMENT
BY AND BETWEEN
THE CITY OF NATIONAL CITY
AND
CHEN RYAN ASSOCIATES, INC.**

THIS 1ST AMENDMENT TO THE AGREEMENT is entered into this 7TH day of September, 2021, by and between the CITY OF NATIONAL CITY, a municipal corporation ("CITY"), and CHEN RYAN ASSOCIATES, INC., dba CR ASSOCIATES, a California corporation (the "CONSULTANT").

RECITALS

WHEREAS, the CITY and the CONSULTANT entered into an Agreement on November 19, 2019 ("the Agreement"), wherein the CONSULTANT agreed to provide on-call project support services for the CITY's Capital Improvement Program (CIP), including but not limited to, project management; civil engineering; traffic engineering; transportation planning; plan reviews; constructability reviews; long-range planning; grants management; community outreach and communications, for a not-to-exceed amount of \$2,000,000, and a term of three (3) years, with the option to extend this term for up to two (2), one-year extensions; and

WHEREAS, based on the CONSULTANT'S performance and quality of work, and to ensure timely completion of Capital Improvement Projects, the CITY desires to have the CONSULTANT continue providing on-call project support services for National City's CIP, and the CONSULTANT is willing to perform such services; and

WHEREAS, the parties desire to amend the Agreement by increasing the \$2,000,000 not-to-exceed amount by \$1,000,000, for a total not-to-exceed amount of \$3,000,000.

AGREEMENT

NOW, THEREFORE, the parties hereto agree that:

1. The November 19, 2019 Agreement is hereby amended to increase the \$2,000,000 not-to-exceed amount by \$1,000,000, for a total not-to-exceed amount of \$3,000,000.
2. The parties further agree that, with the foregoing exceptions, each and every other term and provision of the November 19, 2019 Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this 1ST Amendment to the Agreement on the date and year first above written.

CITY OF NATIONAL CITY

By:

Alejandra Sotelo-Solis, Mayor

APPROVED AS TO FORM:

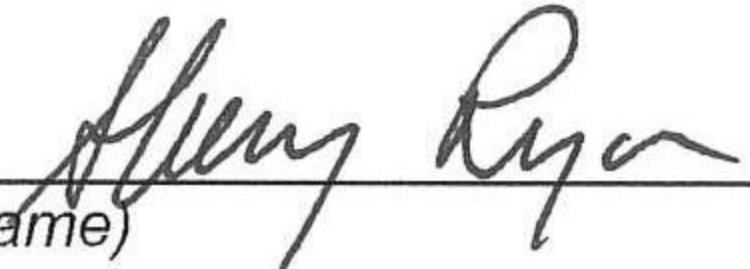
By:

Charles E. Bell Jr.
City Attorney

CHEN RYAN ASSOCIATES, INC.

(Corporation – signatures of two corporate officers required)

By:



(Name)

Sherry Ryan

(Print)

Secretary

(Title)

By:



(Name)

MONIQUEZ CHEW

(Print)

President

(Title)

RESOLUTION NO. 2021-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, AUTHORIZING THE MAYOR TO EXECUTE A FIRST AMENDMENT TO THE AGREEMENT WITH CHEN RYAN ASSOCIATES, INC., INCREASING THE NOT-TO-EXCEED AMOUNT BY \$1,000,000 FOR A TOTAL AGREEMENT AMOUNT OF \$3,000,000, TO PROVIDE ON-CALL PROJECT SUPPORT SERVICES FOR NATIONAL CITY'S CAPITAL IMPROVEMENT PROGRAM (CIP)

WHEREAS, on November 19, 2019, per City Council Resolution No. 2019-163, the City of National City ("City") entered into an Agreement with Chen Ryan Associates, Inc., to provide on-call support services for the City's Capital Improvement Program ("CIP"), including, but not limited to, project management; civil engineering; traffic engineering; transportation planning; plan reviews; constructability reviews; long-range planning; grants management; community outreach and communications; and

WHEREAS, the November 19, 2019, Agreement is for a not-to-exceed amount of \$2,000,000 and a term of three years, with the option to extend for two (2), one-year extensions; and

WHEREAS, City staff requests City Council authorize the Mayor to execute a First Amendment to the Agreement to increase the not-to-exceed amount by \$1,000,000, for a total Agreement amount of \$3,000,000.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: Authorizes the Mayor to execute a First Amendment to the Agreement with Chen Ryan Associates, Inc., increasing the not-to-exceed amount by \$1,000,000 for a total Agreement amount of \$3,000,000, to provide on-call project support services for National City's Capital Improvement Program (CIP), including, but not limited to, project management; engineering; construction management, inspections, and certified payroll; plan reviews; constructability reviews; community outreach and communications.

Section 2: The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolution.

PASSED and ADOPTED this 7th day of September, 2021.

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City authorizing the Mayor to execute a First Amendment to the Agreement with National City Electric, increasing the not-to-exceed amount by \\$40,000, for a total Agreement amount of \\$100,000 and delegating the City Manager authority to approve any future extensions of this Agreement, due to the demand and continuous need for assistance with specialized electrical maintenance services. \(Engineering/Public Works\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.:

ITEM TITLE:

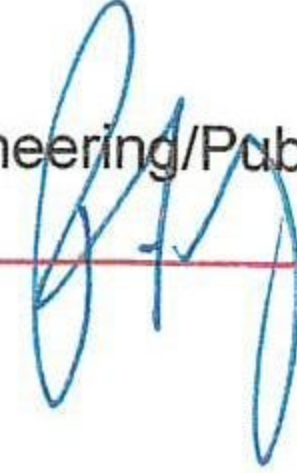
Resolution of the City Council of the City of National City authorizing the Mayor to execute a First Amendment to the Agreement with National City Electric, increasing the not-to-exceed amount by \$40,000, for a total Agreement amount of \$100,000 and delegating the City Manager authority to approve any future extensions of this Agreement, due to the demand and continuous need for assistance with specialized electrical maintenance services.

PREPARED BY: Tirza Gonzales, Management Analyst II *TG*

PHONE: 619-336-4318

DEPARTMENT: Engineering/Public Works

APPROVED BY: _____



EXPLANATION:

See staff report.

FINANCIAL STATEMENT:

ACCOUNT NO.

Funds are appropriated in various accounts for FY 2022; funding for subsequent fiscal years is dependent on future appropriations as part of annual budget.

APPROVED: _____ **FINANCE**

APPROVED: _____ **MIS**

ENVIRONMENTAL REVIEW:

This is not a project, and, therefore, not subject to environmental review.

ORDINANCE: INTRODUCTION FINAL ADOPTION

STAFF RECOMMENDATION:

Adopt Resolution executing a First Amendment to the Agreement with National City Electric.

BOARD / COMMISSION RECOMMENDATION:

ATTACHMENTS:

1. Explanation
2. First Amendment to Agreement
3. Resolution

Explanation:

On July 1, 2020, the City of National City entered into an Agreement with National City Electric, to provide citywide specialized electrical maintenance services, such as light fixture and circuit breaker repairs and installs, rewiring, and conduit runs, as needed and as directed by the City's Facilities Maintenance Supervisor. The original Agreement is for a not-to-exceed amount of \$60,000, and for an initial term of three years, with the option to extend for up to three, one-year extensions. Historically, National City Electric has provided services to the City in the amount of approximately \$20,000 per year, however this year all new Light Emitting Diode (LED) light fixtures were necessary in the Property and Evidence Room at the National City Police Department for operational efficiency.

Based on the performance, quality of work, and need for continuous specialized electrical maintenance services, staff is requesting City Council approval of a First Amendment to the Agreement with National City Electric, increasing the not-to-exceed amount of the Agreement by \$40,000, for a total Agreement amount of \$100,000 and authorizing the City Manager to execute future Agreement extensions.

Funds are appropriated in various accounts within the departmental FY 2022 budget; funding for subsequent fiscal years is dependent on future appropriations as part of annual budget.

**AMENDMENT TO THE AGREEMENT
BY AND BETWEEN
THE CITY OF NATIONAL CITY
AND
NATIONAL CITY ELECTRIC**

THIS 1ST AMENDMENT TO THE AGREEMENT is entered into this 7TH day of September, 2021, by and between the CITY OF NATIONAL CITY, a municipal corporation ("CITY"), and GERALDO CORTEZ, an individual, DBA NATIONAL CITY ELECTRIC (the "CONTRACTOR").

RECITALS

WHEREAS, the CITY and the CONTRACTOR entered into an Agreement on July 1, 2020 ("the Agreement"), wherein the CONTRACTOR agreed to provide Citywide on-site electrical maintenance services, including, but not limited to, repairs and remodeling, for a not-to-exceed amount of \$60,000, and a term of three (3) years, with the option to extend this term for up to three (3), one-year extensions; and

WHEREAS, the parties desire to amend the Agreement by increasing the \$60,000 not-to-exceed amount by \$40,000, for a total not-to-exceed amount of \$100,000.

AGREEMENT

NOW, THEREFORE, the parties hereto agree that:

1. The July 1, 2020 Agreement is hereby amended to increase the \$60,000 not-to-exceed amount by \$40,000, for a total not-to-exceed amount of \$100,000.
2. The parties further agree that, with the foregoing exceptions, each and every other term and provision of the July 1, 2020 Agreement shall remain in full force and effect.

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///

IN WITNESS WHEREOF, the parties hereto have executed the First Amendment to the Agreement on the date and year first above written.

CITY OF NATIONAL CITY

NATIONAL CITY ELECTRIC

By:

Alejandra Sotelo-Solis, Mayor

By:

Gerald Cortez
(Name)

APPROVED AS TO FORM:

Geraldo Cortez
(Print)

By:

Charles E. Bell Jr.
City Attorney

Owner
(Title)

RESOLUTION NO. 2021-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, AUTHORIZING THE MAYOR TO EXECUTE A FIRST AMENDMENT TO THE AGREEMENT WITH NATIONAL CITY ELECTRIC, INCREASING THE NOT-TO-EXCEED AMOUNT BY \$40,000, FOR A TOTAL AGREEMENT AMOUNT OF \$100,000 AND AUTHORIZING THE CITY MANAGER TO EXECUTE ANY FUTURE EXTENSIONS OF THIS AGREEMENT

WHEREAS, on July 1, 2020, the City of National City (“City”) entered into an Agreement with National City Electric to provide citywide specialized electrical maintenance services, such as light fixture and circuit breaker repairs and installs, rewiring, and conduit runs, as needed and as directed by the City’s Facilities Maintenance Supervisor; and

WHEREAS, the July 1, 2020, Agreement is for a not-to-exceed amount of \$60,000 and an initial term of three (3) years, with the option to extend for up to three (3), one-year extensions; and

WHEREAS, City staff requests City Council authorize the Mayor to execute a First Amendment to the Agreement to increase the not-to-exceed amount by \$40,000, for a not-to-exceed amount of \$100,000; and

WHEREAS, City staff also requests City Council authorize the City Manager to execute future Agreement extensions due to the demand and continuous need for assistance with specialized electrical maintenance services.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: Authorizes the Mayor to execute a First Amendment to the Agreement with National City Electric, increasing the not-to-exceed amount by \$40,000 for a total Agreement amount of \$100,000.

Section 2: Authorizes the City Manager to execute future Agreement extensions due to the demand and continuous need for specialized electrical maintenance services.

Section 3: The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolution.

PASSED and ADOPTED this 7th day of September, 2021.

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City: 1\) awarding a contract to SWCS, Inc. in the not-to-exceed amount of \\$230,704.00 for the Camacho Recreation Center HVAC Replacement Project, CIP No. 20-07; 2\) authorizing a 15% contingency in the amount of \\$34,605.60 for any unforeseen changes; and 3\) authorizing the Mayor to execute the contract. \(Engineering/Public Works\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.

ITEM TITLE:

Resolution of the City Council of the City of National City, 1) awarding a contract to SWCS, Inc. in the not-to-exceed amount of \$230,704.00 for the Camacho Recreation Center HVAC Replacement Project, CIP No. 20-07; 2) authorizing a 15% contingency in the amount of \$34,605.60 for any unforeseen changes; and 3) authorizing the Mayor to execute the contract.

PREPARED BY: Luca Zappiello, Assistant Engineer - Civil

PHONE: 619-336-4360

EXPLANATION:

See attached.

DEPARTMENT: Engineering/Public Works

APPROVED BY: 

FINANCIAL STATEMENT:

ACCOUNT NO.

Contract Award - \$230,704.00

Expenditure Account No.: 001-409-500-598-1500 (Facilities Upgrades) (funds are available through prior City Council Appropriations)

15% Contingency – \$34,605.60

Expenditure Account No.: 001-409-500-598-1500 (Facilities Upgrades) (funds are available through prior City Council Appropriations)

APPROVED: 

Finance

APPROVED: _____

MIS

ENVIRONMENTAL REVIEW:

CEQA Notice of Exemption will be filed with the County Recorder's Office prior to construction.

ORDINANCE: **INTRODUCTION:** **FINAL ADOPTION:**

STAFF RECOMMENDATION:

Adopt Resolution awarding a contract to SWCS, Inc in the not-to-exceed amount of \$230,704.00 for the Camacho Recreation Center HVAC Replacement Project, CIP No. 20-07.

BOARD / COMMISSION RECOMMENDATION:

N/A

ATTACHMENTS:

1. Explanation
2. Bid Opening Summary
3. Three Lowest Bidders Summary
4. Owner-Contract Agreement
5. Resolution

EXPLANATION

The Camacho Recreation Center HVAC Replacement Project general scope of work is to remove and dispose of existing HVAC system and provide and install new HVAC system on the roof of the Camacho Recreation Center at 1810 E 22nd St, National City, CA 91950.

On July 22, 2021, the bid solicitation was posted on PlanetBids, a free public electronic bidding system for contractors. On July 26, 2021 and July 28, 2021, the bid solicitation was advertised in local newspapers.

On August 12, 2021, two (2) bids were received by the 1:00 p.m. deadline. SWCS, Inc. was the apparent lowest bidder with a total bid amount of \$230,704.00. Upon review of all documents submitted, SWCS's bid was deemed responsive and they are the lowest responsible bidder qualified to perform the work as described in the project specifications.

Staff recommends awarding a contract to SWCS, Inc. in the amount not to exceed \$230,704.00 and authorizing a 15% contingency in the amount of \$34,605.60 to address any unforeseen conditions that may arise.

Attached are the bid opening summary sheet and a line item summary of the two lowest bidders for reference. Also attached is the Owner-Contractor Agreement.

Construction is estimated to be completed by Fall 2021. Typically construction will begin four to six weeks after City Council approves award of contract to allow for coordination efforts, as well as contractor mobilization. Updates will be provided on the City's CIP dashboard at: <https://www.nationalcityca.gov/government/engineering-public-works>.



BID OPENING SUMMARY

NAME: CAMACHO RECREATION CENTER HVAC REPLACEMENT PROJECT
CIP NO: 20-07
DATE: Thursday, August 12, 2021
TIME: 1:00 P.M.
ESTIMATE: \$250,000.00
PROJECT ENGINEER: Roberto Yano, P.E.

NO.	BIDDER'S NAME	BID AMOUNT	ADDENDA #1,2	BID SECURITY - BOND
1.	SWCS, Inc. 11653 Riverside Dr. Ste. 153 Lakeside, California 92040	\$230,704.00	Yes	Bond
2.	Countywide Mechanical Systems Inc. 1400 N. Johnson Ave. Suite 114 El Cajon, California 92020	\$239,204.00	Yes	Bond

Bid Results for Camacho Recreation Center HVAC Replacement Project (CIP No. 20-07)							
Item No.	Description	Unit	Qty.	SWCS, Inc.		Countrywide Mechanical System, Inc.	
Base Bid - Camacho Recreation Center HVAC Replacement Project Project							
1	Camacho Recreation Center HVAC Replacement	LS	1	\$230,704.00	\$230,704.00	\$239,204.00	\$239,204.00
			Total	\$230,704.00		\$239,204.00	

OWNER - CONTRACTOR AGREEMENT

CAMACHO RECREATION CENTER HVAC REPLACEMENT PROJECT, CIP NO. 20-07

This Owner-Contractor Agreement ("Agreement") is made by and between the City of National City, 1243 National City Boulevard National City, California 91950 and **SWCS INC ("Contractor")**, 11653 Riverside Drive, Ste. 153, Lakeside, CA 92040, on the 7th day of September, 2021, for the construction of the above referenced Project.

In consideration of the mutual covenants and agreements set forth herein, the Owner and Contractor have mutually agreed as follows:

1. CONSTRUCTION

The Contractor agrees to do all the work and furnish all the labor, services, materials and equipment necessary to construct and complete the Project in a turn-key manner in accordance with this Agreement and all documents and plans referenced in Exhibit "A", (hereinafter "Contract Documents"), in compliance with all relevant Federal, State of California, County of San Diego and City of National City codes and regulations, and to the satisfaction of the Owner.

2. CONTRACT PRICE

Owner hereby agrees to pay and the Contractor agrees to accept as full compensation for constructing the project in accordance with these Contract Documents in an amount not to exceed the contract price as set forth in Exhibit "B" attached hereto and incorporated herein by reference. Payments to the Contractor shall be made in the manner described in the Special Provisions.

3. TIME FOR PERFORMANCE

Time is of the essence for this Agreement and the Contractor shall construct the project in every detail to a complete and turn-key fashion to the satisfaction of the Owner within the specified duration set forth in the Special Provisions.

4. NON-DISCRIMINATION

In the performance of this Agreement, the Contractor shall not refuse or fail to hire or employ any qualified person, or bar or discharge from employment any person, or discriminate against any person, with respect to such person's compensation, terms, conditions or privileges of employment because of such person's race, religious status, sex or age.

5. AUTHORIZED OWNER REPRESENTATIVES

On behalf of the Owner, the Project Manager designated at the pre-construction meeting shall be the Owner's authorized representative in the interpretation and enforcement of all Work performed in connection with this Agreement.

6. WORKERS' COMPENSATION INSURANCE

a) By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the Work of this Agreement.

b) The Contractor shall require each subcontractor to comply with the requirements of Section 3700 of the Labor Code. Before commencing any Work, the Contractor shall cause each subcontractor to execute the following certification:

"I am aware of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the Work of this Agreement."

7. ENTIRE AGREEMENT; CONFLICT

The Contract Documents comprise the entire agreement between the Owner and the Contractor with respect to the Work. In the event of conflict between the terms of this Agreement and the bid of the Contractor, then this Agreement shall control and nothing herein shall be considered as an acceptance of the terms of the bid conflicting herewith.

8. MAINTENANCE OF AGREEMENT DOCUMENTATION

Contractor shall maintain all books, documents, papers, employee time sheets, accounting records and other evidence pertaining to costs incurred and shall make such materials available at its office at all reasonable times during the term of this Agreement and for three (3) years from the date of final payment under this Agreement, for inspection by Owner and copies thereof shall be furnished to Owner if requested.

9. INDEPENDENT CONTRACTOR

At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee, agent, partner or joint venturer of the Owner. Owner shall have the right to control Contractor insofar as the results of Contractor's

services rendered pursuant to this Agreement; however, Owner shall not have the right to control the means by which Contractor accomplishes such services.

10. LICENSES AND PERMITS

Contractor represents and declares to Owner that it has all licenses, permits, qualifications and approvals of whatever nature which are legally required to practice its profession. Contractor represents and warrants to Owner that Contractor shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any licenses, permits, qualifications or approvals which are legally required for Contractor to practice its profession.

11. GOVERNING LAW, VENUE

This Agreement and the Contract Documents shall be construed under and in accordance with the laws of the State of California, and the appropriate venue for any action or proceeding arising from this Agreement and/or the Contract Documents shall be had in the Superior Court of San Diego, Central Branch.

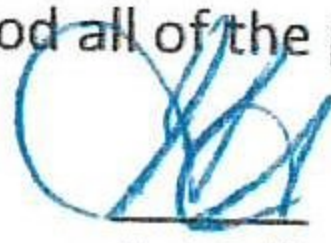
12. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall for all purposes be deemed to be an original.

13. FALSE CLAIMS

Contractor acknowledges that if a false claim is submitted to the Owner, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that the False Claims Act, California Government Code sections 12650, et seq., provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include within their scope false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of the information. In the event the Owner seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorneys' fees. Contractor hereby acknowledges that the filing of a false claim may the Contractor to an administrative debarment proceeding wherein Contractor may be prevented from further bidding on public contracts for a period of up to five (5) years.

I have read and understood all of the provisions of this Section 15, above:


(Initial)


(Initial)

14. AGREEMENT MODIFICATION

This Agreement and the Contract Documents may not be modified orally or in any manner other than by an amendment in writing and signed by the Owner and the Contractor.

IN WITNESS WHEREOF this Agreement is executed as of the date first written above.

Owner:

Alejandra Sotelo-Solis
Mayor, City of National City

APPROVED AS TO FORM:

By: _____
Charles E. Bell, Jr.
City Attorney

Contractor:
SWCS INC

Gerald Smith
(Owner/Officer signature)

Gerald Smith, President
Print name and title

(Second officer signature if a corporation)

Stephanie Smith
Stephanie Smith, Vice President
Print name and title

09048019
Contractor's City Business License No.

907347-C-01/D28/D34, B, C20, C9
State Contractor's License No. and Class

11653 Riverside Dr. #153
Business street address

Lakeside, CA 92040
City, State and Zip Code

CORPORATE CERTIFICATE

I, Stephanie Smith certify that I am the Secretary of the Corporation named as Contractor in the foregoing Contract; that Gerald Smith, who signed said contract on behalf of the Contractor, was then President of said Corporation; that said contract was duly signed for and in behalf of said Corporation by authority of its governing body and is within the scope of its corporate powers.

I, Stephanie Smith certify that I am the Secretary of the Corporation named as Contractor in the foregoing Contract; that Gerald Smith, who signed said contract on behalf of the Contractor, was then President of said Corporation; that said contract was duly signed for and in behalf of said Corporation by authority of its governing body and is within the scope of its corporate powers.

Corporate Seal: _____

PERFORMANCE BOND

WHEREAS, the City Council of the City of National City, by Resolution No. 2021-_____, on the 7th day of September, 2021, has awarded **SWCS INC**, hereinafter designated as the "Principal", the CAMACHO RECREATION CENTER HVAC REPLACEMENT PROJECT, CIP NO. 20-07

WHEREAS, said Principal is required under the terms of said contract to furnish a bond for the faithful performance of said contract.

NOW, THEREFORE, we, the Principal and United States Fire Insurance Company as surety, are held and firmly bound unto the City of National City, hereinafter called the "City", in the penal sum of **Two Hundred Thirty Thousand, Seven Hundred Four (\$230,704.00)** dollars lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT if the above bounden Principal, his/her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the said contract any alteration thereof made as therein provides, on his or their part, to be kept and performed at the time and in the amount therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City of National City, its officers, agents, employees, and volunteers as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and virtue.

And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed herein or the specifications accompanying the same shall in any wise affect its obligations on this bond, and it does hereby waive notice of any such

change, extension of time, alteration or additions to the terms of the contract or to the work or to the specifications.

In the event suit is brought upon this bond by the City and judgment is recovered, the surety shall pay all costs incurred by the City in such suit, including a reasonable attorney's fee to be fixed by the Court.

IN WITNESS WHEREOF three identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the

Principal and Surety above named, on the 24th day of August, 2021.

United States Fire Insurance Company

(SEAL)

Tara Bacon
(SEAL)

Tara Bacon, Attorney-in-fact

(SEAL)

Surety

SWCS, Inc. dba Southwest Construction Services, Inc.

(SEAL)

Gerald Smith
(SEAL)

Gerald Smith, President

(SEAL)

Principal

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

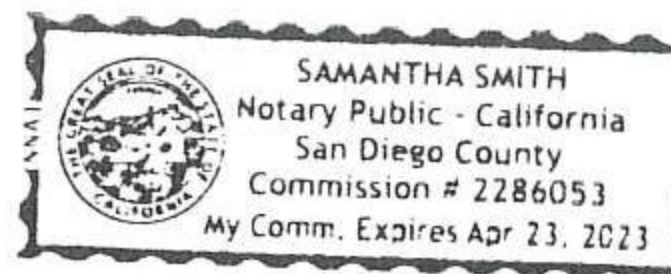
State of California
County of San Diego)

On August 26th 2021 before me, Samantha Smith, Notary Public
(insert name and title of the officer)

personally appeared Gerald Smith,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature  (Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego)

On August 24, 2021 before me, Minna Huovila, Notary Public
(insert name and title of the officer)

personally appeared Tara Bacon,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 

(Seal)



POWER OF ATTORNEY
UNITED STATES FIRE INSURANCE COMPANY
PRINCIPAL OFFICE - MORRISTOWN, NEW JERSEY

87171

KNOW ALL MEN BY THESE PRESENTS: That United States Fire Insurance Company, a corporation duly organized and existing under the laws of the state of Delaware, has made, constituted and appointed, and does hereby make, constitute and appoint:

Lawrence F. McMahon, Sarah Myers, Lilia De Loera, Janice Martin, Dale G. Harshaw, John R. Qualin, Geoffrey Shelton,
Tara Bacon, Minna Huovila, Maria Hallmark

each, its true and lawful Attorney(s)-In-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver: Any and all bonds and undertakings of surety and other documents that the ordinary course of surety business may require, and to bind United States Fire Insurance Company thereby as fully and to the same extent as if such bonds or undertakings had been duly executed and acknowledged by the regularly elected officers of United States Fire Insurance Company at its principal office, in amounts or penalties not exceeding: **Fifty Million Dollars (\$50,000,000).**

This Power of Attorney limits the act of those named therein to the bonds and undertakings specifically named therein, and they have no authority to bind United States Fire Insurance Company except in the manner and to the extent therein stated.

This Power of Attorney revokes all previous Powers of Attorney issued on behalf of the Attorneys-In-Fact named above and expires on January 31, 2022.

This Power of Attorney is granted pursuant to Article IV of the By-Laws of United States Fire Insurance Company as now in full force and effect, and consistent with Article III thereof, which Articles provide, in pertinent part:

Article IV, Execution of Instruments - Except as the Board of Directors may authorize by resolution, the Chairman of the Board, President, any Vice-President, any Assistant Vice President, the Secretary, or any Assistant Secretary shall have power on behalf of the Corporation:

- (a) to execute, affix the corporate seal manually or by facsimile to, acknowledge, verify and deliver any contracts, obligations, instruments and documents whatsoever in connection with its business including, without limiting the foregoing, any bonds, guarantees, undertakings, recognizances, powers of attorney or revocations of any powers of attorney, stipulations, policies of insurance, deeds, leases, mortgages, releases, satisfactions and agency agreements;
- (b) to appoint, in writing, one or more persons for any or all of the purposes mentioned in the preceding paragraph (a), including affixing the seal of the Corporation.

Article III, Officers, Section 3.11, Facsimile Signatures. The signature of any officer authorized by the Corporation to sign any bonds, guarantees, undertakings, recognizances, stipulations, powers of attorney or revocations of any powers of attorney and policies of insurance issued by the Corporation may be printed, facsimile, lithographed or otherwise produced. In addition, if and as authorized by the Board of Directors, dividend warrants or checks, or other numerous instruments similar to one another in form, may be signed by the facsimile signature or signatures, lithographed or otherwise produced, of such officer or officers of the Corporation as from time to time may be authorized to sign such instruments on behalf of the Corporation. The Corporation may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Corporation, notwithstanding the fact that he may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, United States Fire Insurance Company has caused these presents to be signed and attested by its appropriate officer and its corporate seal hereunto affixed this 10th day of March, 2016.

UNITED STATES FIRE INSURANCE COMPANY



ARR

Anthony R. Slimowicz, President

State of New Jersey }
County of Morris }

On this 10th day of March 2016, before me, a Notary public of the State of New Jersey, came the above named officer of United States Fire Insurance Company, to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seal of United States Fire Insurance Company thereto by the authority of his office.

SONIA SCALA
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES 3/25/2024
No. 2163686

Sonia Scala
Sonia Scala (Notary Public)

I, the undersigned officer of United States Fire Insurance Company, a Delaware corporation, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy is still in force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of United States Fire Insurance Company on the 24th day of August 2021

UNITED STATES FIRE INSURANCE COMPANY



Peter M. Quinn

Peter M. Quinn, Senior Vice President

PAYMENT BOND

WHEREAS, the City Council of the City of National City, by Resolution No. 2021-_____, on the **7th day of September, 2021** has awarded **SWCS INC**, hereinafter designated as the "Principal", the CAMACHO RECREATION CENTER HVAC REPLACEMENT PROJECT, CIP NO. 20-07

WHEREAS, said Principal is required by Chapter 5 (commencing at Section 3225) and Chapter 7 (commencing at Section 3247), Title 15, Part 4, Division 3 of the California Civil Code to furnish a bond in connection with said contract;


NOW, THEREFORE, we, the Principal and United States Fire Insurance Company as surety, are held and firmly bound unto the City of National City, hereinafter called the "City", in the penal sum of **Two Hundred Thirty Thousand, Seven Hundred Four (\$230,704.00)** dollars lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

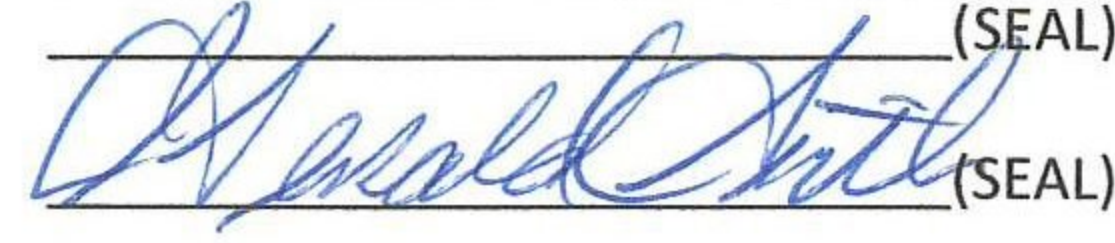
THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his/her or its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay any of the persons named in Section 3181 of the California Civil Code, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or for any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the Contractor and his subcontractors pursuant to Section 18806 of the Revenue and Taxation Code, with respect to such work and labor the Surety will pay for the same in an amount not exceeding the sum hereinafter specified, and also, in case suit is brought upon this bond, a reasonable attorney's fee, to be fixed by the Court.

This Bond shall inure to the benefit of any of the persons named in Section 3181 of the California Civil Code, so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement hereinabove described or pertaining or relating to the furnishing of labor, materials, or equipment therefore, not by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement hereinabove described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner of Public Entity and original contractor or on the part of any obliges named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 3110 or 3112 of the California Civil Code, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

IN WITNESS WHEREOF three identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the 24th day of August, 2021.

United States Fire Insurance Company
_____(SEAL)

_____(SEAL)
Tara Bacon, Attorney-in-fact
_____(SEAL)

SWCS, Inc. dba Southwest Construction Services, Inc.
_____(SEAL)

_____(SEAL)
Gerald Smith, President
_____(SEAL)

Surety

Principal

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego)


On August 26th 2021 before me, Samantha Smith, Notary Public
(insert name and title of the officer)

personally appeared Gerald Smith,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

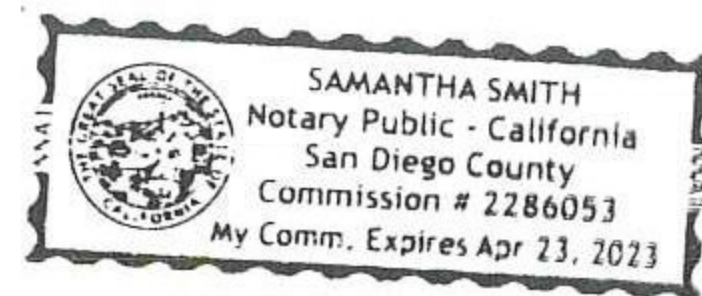
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



ATTORNEY-IN-FACT ACKNOWLEDGEMENT OF SURETY

STATE OF _____)
) ss
COUNTY OF _____)

On this day _____ of _____, 20____, before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ known to me to be the person whose name is subscribed to the within instrument as the attorney-in-fact of the _____, the corporation named as Surety in said instrument, and acknowledged to me that he subscribed the name of said corporation thereto as Surety, and his own name as attorney-in-fact.

NOTE: Signature of those executing for Surety must be properly acknowledged.	NOTE: The Attorney-in-fact must attach a certified copy of the Power of Attorney.
--	---

Signature: _____

Name (Type or Print): _____
(Notary Public in and for said County and State)

My Commission expires: _____

ATTACH ALL BONDS

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego)

On August 24, 2022 before me, Minna Huovila, Notary Public
(insert name and title of the officer)

personally appeared Tara Bacon,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature 

(Seal)



**POWER OF ATTORNEY
UNITED STATES FIRE INSURANCE COMPANY
PRINCIPAL OFFICE - MORRISTOWN, NEW JERSEY**

87171

KNOW ALL MEN BY THESE PRESENTS: That United States Fire Insurance Company, a corporation duly organized and existing under the laws of the state of Delaware, has made, constituted and appointed, and does hereby make, constitute and appoint:

Lawrence F. McMahon, Sarah Myers, Lilia De Loera, Janice Martin, Dale G. Harshaw, John R. Qualin, Geoffrey Shelton,
Tara Bacon, Minna Huovila, Maria Hallmark

each, its true and lawful Attorney(s)-In-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver: Any and all bonds and undertakings of surety and other documents that the ordinary course of surety business may require, and to bind United States Fire Insurance Company thereby as fully and to the same extent as if such bonds or undertakings had been duly executed and acknowledged by the regularly elected officers of United States Fire Insurance Company at its principal office, in amounts or penalties not exceeding: **Fifty Million Dollars (\$50,000,000).**

This Power of Attorney limits the act of those named therein to the bonds and undertakings specifically named therein, and they have no authority to bind United States Fire Insurance Company except in the manner and to the extent therein stated.

This Power of Attorney revokes all previous Powers of Attorney issued on behalf of the Attorneys-In-Fact named above and expires on January 31, 2022.

This Power of Attorney is granted pursuant to Article IV of the By-Laws of United States Fire Insurance Company as now in full force and effect, and consistent with Article III thereof, which Articles provide, in pertinent part:

Article IV, Execution of Instruments - Except as the Board of Directors may authorize by resolution, the Chairman of the Board, President, any Vice-President, any Assistant Vice President, the Secretary, or any Assistant Secretary shall have power on behalf of the Corporation:

- (a) to execute, affix the corporate seal manually or by facsimile to, acknowledge, verify and deliver any contracts, obligations, instruments and documents whatsoever in connection with its business including, without limiting the foregoing, any bonds, guarantees, undertakings, recognizances, powers of attorney or revocations of any powers of attorney, stipulations, policies of insurance, deeds, leases, mortgages, releases, satisfactions and agency agreements;
- (b) to appoint, in writing, one or more persons for any or all of the purposes mentioned in the preceding paragraph (a), including affixing the seal of the Corporation.

Article III, Officers, Section 3.11, Facsimile Signatures. The signature of any officer authorized by the Corporation to sign any bonds, guarantees, undertakings, recognizances, stipulations, powers of attorney or revocations of any powers of attorney and policies of insurance issued by the Corporation may be printed, facsimile, lithographed or otherwise produced. In addition, if and as authorized by the Board of Directors, dividend warrants or checks, or other numerous instruments similar to one another in form, may be signed by the facsimile signature or signatures, lithographed or otherwise produced, of such officer or officers of the Corporation as from time to time may be authorized to sign such instruments on behalf of the Corporation. The Corporation may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Corporation, notwithstanding the fact that he may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, United States Fire Insurance Company has caused these presents to be signed and attested by its appropriate officer and its corporate seal hereunto affixed this 10th day of March, 2016.

UNITED STATES FIRE INSURANCE COMPANY



ARR

Anthony R. Slimowicz, President

State of New Jersey }
County of Morris }

On this 10th day of March 2016, before me, a Notary public of the State of New Jersey, came the above named officer of United States Fire Insurance Company, to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seal of United States Fire Insurance Company thereto by the authority of his office.

SONIA SCALA
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES 3/25/2024
No. 2163686

Sonia Scala

Sonia Scala (Notary Public)

I, the undersigned officer of United States Fire Insurance Company, a Delaware corporation, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy is still in force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of United States Fire Insurance Company on the 24th day of August 2021

UNITED STATES FIRE INSURANCE COMPANY



Peter M. Quinn

Peter M. Quinn, Senior Vice President

PERFORMANCE BOND

WHEREAS, the City Council of the City of National City, by Resolution No. 2021-_____, on the 7th day of September, 2021, has awarded SWCS INC, hereinafter designated as the "Principal", the CAMACHO RECREATION CENTER HVAC REPLACEMENT PROJECT, CIP NO. 20-07

WHEREAS, said Principal is required under the terms of said contract to furnish a bond for the faithful performance of said contract.

NOW, THEREFORE, we, the Principal and United States Fire Insurance Company as surety, are held and firmly bound unto the City of National City, hereinafter called the "City", in the penal sum of Two Hundred Thirty Thousand, Seven Hundred Four (\$230,704.00) dollars lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT if the above bounden Principal, his/her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the said contract any alteration thereof made as therein provides, on his or their part, to be kept and performed at the time and in the amount therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City of National City, its officers, agents, employees, and volunteers as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and virtue.

And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed herein or the specifications accompanying the same shall in any wise affect its obligations on this bond, and it does hereby waive notice of any such

change, extension of time, alteration or additions to the terms of the contract or to the work or to the specifications.

In the event suit is brought upon this bond by the City and judgment is recovered, the surety shall pay all costs incurred by the City in such suit, including a reasonable attorney's fee to be fixed by the Court.

IN WITNESS WHEREOF three identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the

Principal and Surety above named, on the 24th day of August, 2021.

United States Fire Insurance Company

SWCS, Inc. dba Southwest Construction Services, Inc.

Tara Bacon (SEAL)
Tara Bacon (SEAL)

Gerald J. Smith (SEAL)
Gerald J. Smith (SEAL)

Tara Bacon, Attorney-in-fact (SEAL)

Gerald J. Smith, President (SEAL)

Surety

Principal

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

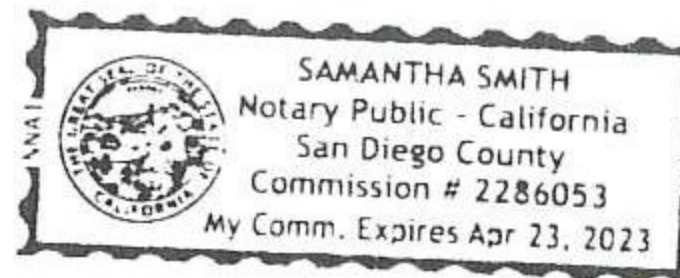
State of California
County of San Diego)

On August 26th 2021 before me, Samantha Smith, Notary Public
(insert name and title of the officer)

personally appeared Gerald Smith,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature *Samantha Smith* (Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego)

On August 24, 2022 before me, Minna Huovila, Notary Public
(insert name and title of the officer)

personally appeared Tara Bacon,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



**POWER OF ATTORNEY
UNITED STATES FIRE INSURANCE COMPANY
PRINCIPAL OFFICE - MORRISTOWN, NEW JERSEY**

87171

KNOW ALL MEN BY THESE PRESENTS: That United States Fire Insurance Company, a corporation duly organized and existing under the laws of the state of Delaware, has made, constituted and appointed, and does hereby make, constitute and appoint:

Lawrence F. McMahon, Sarah Myers, Lilia De Loera, Janice Martin, Dale G. Harshaw, John R. Qualin, Geoffrey Shelton,
Tara Bacon, Minna Huovila, Maria Hallmark

each, its true and lawful Attorney(s)-In-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver: Any and all bonds and undertakings of surety and other documents that the ordinary course of surety business may require, and to bind United States Fire Insurance Company thereby as fully and to the same extent as if such bonds or undertakings had been duly executed and acknowledged by the regularly elected officers of United States Fire Insurance Company at its principal office, in amounts or penalties not exceeding: **Fifty Million Dollars (\$50,000,000).**

This Power of Attorney limits the act of those named therein to the bonds and undertakings specifically named therein, and they have no authority to bind United States Fire Insurance Company except in the manner and to the extent therein stated.

This Power of Attorney revokes all previous Powers of Attorney issued on behalf of the Attorneys-In-Fact named above and expires on January 31, 2022.

This Power of Attorney is granted pursuant to Article IV of the By-Laws of United States Fire Insurance Company as now in full force and effect, and consistent with Article III thereof, which Articles provide, in pertinent part:

Article IV, Execution of Instruments - Except as the Board of Directors may authorize by resolution, the Chairman of the Board, President, any Vice-President, any Assistant Vice President, the Secretary, or any Assistant Secretary shall have power on behalf of the Corporation:

- (a) to execute, affix the corporate seal manually or by facsimile to, acknowledge, verify and deliver any contracts, obligations, instruments and documents whatsoever in connection with its business including, without limiting the foregoing, any bonds, guarantees, undertakings, recognizances, powers of attorney or revocations of any powers of attorney, stipulations, policies of insurance, deeds, leases, mortgages, releases, satisfactions and agency agreements;
- (b) to appoint, in writing, one or more persons for any or all of the purposes mentioned in the preceding paragraph (a), including affixing the seal of the Corporation.

Article III, Officers, Section 3.11, Facsimile Signatures. The signature of any officer authorized by the Corporation to sign any bonds, guarantees, undertakings, recognizances, stipulations, powers of attorney or revocations of any powers of attorney and policies of insurance issued by the Corporation may be printed, facsimile, lithographed or otherwise produced. In addition, if and as authorized by the Board of Directors, dividend warrants or checks, or other numerous instruments similar to one another in form, may be signed by the facsimile signature or signatures, lithographed or otherwise produced, of such officer or officers of the Corporation as from time to time may be authorized to sign such instruments on behalf of the Corporation. The Corporation may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Corporation, notwithstanding the fact that he may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, United States Fire Insurance Company has caused these presents to be signed and attested by its appropriate officer and its corporate seal hereunto affixed this 10th day of March, 2016.

UNITED STATES FIRE INSURANCE COMPANY



ARR

Anthony R. Slimowicz, President

State of New Jersey }
County of Morris }

On this 10th day of March 2016, before me, a Notary public of the State of New Jersey, came the above named officer of United States Fire Insurance Company, to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seal of United States Fire Insurance Company thereto by the authority of his office.

SONIA SCALA
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES 3/25/2024
No. 2163686

Sonia Scala

Sonia Scala (Notary Public)

I, the undersigned officer of United States Fire Insurance Company, a Delaware corporation, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy is still in force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of United States Fire Insurance Company on the 24th day of August 2021

UNITED STATES FIRE INSURANCE COMPANY



Peter M. Quinn

Peter M. Quinn, Senior Vice President

PAYMENT BOND

WHEREAS, the City Council of the City of National City, by Resolution No. 2021-_____, on the **7th day of September, 2021** has awarded **SWCS INC**, hereinafter designated as the "Principal", the CAMACHO RECREATION CENTER HVAC REPLACEMENT PROJECT, CIP NO. 20-07

WHEREAS, said Principal is required by Chapter 5 (commencing at Section 3225) and Chapter 7 (commencing at Section 3247), Title 15, Part 4, Division 3 of the California Civil Code to furnish a bond in connection with said contract;

NOW, THEREFORE, we, the Principal and United States Fire Insurance Company as surety, are held and firmly bound unto the City of National City, hereinafter called the "City", in the penal sum of **Two Hundred Thirty Thousand, Seven Hundred Four (\$230,704.00)** dollars lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his/her or its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay any of the persons named in Section 3181 of the California Civil Code, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or for any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the Contractor and his subcontractors pursuant to Section 18806 of the Revenue and Taxation Code, with respect to such work and labor the Surety will pay for the same in an amount not exceeding the sum hereinafter specified, and also, in case suit is brought upon this bond, a reasonable attorney's fee, to be fixed by the Court.

This Bond shall inure to the benefit of any of the persons named in Section 3181 of the California Civil Code, so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement hereinabove described or pertaining or relating to the furnishing of labor, materials, or equipment therefore, not by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement hereinabove described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner of Public Entity and original contractor or on the part of any obliges named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 3110 or 3112 of the California Civil Code, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

IN WITNESS WHEREOF three identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the 24th day of August, 2021.

United States Fire Insurance Company

Tara Bacon (SEAL)
Tara Bacon (SEAL)

Tara Bacon, Attorney-in-fact (SEAL)

Surety

SWCS, Inc. dba Southwest Construction Services, Inc.

Gerald Smith (SEAL)
Gerald Smith (SEAL)

Gerald Smith, President (SEAL)

Principal

ACKNOWLEDGMENT

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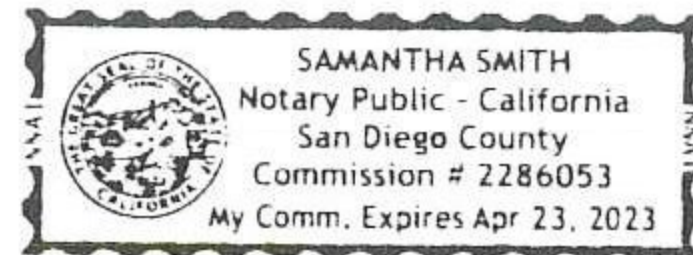
State of California
County of San Diego)

On August 26th 2021 before me, Samantha Smith, Notary Public
(insert name and title of the officer)

personally appeared Gerald Smith,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.



Signature  (Seal)

ATTORNEY-IN-FACT ACKNOWLEDGEMENT OF SURETY

STATE OF _____)
) ss
COUNTY OF _____)

On this day _____ of _____, 20____, before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ known to me to be the person whose name is subscribed to the within instrument as the attorney-in-fact of the _____, the corporation named as Surety in said instrument, and acknowledged to me that he subscribed the name of said corporation thereto as Surety, and his own name as attorney-in-fact.

NOTE: Signature of those executing for Surety must be properly acknowledged.	NOTE: The Attorney-in-fact must attach a certified copy of the Power of Attorney.
--	---

Signature: _____

Name (Type or Print): _____
(Notary Public in and for said County and State)

My Commission expires: _____

ATTACH ALL BONDS

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego)

On August 24, 2021 before me, Minna Huovila, Notary Public
(insert name and title of the officer)

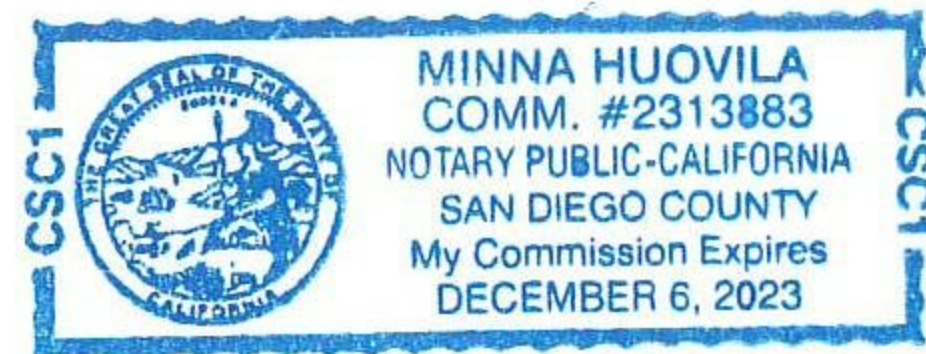
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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature 

(Seal)



**POWER OF ATTORNEY
UNITED STATES FIRE INSURANCE COMPANY
PRINCIPAL OFFICE - MORRISTOWN, NEW JERSEY**

87171

KNOW ALL MEN BY THESE PRESENTS: That United States Fire Insurance Company, a corporation duly organized and existing under the laws of the state of Delaware, has made, constituted and appointed, and does hereby make, constitute and appoint:

Lawrence F. McMahon, Sarah Myers, Lilia De Loera, Janice Martin, Dale G. Harshaw, John R. Qualin, Geoffrey Shelton,
Tara Bacon, Minna Huovila, Maria Hallmark

each, its true and lawful Attorney(s)-In-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver: Any and all bonds and undertakings of surety and other documents that the ordinary course of surety business may require, and to bind United States Fire Insurance Company thereby as fully and to the same extent as if such bonds or undertakings had been duly executed and acknowledged by the regularly elected officers of United States Fire Insurance Company at its principal office, in amounts or penalties not exceeding: **Fifty Million Dollars (\$50,000,000).**

This Power of Attorney limits the act of those named therein to the bonds and undertakings specifically named therein, and they have no authority to bind United States Fire Insurance Company except in the manner and to the extent therein stated.

This Power of Attorney revokes all previous Powers of Attorney issued on behalf of the Attorneys-In-Fact named above and expires on January 31, 2022.

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- (a) to execute, affix the corporate seal manually or by facsimile to, acknowledge, verify and deliver any contracts, obligations, instruments and documents whatsoever in connection with its business including, without limiting the foregoing, any bonds, guarantees, undertakings, recognizances, powers of attorney or revocations of any powers of attorney, stipulations, policies of insurance, deeds, leases, mortgages, releases, satisfactions and agency agreements;
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IN WITNESS WHEREOF, United States Fire Insurance Company has caused these presents to be signed and attested by its appropriate officer and its corporate seal hereunto affixed this 10th day of March, 2016.

UNITED STATES FIRE INSURANCE COMPANY



A.R.S.

Anthony R. Slimowicz, President

State of New Jersey }
County of Morris }

On this 10th day of March 2016, before me, a Notary public of the State of New Jersey, came the above named officer of United States Fire Insurance Company, to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seal of United States Fire Insurance Company thereto by the authority of his office.

**SONIA SCALA
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES 3/25/2024
No. 2163686**

Sonia Scala

Sonia Scala (Notary Public)

I, the undersigned officer of United States Fire Insurance Company, a Delaware corporation, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy is still in force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of United States Fire Insurance Company on the 24th day of August 2021

UNITED STATES FIRE INSURANCE COMPANY



Peter M. Quinn

Peter M. Quinn, Senior Vice President

RESOLUTION NO. 2021 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, 1) AWARDING A CONTRACT FOR THE CAMACHO RECREATION CENTER HVAC REPLACEMENT PROJECT, CIP NO. 20-07 TO SWCS, INC. IN THE NOT-TO-EXCEED AMOUNT OF \$230,704.00, 2) AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT AND 3) AUTHORIZING A 15% CONTINGENCY IN THE AMOUNT OF \$34,605.60 FOR ANY UNFORESEEN CHANGES

WHEREAS, the Camacho Recreation Center HVAC Replacement Project, CIP NO.20-07 ("Project"), will remove the existing HVAC system and install a new HVAC system on the roof of the Camacho Recreation Center located at 1810 East 22nd St, National City, CA 91950; and

WHEREAS, on July 22, 2021, the City posted the bid solicitation on PlanetBids, a free public electronic bidding system for contractors, and on July 26, 2021, and July 28, 2021, the City advertised in local newspapers; and

WHEREAS, on August 12, 2021, the City received two (2) bids by the 1:00 p.m. deadline; and

WHEREAS, SWCS, Inc. was the apparent lowest bidder with a total bid amount of \$230,704.00; and

WHEREAS, upon review of all documents submitted, City staff determined SWCS, Inc. the lowest responsive bidder qualified to perform the work as described in the Project specifications; and

WHEREAS, City staff recommends awarding a contract to SWCS, Inc. in the not-to-exceed amount of \$230,704.00; and

WHEREAS, City staff requests City Council authorize the Mayor to execute the contract with SWCS, Inc. for the Project; and

WHEREAS, City staff further recommends authorizing a 15% contingency amount up to \$34,605.60 for any unforeseen conditions that may arise during the Project.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: Awards the Camacho Recreation Center HVAC Replacement Project, CIP No. 20-07, to the lowest responsive, responsible bidder, to wit:

SWCS, INC.

Section 2: Authorizes the Mayor to execute a contract for \$230,704.00 with SWCS, Inc. for the Camacho Recreation Center HVAC Replacement Project, CIP No. 20-07.

Section 3: Authorizes a 15% contingency in the amount of up to \$34,605.60 for any unforeseen changes.

Resolution No. 2021 –
Page Two

Section 4: The City Clerk shall certify the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED and ADOPTED this 7th day of September, 2021.

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City: 1\) awarding a contract to National Electric Works, Inc. in the not-to-exceed amount of \\$344,163.00 for the Civic Center Basement Power Upgrade Project, CIP No. 20-03; 2\) authorizing a 15% contingency in the amount of \\$51,624.45 for any unforeseen changes; and 3\) authorizing the Mayor to execute the contract. \(Engineering/Public Works\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.

ITEM TITLE:

Resolution of the City Council of the City of National City, 1) awarding a contract to National Electric Works, Inc. in the not-to-exceed amount of \$344,163.00 for the Civic Center Basement Power Upgrade Project, CIP No. 20-03; 2) authorizing a 15% contingency in the amount of \$51,624.45 for any unforeseen changes; and 3) authorizing the Mayor to execute the contract.

PREPARED BY: Luca Zappiello, Assistant Engineer - Civil

DEPARTMENT: Engineering/Public Works

PHONE: 619-336-4360

APPROVED BY: 

EXPLANATION:

See attached.

FINANCIAL STATEMENT:

APPROVED:  Finance

ACCOUNT NO.

APPROVED: _____ MIS

Contract Award - \$344,163.00

Expenditure Account No.001-409-500-598-1500 (Facilities Upgrades) (funds are available through prior City Council Appropriations)

15% Contingency – \$51,624.45

Expenditure Account No. 001-409-500-598-1500 (Facilities Upgrades) (funds are available through prior City Council Appropriations)

ENVIRONMENTAL REVIEW:

CEQA Notice of Exemption will be filed with the County Recorder's Office prior to construction.

ORDINANCE: INTRODUCTION:

FINAL ADOPTION:

STAFF RECOMMENDATION:

Adopt Resolution awarding a contract to National Electric Works, Inc. in the not-to-exceed amount of \$344,163.00 for the Civic Center Basement Power Upgrade Project, CIP No. 20-03.

BOARD / COMMISSION RECOMMENDATION:

N/A

ATTACHMENTS:

1. Explanation
2. Bid Opening Summary
3. Three Lowest Bidders Summary
4. Owner-Contract Agreement
5. Resolution

EXPLANATION

The Civic Center Basement Power Upgrade Project will upgrade the electrical standby power supply system in the Civic Center Basement to allow continued operation of the computer servers throughout a citywide outage. Work to include but not limited to; remove and replace various lighting elements, lighting control devices, switchboards, panelboards, transfer switches, surge protection, and interior lighting.

On June 10, 2021, the bid solicitation was posted on PlanetBids, a free public electronic bidding system for contractors. On June 14, 2021 and June 16, 2021, the bid solicitation was advertised in local newspapers.

On July 2, 2021, six (6) bids were received by the 1:00 p.m. deadline. National Electric Works, Inc. was the apparent lowest bidder with a total bid amount of \$344,163.00. Upon review of all documents submitted, National Electric Works' bid was deemed responsive and they are the lowest responsible bidder qualified to perform the work as described in the project specifications.

Staff recommends awarding a contract to National Electric Works, Inc. in the amount not to exceed \$344,163.00 and authorizing a 15% contingency in the amount of \$51,624.45 to address any unforeseen conditions that may arise.

Attached are the bid opening summary sheet and a line item summary of the three lowest bidders for reference. Also attached is the Owner-Contractor Agreement.

Construction is estimated to be completed by Winter 2021/2022. Typically construction will begin four to six weeks after City Council approves award of contract to allow for coordination efforts, as well as contractor mobilization. Updates will be provided on the City's CIP dashboard at: <https://www.nationalcityca.gov/government/engineering-public-works>.



BID OPENING SUMMARY

NAME: CIVIC CENTER BASEMENT POWER UPGRADE PROJECT
CIP NO: 20-03
DATE: Friday, July 02, 2021
TIME: 1:00 P.M.
ESTIMATE: \$675,000.00
PROJECT ENGINEER: Roberto Yano, P.E.

NO.	BIDDER'S NAME	BID AMOUNT	ADDENDA #1,2	BID SECURITY - BOND
1.	National Electric Works, Inc 4440 Rainier Ave, Suite 101 San Diego, California 92120	\$344,163.00	Yes	Bond
2.	LNR Engineering & Construction, Inc 1714 Merlyn Ct. El Cajon, California 92019	\$408,624.15	Yes	Bond
3.	SD Remodeling, Inc. P.O. Box 1488 Rancho Santa Fe, California 92067	\$448,000.00	Yes	Bond
4.	Polar Electrical Company 35834 Blue Breton Dr Fallbrook, California 92029	\$497,058.00	Yes	Bond
5.	Baker Electric Inc. 1298 Pacific Oaks Place Escondido, California 92029	\$557,184.00	Yes	Bond
6.	M. Brey Electric, Inc 408 Elm Ave Beaumont, California 92223	\$657,850.00	Yes	Bond

Bid Results for Civic Center Basement Power Upgrade Project (CIP No. 20-03)									
Item No.	Description	Unit	Qty.	National Electric Works, Inc.		LNR Engineering & Construction, Inc.		SD Remodeling, Inc.	
Base Bid - Civic Center Basement Power Upgrade Project									
1	Civic Center Basement Power Upgrade	LS	1	\$319,140.00	\$319,140.00	\$398,724.15	\$398,724.15	\$433,651.00	\$433,651.00
2	1/2" Galvanized Steel Conduit	LF	300	\$23.61	\$7,083.00	\$10.00	\$3,000.00	\$14.38	\$4,314.00
3	3/4" Galvanized Steel Conduit	LF	300	\$25.87	\$7,761.00	\$11.00	\$3,300.00	\$14.56	\$4,368.00
4	1' Galvanized Steel Conduit	LF	300	\$33.93	\$10,179.00	\$12.00	\$3,600.00	\$18.89	\$5,667.00
Total				\$344,163.00		\$408,624.15		\$448,000.00	

OWNER - CONTRACTOR AGREEMENT

CIVIC CENTER BASEMENT POWER UPGRADE PROJECT, CIP NO. 20-03

This Owner-Contractor Agreement ("Agreement") is made by and between the City of National City, 1243 National City Boulevard National City, California 91950 and **National Electric Works, Inc. ("Contractor")**, 4440 Rainier Avenue, Suite 101, San Diego, CA 92120, on the 7th day of September, 2021, for the construction of the above referenced Project.

In consideration of the mutual covenants and agreements set forth herein, the Owner and Contractor have mutually agreed as follows:

1. CONSTRUCTION

The Contractor agrees to do all the work and furnish all the labor, services, materials and equipment necessary to construct and complete the Project in a turn-key manner in accordance with this Agreement and all documents and plans referenced in Exhibit "A", (hereinafter "Contract Documents"), in compliance with all relevant Federal, State of California, County of San Diego and City of National City codes and regulations, and to the satisfaction of the Owner.

2. CONTRACT PRICE

Owner hereby agrees to pay and the Contractor agrees to accept as full compensation for constructing the project in accordance with these Contract Documents in an amount not to exceed the contract price as set forth in Exhibit "B" attached hereto and incorporated herein by reference. Payments to the Contractor shall be made in the manner described in the Special Provisions.

3. TIME FOR PERFORMANCE

Time is of the essence for this Agreement and the Contractor shall construct the project in every detail to a complete and turn-key fashion to the satisfaction of the Owner within the specified duration set forth in the Special Provisions.

4. NON-DISCRIMINATION

In the performance of this Agreement, the Contractor shall not refuse or fail to hire or employ any qualified person, or bar or discharge from employment any person, or discriminate against any person, with respect to such person's compensation, terms, conditions or privileges of employment because of such person's race, religious status, sex or age.

5. AUTHORIZED OWNER REPRESENTATIVES

On behalf of the Owner, the Project Manager designated at the pre-construction meeting shall be the Owner's authorized representative in the interpretation and enforcement of all Work performed in connection with this Agreement.

6. WORKERS' COMPENSATION INSURANCE

a) By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the Work of this Agreement.

b) The Contractor shall require each subcontractor to comply with the requirements of Section 3700 of the Labor Code. Before commencing any Work, the Contractor shall cause each subcontractor to execute the following certification:

"I am aware of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the Work of this Agreement."

7. ENTIRE AGREEMENT; CONFLICT

The Contract Documents comprise the entire agreement between the Owner and the Contractor with respect to the Work. In the event of conflict between the terms of this Agreement and the bid of the Contractor, then this Agreement shall control and nothing herein shall be considered as an acceptance of the terms of the bid conflicting herewith.

8. MAINTENANCE OF AGREEMENT DOCUMENTATION

Contractor shall maintain all books, documents, papers, employee time sheets, accounting records and other evidence pertaining to costs incurred and shall make such materials available at its office at all reasonable times during the term of this Agreement and for three (3) years from the date of final payment under this Agreement, for inspection by Owner and copies thereof shall be furnished to Owner if requested.

9. INDEPENDENT CONTRACTOR

At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee, agent, partner or joint venturer of the Owner. Owner shall have the right to control Contractor insofar as the results of Contractor's

services rendered pursuant to this Agreement; however, Owner shall not have the right to control the means by which Contractor accomplishes such services.

10. LICENSES AND PERMITS

Contractor represents and declares to Owner that it has all licenses, permits, qualifications and approvals of whatever nature which are legally required to practice its profession. Contractor represents and warrants to Owner that Contractor shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any licenses, permits, qualifications or approvals which are legally required for Contractor to practice its profession.

11. GOVERNING LAW, VENUE

This Agreement and the Contract Documents shall be construed under and in accordance with the laws of the State of California, and the appropriate venue for any action or proceeding arising from this Agreement and/or the Contract Documents shall be had in the Superior Court of San Diego, Central Branch.


12. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall for all purposes be deemed to be an original.

13. FALSE CLAIMS

Contractor acknowledges that if a false claim is submitted to the Owner, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that the False Claims Act, California Government Code sections 12650, et seq., provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include within their scope false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of the information. In the event the Owner seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorneys' fees. Contractor hereby acknowledges that the filing of a false claim may the Contractor to an administrative debarment proceeding wherein Contractor may be prevented from further bidding on public contracts for a period of up to five (5) years.

I have read and understood all of the provisions of this Section 15, above:


(Initial)


(Initial)

14. AGREEMENT MODIFICATION

This Agreement and the Contract Documents may not be modified orally or in any manner other than by an amendment in writing and signed by the Owner and the Contractor.

IN WITNESS WHEREOF this Agreement is executed as of the date first written above.

Owner:

Alejandra Sotelo-Solis
Mayor, City of National City

APPROVED AS TO FORM:

By: _____
Charles E. Bell, Jr.
City Attorney

Contractor:

National Electric Works, Inc.

Tommy A. Morgan

(Owner/Officer signature)

Travis Morgan, Vice President

Print name and title

Clint Morgan

(Second officer signature if a corporation)

Clint Morgan, President

Print name and title

09048825

Contractor's City Business License No.

591191 C-10

State Contractor's License No. and Class

4440 Rainier Ave #101

Business street address

San Diego, CA 92120

City, State and Zip Code

EXHIBIT A

CONTRACT DOCUMENTS

Owner/Contractor Agreement

Bid Schedule

Addenda

Plans

Special Provisions (Specifications)

San Diego County Regional Standard Drawings

City of National City Standard Drawings

Standard Specifications for Public Works Construction and Regional Supplements
(Greenbook)

State Standard Specifications

State Standard Plans

California Building, Mechanical, Plumbing and Electrical Codes

Permits issued by jurisdictional regulatory agencies

Electric, gas, and communications companies specifications and standards

Sweetwater Authority specifications and standards

Specifications, standards and requirements of MTS, BNSF, SANDAG, Port of San Diego and
all other agencies that may be adjacent and/or affected by the project.

EXHIBIT B

CONTRACT PRICE

Bid Results for Civic Center Basement Power Upgrade Project (CIP No. 20-03)					
Item No.	Description	Unit	Qty.	National Electric Works, Inc.	
Base Bid - Civic Center Basement Power Upgrade Project					
1	Civic Center Basement Power	LS	1	\$319,140.00	\$319,140.00
2	1/2" Galvanized Steel Conduit	LF	300	\$23.61	\$7,083.00
3	3/4" Galvanized Steel Conduit	LF	300	\$25.87	\$7,761.00
4	1' Galvanized Steel Conduit (RMC)	LF	300	\$33.93	\$10,179.00
Total				\$344,163.00	

CORPORATE CERTIFICATE

I, Travis Morgan certify that I am the Secretary of the Corporation named as Contractor in the foregoing Contract; that Travis Morgan, who signed said contract on behalf of the Contractor, was then Vice President of said Corporation; that said contract was duly signed for and in behalf of said Corporation by authority of its governing body and is within the scope of its corporate powers.

I, Travis Morgan certify that I am the Secretary of the Corporation named as Contractor in the foregoing Contract; that Clint Morgan, who signed said contract on behalf of the Contractor, was then President of said Corporation; that said contract was duly signed for and in behalf of said Corporation by authority of its governing body and is within the scope of its corporate powers.

Corporate Seal: _____

PARTNERSHIP CERTIFICATE

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for said County and State, personally appeared:

n/a

_____ (Notary Seal)

known to me to be _____ of the partners of the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.

Signature: _____

Name (Type or Print): _____
(Notary Public in and for said County and State)

My Commission expires: _____

PERFORMANCE BOND

WHEREAS, the City Council of the City of National City, by Resolution No. 2021-_____, on the 7th day of September, 2021, has awarded NATIONAL ELECTRIC WORKS, Inc., hereinafter designated as the "Principal", the CIVIC CENTER BASEMENT POWER UPGRADE, CIP NO. 20-03

WHEREAS, said Principal is required under the terms of said contract to furnish a bond for the faithful performance of said contract.

NOW, THEREFORE, we, the Principal and Western Surety Company as surety, are held and firmly bound unto the City of National City, hereinafter called the "City", in the penal sum of Three Hundred Forty-Four Thousand, One Hundred Sixty Three (\$344,163.00) dollars lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT if the above bounden Principal, his/her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the said contract any alteration thereof made as therein provides, on his or their part, to be kept and performed at the time and in the amount therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City of National City, its officers, agents, employees, and volunteers as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and virtue.

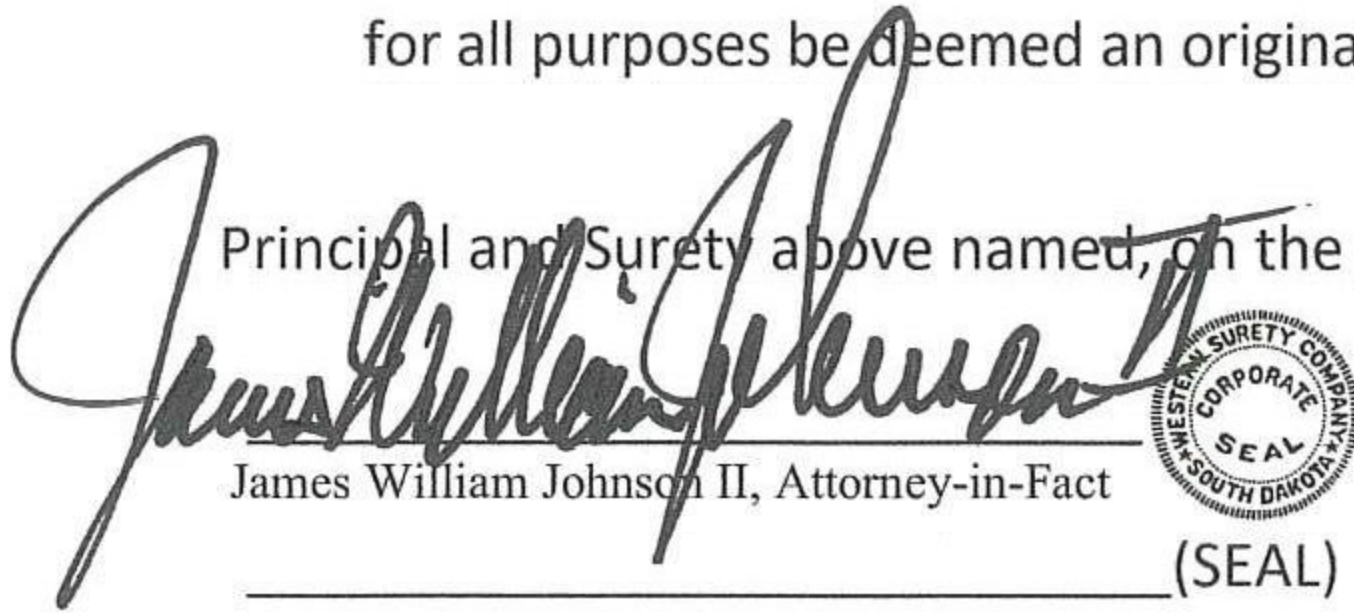
And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed herein or the specifications accompanying the same shall in any wise affect its obligations on this bond, and it does hereby waive notice of any such

change, extension of time, alteration or additions to the terms of the contract or to the work or to the specifications.

In the event suit is brought upon this bond by the City and judgment is recovered, the surety shall pay all costs incurred by the City in such suit, including a reasonable attorney's fee to be fixed by the Court.

IN WITNESS WHEREOF three identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the

Principal and Surety above named, on the 5th day of August, 2021.


James William Johnson II, Attorney-in-Fact



(SEAL)


(SEAL)

(SEAL)

(SEAL)

(SEAL)

Western Surety Company
Surety

NATIONAL ELECTRIC WORKS, Inc.
Principal

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Diego)
On August 18, 2021 before me, Dayna Martinez, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Travis J. Morgan
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature DM
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of Orange }

On AUG 05 2021, before me, Christina Marie Rogers, Notary Public,
personally appeared James William Johnson II

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing paragraph is true and correct.



PLACE NOTARY SEAL ABOVE

WITNESS my hand and official seal.

SIGNATURE

Christina Marie Rogers

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of attached document

Title or type of document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other than Named Above: _____

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

James William Johnson II, Frances Elaine Lefler, Christina Johnson, Jennifer Caroline Anaya, Erik Johansson, Melissa Lopez, Christina Rogers, Individually

of Tustin, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 18th day of March, 2021.



WESTERN SURETY COMPANY

Paul T. Bruflat
Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 18th day of March, 2021, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

March 2, 2026



M. Bent
M. Bent, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 5th day of August, 2021.



WESTERN SURETY COMPANY

L. Nelson
L. Nelson, Assistant Secretary

Form F4280-7-2012

Go to www.cnasurety.com > Owner / Oblige Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

Digital Seal Authority and Enforceability

This communication is being provided on behalf of all CNA Surety companies, including **Western Surety Company, Continental Casualty Company, The Continental Insurance Company, American Casualty Company of Reading, Pennsylvania, and National Fire Insurance Company of Hartford** (collectively and individually referred to as “CNA Surety”).

The use of an electronic image of the corporate seal of any CNA Surety company (the “Digital Seal”) and the attachment of the Digital Seal to any surety bond issued by a CNA Surety company is authorized. Each CNA Surety company acknowledges and agrees that the Digital Seal may be affixed to any CNA Surety bond and relied upon to the same extent as if a raised corporate seal were physically attached to the bond.

Delivery of a digital copy of this Digital Seal Authority and Enforceability notice, executed electronically, to an Obligee or Obligee’s representative shall constitute effective execution and delivery of this notice and shall have the same legal effect as delivery of a tangible original of the notice with my original “wet” signature.

In Witness Whereof, this has been executed by the Vice President and Surety General Counsel for each of the CNA Surety companies.

Dated this 31st day of March, 2020.



Rosemary Quinn
Vice President and Surety General Counsel on behalf of



Western Surety Company



The Continental Insurance Company



Continental Casualty Company



National Fire Insurance Company of Hartford



American Casualty Company of Reading, Pennsylvania

PAYMENT BOND

WHEREAS, the City Council of the City of National City, by Resolution No. 2021-_____, on the 7th day of September, 2021 has awarded National Electric Works, Inc., hereinafter designated as the "Principal", the CIVIC CENTER BASEMENT POWER UPGRADE, CIP NO. 20-03

WHEREAS, said Principal is required by Chapter 5 (commencing at Section 3225 and Chapter 7 (commencing at Section 3247, Title 15, Part 4, Division 3 of the California Civil Code to furnish a bond in connection with said contract;

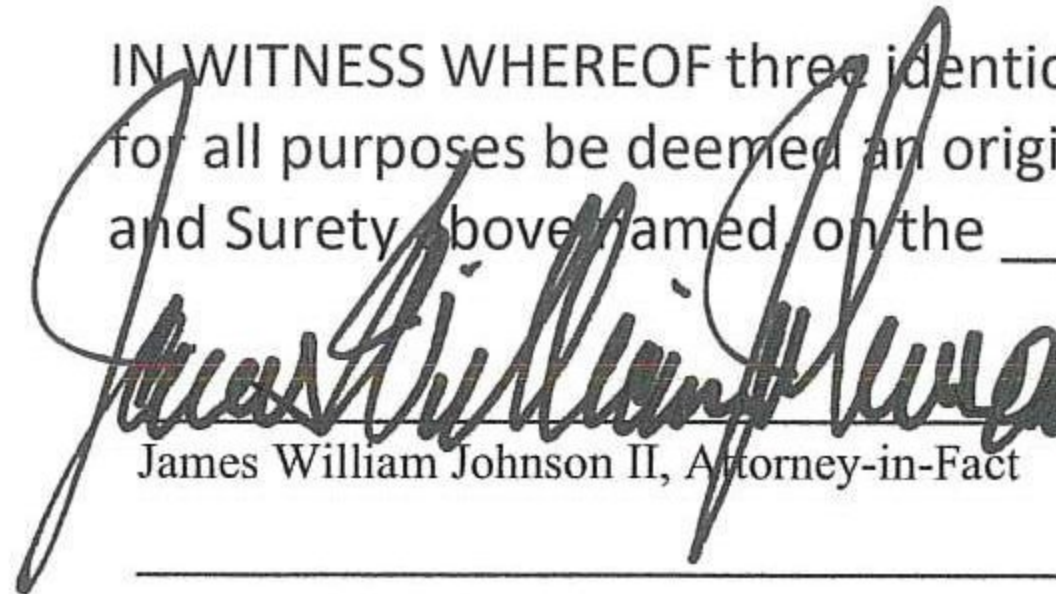
NOW, THEREFORE, we, the Principal and Western Surety Company as surety, are held and firmly bound unto the City of National City, hereinafter called the "City", in the penal sum of Three Hundred Forty-Four Thousand, One Hundred Sixty Three (\$344,163.00) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his/her or its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay any of the persons named in Section 3181 of the California Civil Code, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or for any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the Contractor and his subcontractors pursuant to Section 18806 of the Revenue and Taxation Code, with respect to such work and labor the Surety will pay for the same in an amount not exceeding the sum hereinafter specified, and also, in case suit is brought upon this bond, a reasonable attorney's fee, to be fixed by the Court.

This Bond shall inure to the benefit of any of the persons named in Section 3181 of the California Civil Code, so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement hereinabove described or pertaining or relating to the furnishing of labor, materials, or equipment therefore, not by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement hereinabove described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner of Public Entity and original contractor or on the part of any obliges named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 3110 or 3112 of the California Civil Code, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

IN WITNESS WHEREOF three identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the 5th day of August, 2021.


 James William Johnson II, Attorney-in-Fact
 (SEAL)



 (SEAL)

 (SEAL)

 (SEAL)

 (SEAL)

 (SEAL)

Western Surety Company
 Surety

NATIONAL ELECTRIC WORKS, Inc.
 Principal

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Diego)
On August 18, 2021 before me, Dayna Martinez, Notary Public,
Date Here Insert Name and Title of the Officer
personally appeared Travis J. Morgan
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of Orange }

AUG 05 2021

On _____, before me, Christina Marie Rogers, Notary Public,
personally appeared James William Johnson II

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing paragraph is true and correct.



WITNESS my hand and official seal.

SIGNATURE

Christina Marie Rogers

PLACE NOTARY SEAL ABOVE

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of attached document

Title or type of document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other than Named Above: _____

ATTORNEY-IN-FACT ACKNOWLEDGEMENT OF SURETY

STATE OF _____)
) ss
COUNTY OF _____)

On this day _____ of _____, 20____, before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ known to me to be the person whose name is subscribed to the within instrument as the attorney-in-fact of the _____, the corporation named as Surety in said instrument, and acknowledged to me that he subscribed the name of said corporation thereto as Surety, and his own name as attorney-in-fact.

NOTE: Signature of those executing for Surety must be properly acknowledged.	NOTE: The Attorney-in-fact must attach a certified copy of the Power of Attorney.
--	---

Signature: _____

Name (Type or Print): _____
(Notary Public in and for said County and State)

My Commission expires: _____

ATTACH ALL BONDS

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

James William Johnson II, Frances Elaine Lefler, Christina Johnson, Jennifer Caroline Anaya, Erik Johansson, Melissa Lopez, Christina Rogers, Individually

of Tustin, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 18th day of March, 2021.



WESTERN SURETY COMPANY

Paul T. Bruflat
Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 18th day of March, 2021, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires
March 2, 2026



M. Bent
M. Bent, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 5th day of August, 2021.



WESTERN SURETY COMPANY

L. Nelson
L. Nelson, Assistant Secretary

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

Digital Seal Authority and Enforceability

This communication is being provided on behalf of all CNA Surety companies, including **Western Surety Company, Continental Casualty Company, The Continental Insurance Company, American Casualty Company of Reading, Pennsylvania,** and **National Fire Insurance Company of Hartford** (collectively and individually referred to as “CNA Surety”).

The use of an electronic image of the corporate seal of any CNA Surety company (the “Digital Seal”) and the attachment of the Digital Seal to any surety bond issued by a CNA Surety company is authorized. Each CNA Surety company acknowledges and agrees that the Digital Seal may be affixed to any CNA Surety bond and relied upon to the same extent as if a raised corporate seal were physically attached to the bond.

Delivery of a digital copy of this Digital Seal Authority and Enforceability notice, executed electronically, to an Obligee or Obligee’s representative shall constitute effective execution and delivery of this notice and shall have the same legal effect as delivery of a tangible original of the notice with my original “wet” signature.

In Witness Whereof, this has been executed by the Vice President and Surety General Counsel for each of the CNA Surety companies.

Dated this 31st day of March, 2020.



Rosemary Quinn
Vice President and Surety General Counsel on behalf of



Western Surety Company



The Continental Insurance Company



Continental Casualty Company



National Fire Insurance Company of Hartford



American Casualty Company of Reading, Pennsylvania

RESOLUTION NO. 2021 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, 1) AWARDDING A CONTRACT TO NATIONAL ELECTRIC WORKS, INC. IN THE NOT-TO-EXCEED AMOUNT OF \$344,163.00 FOR THE CIVIC CENTER BASEMENT POWER UPGRADE PROJECT, CIP NO. 20-03, 2) AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT AND 3) AUTHORIZING A 15% CONTINGENCY IN THE AMOUNT OF \$51,624.45 FOR ANY UNFORESEEN CHANGES

WHEREAS, the Civic Center Basement Power Upgrade Project (“Project”) will upgrade the electrical standby power supply system in the Civic Center Basement to allow continued operation of the computer servers throughout a citywide outage; and

WHEREAS, on June 10, 2021, the City of National City (“City”) posted the bid solicitation on PlanetBids, a free public electronic bidding system for contractors, and on June 14, 2021, and June 16, 2021, the City advertised in local newspapers; and

WHEREAS, on July 2, 2021, the City received six (6) bids by the 1:00 p.m. deadline for the Project; and

WHEREAS, National Electric Works, Inc. was the apparent lowest responsive bidder specifications with a total bid amount of \$344,163.00; and

WHEREAS, upon review of all documents submitted, City staff determined National Electric Works, Inc. the lowest responsive bidder qualified to perform the work as described in the Project specifications; and

WHEREAS, City staff recommends awarding a contract to National Electric Works, Inc. in the not-to-exceed amount of \$344,163.00; and

WHEREAS, City staff request City Council authorize the Mayor to execute the contract with National Electric Works, Inc. for the Project; and

WHEREAS, City staff recommends authorizing a 15% contingency amount up to \$51,624.45 for any unforeseen conditions that may arise during the Project.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: Awards the Civic Center Basement Power Upgrade Project, CIP No. 20-03, to the lowest responsive, responsible bidder, to wit:

NATIONAL ELECTRIC WORKS, INC.

Section 2: Authorizes the Mayor to execute a contract for \$344,163.00 with National Electric Works, Inc. for the Civic Center Basement Power Upgrade Project, CIP No. 20-03.

Section 3: Authorizes a 15% contingency in the amount of up to \$51,624.45 for any unforeseen changes.

Section 4: The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED and ADOPTED this 7th day of September, 2021.

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City: 1\) awarding a contract to Wright Construction Engineering Corp. in the not-to-exceed amount of \\$818,733.60 for the Paradise Creek Mitigation Project at Kimball Way, CIP No. 19-35; 2\) authorizing a 15% contingency in the amount of \\$122,810.04 for any unforeseen changes; and 3\) authorizing the Mayor to execute the contract. \(Engineering/Public Works\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.

ITEM TITLE:

Resolution of the City Council of the City of National City, 1) awarding a contract to Wright Construction Engineering Corp. in the not-to-exceed amount of \$818,733.60 for the Paradise Creek Mitigation Project at Kimball Way, CIP No. 19-35; 2) authorizing a 15% contingency in the amount of \$122,810.04 for any unforeseen changes; and 3) authorizing the Mayor to execute the contract.

PREPARED BY: Luca Zappiello, Assistant Engineer - Civil

PHONE: 619-336-4360

L.Z.

DEPARTMENT: Engineering/Public Works

APPROVED BY:

[Signature]

EXPLANATION:

See attached.

FINANCIAL STATEMENT:

ACCOUNT NO.

Contract Award - \$818,733.60

Expenditure Account: 296-409-500-598-6198 (Paradise Creek Mitigation Project at Kimball Way grant) – \$650,551.50

Expenditure Account: 001-409-500-598-7049 (Drainage Improvements) – \$168,182.10 (funds available through prior City Council appropriations)

15% Contingency – \$122,810.04

Expenditure Account No.: 001-409-500-598-7049 (Drainage Improvements) (funds available through prior City Council appropriations)

APPROVED:

[Signature]

Finance

APPROVED:

MIS

ENVIRONMENTAL REVIEW:

CEQA Notice of Exemption will be filed with the County Recorder's Office prior to construction.

ORDINANCE: INTRODUCTION:

FINAL ADOPTION:

STAFF RECOMMENDATION:

Adopt Resolution awarding a contract to Wright Construction Engineering Corp. in the not-to-exceed amount of \$818,733.60 for the Paradise Creek Mitigation project at Kimball Way, CIP No. 19-35.

BOARD / COMMISSION RECOMMENDATION:

N/A

ATTACHMENTS:

1. Explanation w/ Location Map
2. Bid Opening Summary
3. Three Lowest Bidders Summary
4. Owner-Contract Agreement
5. Resolution

EXPLANATION

The Paradise Creek Mitigation Project at Kimball Way will repair sections of Paradise Creek at Kimball Way, including removal of existing concrete lining on south creek bank, earthwork and regrading, and installing articulated concrete blocks and cutoff wall on south creek bank. Drainage improvements include adding bar screen gates at the outlet and inlet of existing reinforced concrete box storm drains, and rip rap. Other site improvements include retaining wall, concrete driveways, perimeter wrought iron fencing, and access gates to secure the area.

On November 1, 2017, the Engineering and Public Works Department submitted a project proposal for a California Governor's Office of Emergency Services (CalOES) grant to improve Paradise Creek between Highland Avenue and Kimball Way.

On March 19, 2019, staff was notified from CalOES that the City of National City had been awarded Federal funding for Phase 1 of the project in the amount of \$143,685.00, which requires a local match of \$47,895.00, resulting in a total project cost of \$191,580.00. Phase 1 included a field survey, geotechnical analysis, stream modeling, environmental review, and engineering design and permits. On June 18, 2019, the City Council authorized the appropriation of grant funding for the Phase 1 of the project. Phase 1 of the project was completed on July 19, 2020.

On September 8, 2020, staff was notified by CalOES that the City of National City had been awarded Federal funding for Phase 2 - Implementation phase of the project in an amount of \$456,296.25, which requires a local match of \$152,098.75, resulting in a Phase 2 cost of \$608,395.00. However, on November 2, 2020, staff requested additional funds from CalOES for this phase of the project since the awarded funding was not sufficient to complete the proposed improvements. On February 25, 2021, staff was notified by CalOES that the requested additional funding for Phase 2, implementation phase, of the project was approved in amount of \$194,255.25, with a corresponding local match of \$64,751.75. The updated project cost estimate per the grant agreement, incorporating the additional funds, is \$650,551.50 in federal grant funds, and a local match of \$216,850.50, for a total Phase 2 estimate of \$867,402.00.

Additionally, on February 25, 2021, staff also received approval for a time extension establishing the new performance period end date as February 18, 2022.

On July 27, 2021, the bid solicitation was posted on PlanetBids, a free public electronic bidding system for contractors. On July 26, 2021 and July 28, 2021, the bid solicitation was advertised in local newspapers.

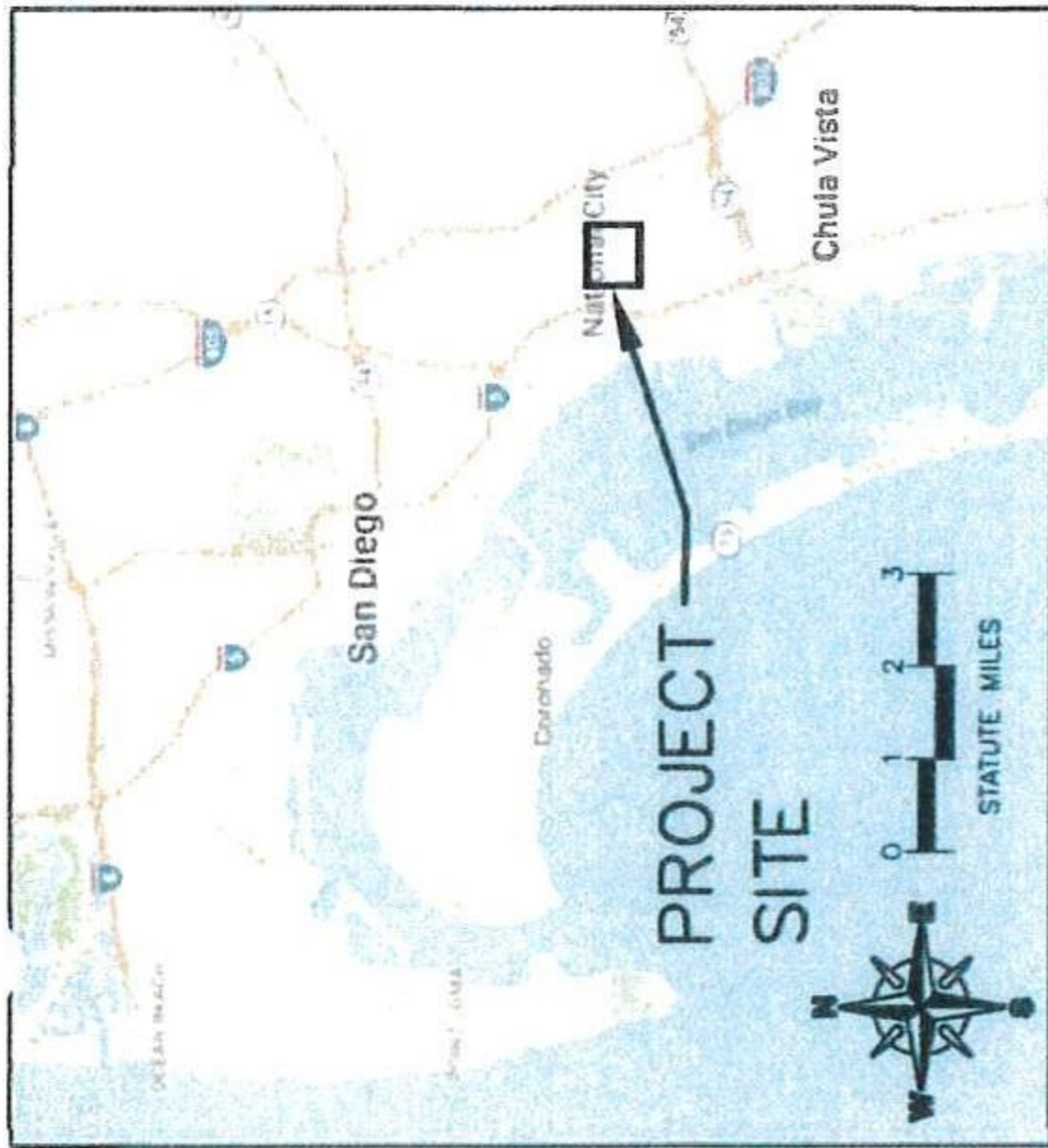
On August 17, 2021, seven (7) bids were received by the 11:00 a.m. deadline. Wright Construction Engineering Corp. was the apparent lowest bidder with a total bid amount of \$818,733.60. Upon review of all documents submitted, Wright Construction Engineering's bid was deemed responsive, and they are the lowest responsible bidder qualified to perform the work as described in the project specifications.

Based on Wright Construction Engineering Corp.'s bid, the City may contribute more than the required local match on this project if the full contingency amount is expended due to unforeseen conditions. The local match requirement is \$216,850.50, however if the full contingency is expended, the City contribution would be \$290,992.14. Funds to cover this additional cost of \$74,141.64, if necessary, are available through prior City Council appropriations.

Therefore, staff recommends awarding a contract to Wright Construction Engineering Corp. in the amount not to exceed \$818,733.60 and authorizing a 15% contingency in the amount of \$122,810.04 to address any unforeseen conditions that may arise.



Attached are the bid opening summary sheet and a line item summary of the three lowest bidders for reference. Also attached is the Owner-Contractor Agreement.

Construction is estimated to be completed by Winter 2021/2022. Typically construction will begin four to six weeks after City Council approves award of contract to allow for coordination efforts, as well as contractor mobilization. Updates will be provided on the City's CIP dashboard at: <https://www.nationalcityca.gov/government/engineering-public-works>.



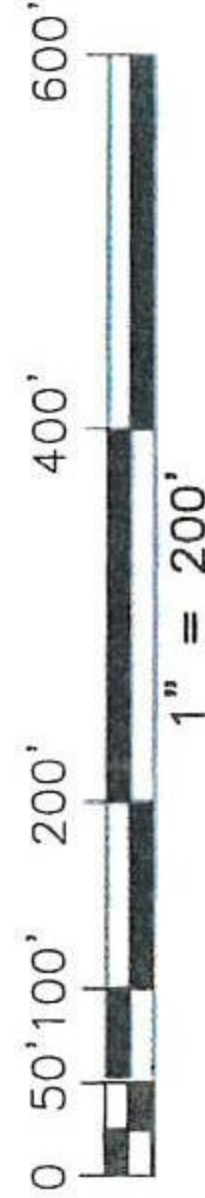
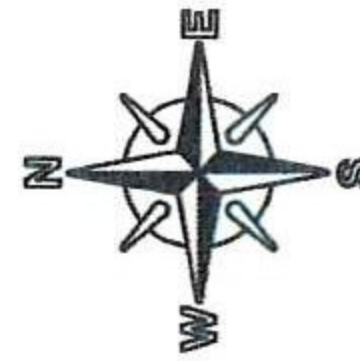
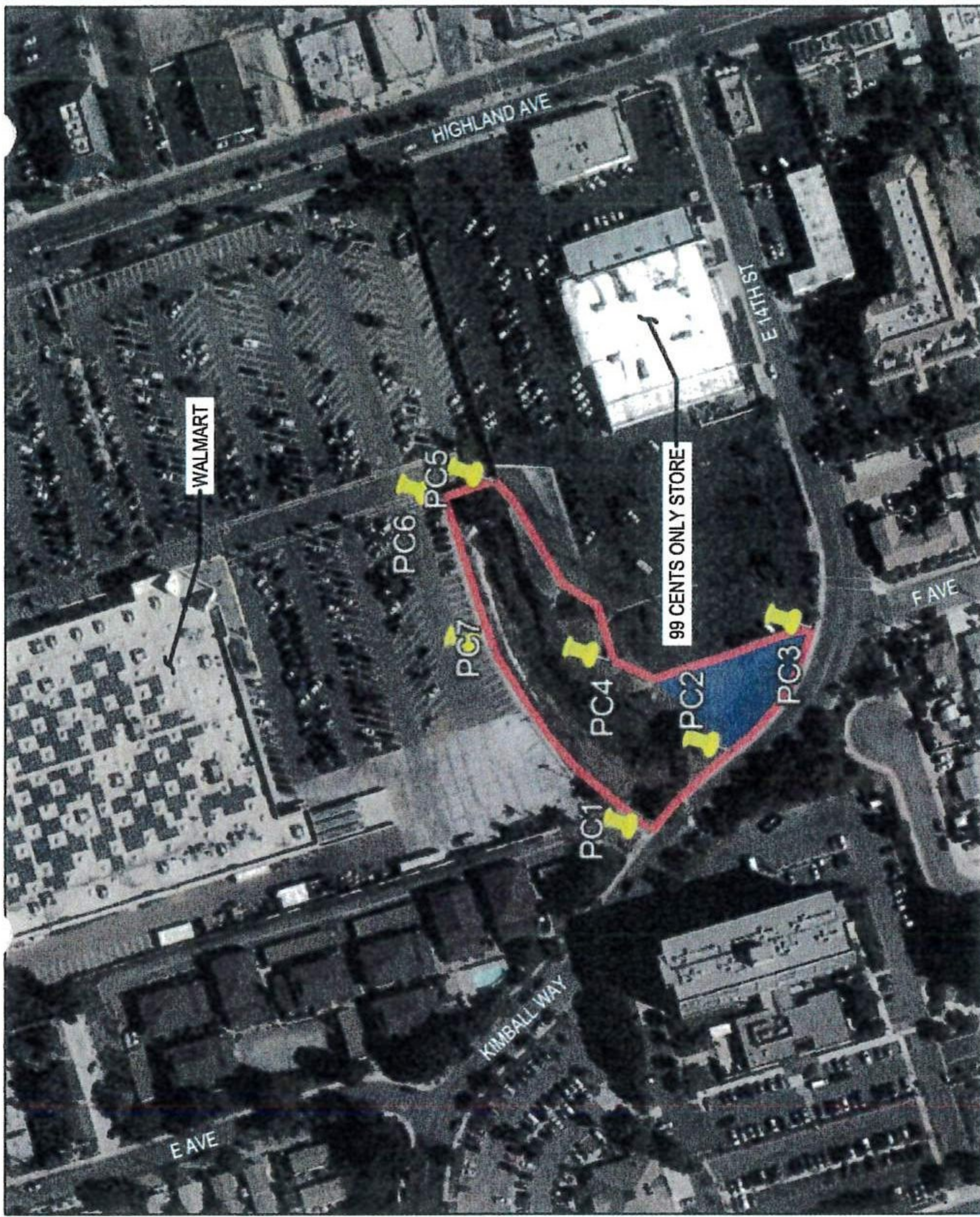
VICINITY MAP
SCALE: 1" = 20,000 FT

LEGEND:

-  PROJECT BOUNDARY
-  PROJECT STAGING AREA

PROJECT COORDINATES

ID	LATITUDE	LONGITUDE
PC1	32.673004°	-117.099533°
PC2	32.672766°	-117.099238°
PC3	32.672531°	-117.098800°
PC4	32.673132°	-117.098928°
PC5	32.673491°	-117.098294°
PC6	32.673645°	-117.098357°
PC7	32.673490°	-117.098897°



**ATTACHMENT A:
VICINITY AND PROJECT LOCATION MAPS**



NATIONAL CITY, CALIFORNIA

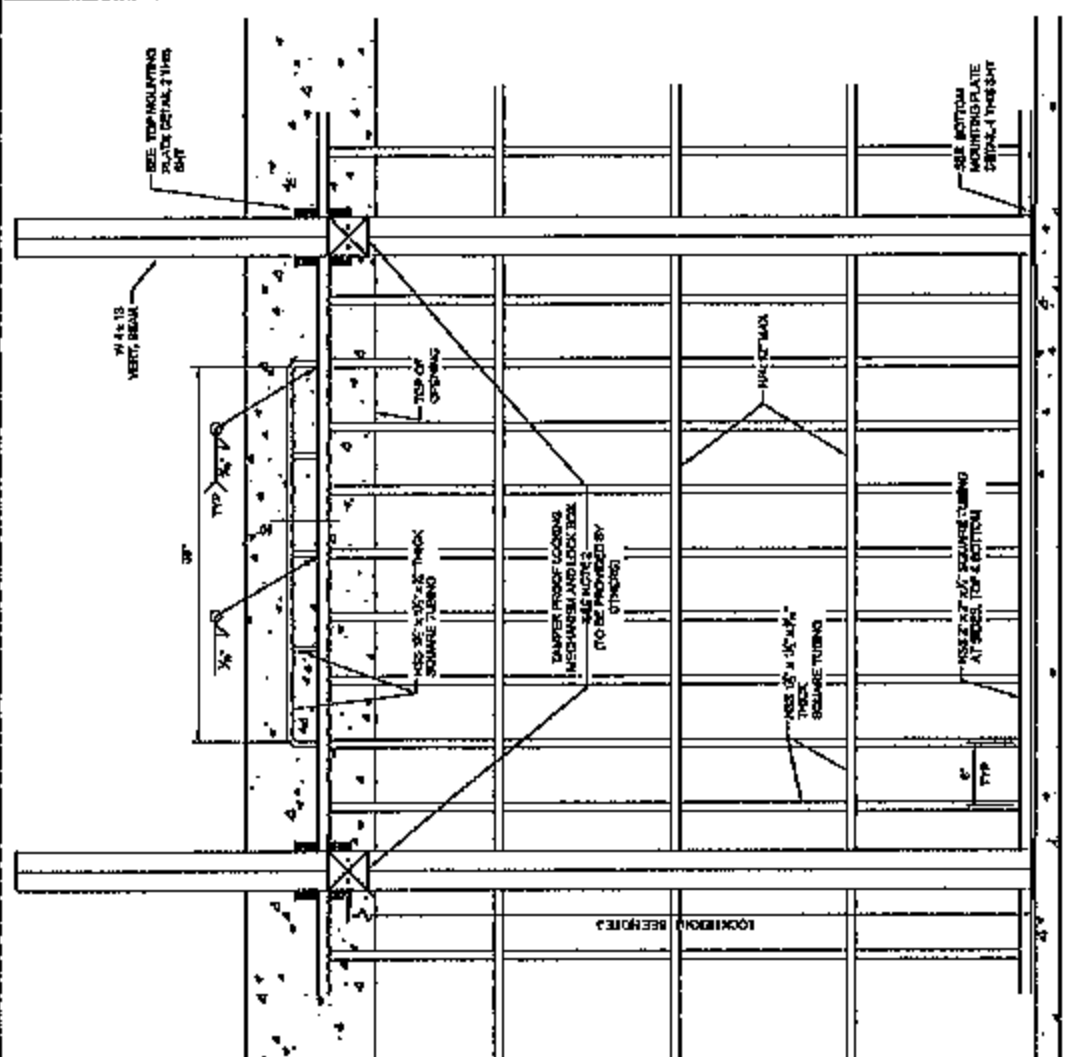
PARADISE CREEK AT HIGHLAND

NATIONAL CITY
 PLANS FOR THE IMPROVEMENTS OF
 PARADISE CREEK MITIGATION PROJECT
 AT KIMBALL WAY
 IMPROVEMENT PLAN AND PROFILE
 CITY OF NATIONAL CITY

DATE: 19-35
 PROJECT NO. 11500-4-D
 SHEET NO. OF 3 SHEETS

DECLARATION OF RESPONSIBLE CHARGE
 I HEREBY DECLARE THAT I AM THE ENGINEER OF RECORD FOR THE DESIGN OF THIS PROJECT AND THAT I AM A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF OHIO AND THAT I AM NOT PROVIDING ENGINEERING SERVICES TO ANY OTHER PROJECT OR TO ANY OTHER PARTY FOR THIS PROJECT.

DATE: 19-35
 PROJECT NO. 11500-4-D
 SHEET NO. OF 3 SHEETS

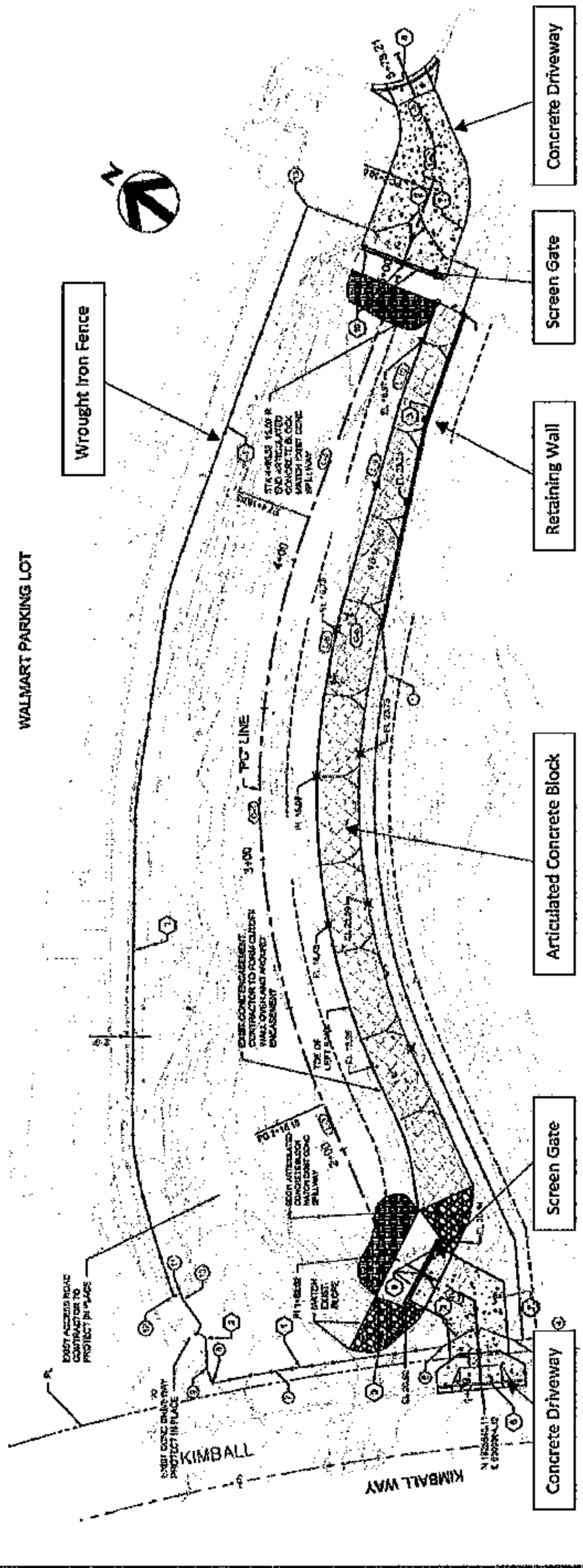
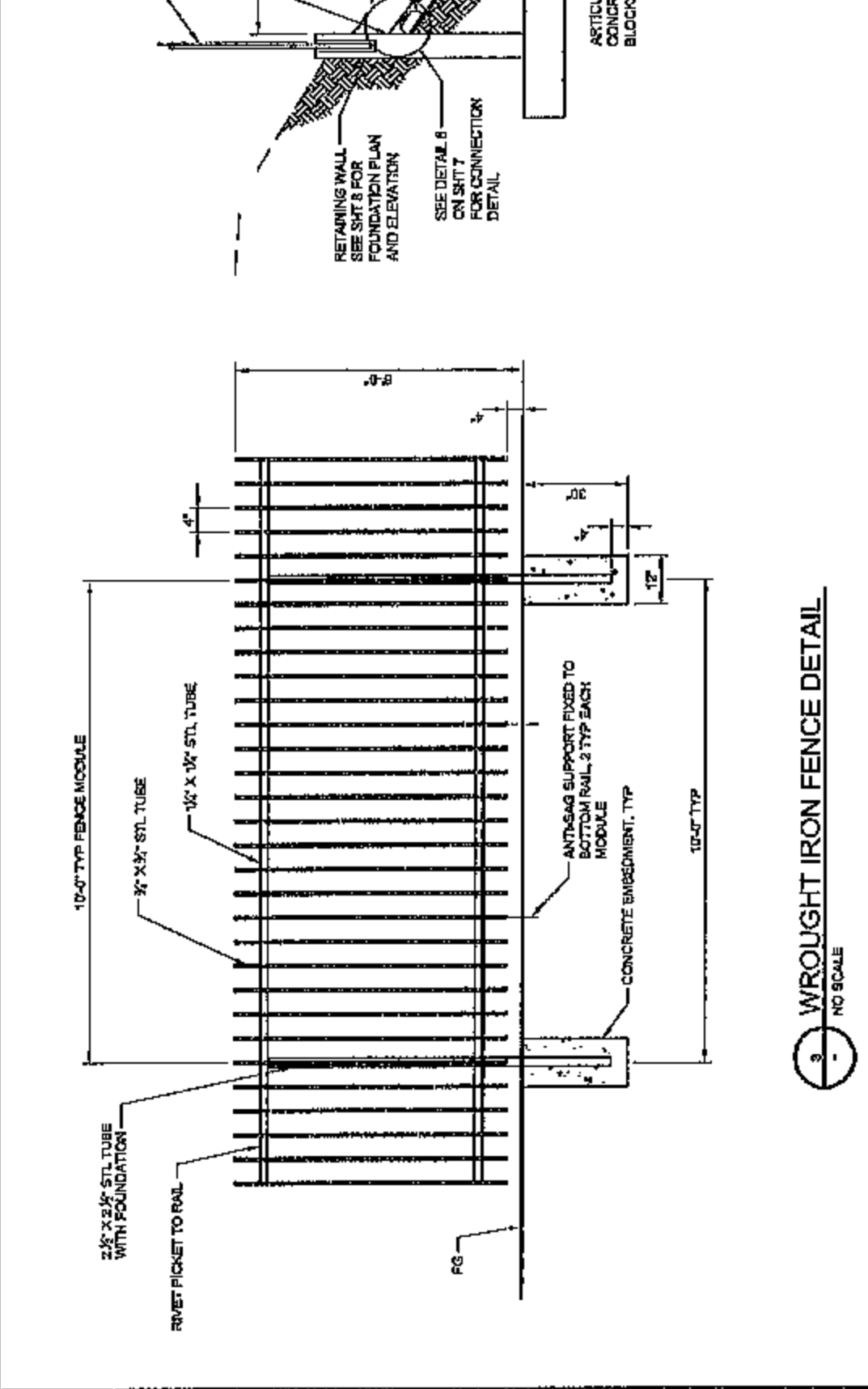
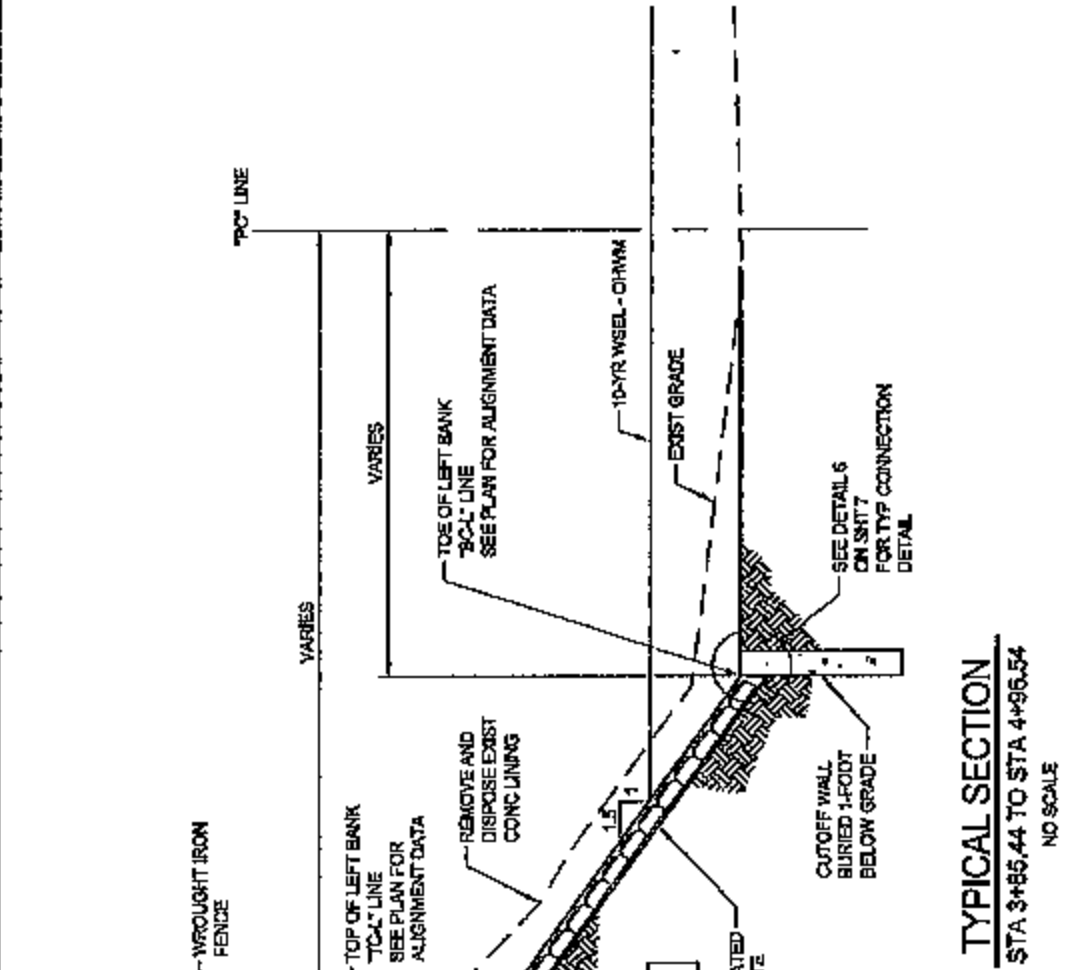


KEY NOTES:

#	DESCRIPTION	NOTE
1	WROUGHT IRON FENCE	SEE SHT 3 FOR DETAILS
2	DOUBLE LEAF - WROUGHT IRON GATE	SEE SHT 3 FOR DETAILS
3	1 TON ROCK RIP RAP	SEE SHT 3 FOR DETAILS
4	HEADWALL PER SOPS-2-3	SEE SHT 8 FOR FOUNDATION PLAN AND ELEVATION
5	RETAINING WALL PER CALTRANS STD PLAN	SEE SHT 3 DETAIL, 1 FOR RAILGARD PLAN
6	1/2" CONCRETE DRIVEWAY	SEE SHT 3 DETAIL, 1 FOR RAILGARD PLAN
7	DISCOMPOSED GRANITE PAD	SEE SHT 3 FOR DETAILS
8	7" BAR SCREEN GATE	SEE SHT 3 FOR DETAILS

TLS" CURVE TABLE

CURVE NO.	Δ	RADIUS	TANGENT	LENGTH
C-1	04°34'00.00"	60.00'	7.00'	13.90'
C-2	08°30'00.00"	20.00'	7.00'	14.27'
C-3	00°30'00.00"	50.00'	1.50'	3.00'



"PC" LINE CURVE DATA

CURVE NO.	Δ	RADIUS	TANGENT	LENGTH
C-1	04°34'00.00"	60.00'	7.00'	13.90'
C-2	08°30'00.00"	20.00'	7.00'	14.27'

"PC" LINE TABLE

LINE NO.	LENGTH	DIRECTION
L-1	29.22'	N17°29'57"E
L-2	52.80'	N10°12'42"W
L-3	54.10'	N25°43'18"E
L-4	115.64'	N72°52'57"E
L-5	24.88'	N25°56'17"E

"TLS" LINE TABLE

LINE NO.	LENGTH	DIRECTION
L-6	15.20'	N42°55'15"E
L-7	14.75'	N28°55'31"E
L-8	13.13'	N57°27'04"E
L-9	72.85'	N67°37'58"E
L-10	34.57'	N77°32'25"E



ENGINEERING DEPARTMENT	AS-BUILT	DATE	BY	APPROVED DATE
CONSTRUCTION RECORDS				
BENCHMARK				
LEAD AND BRASS TAG IN CONCRETE WALL, LOCATED IN THE NE CORNER OF DRIVE 8 WITH STATION #1239				
HORIZONTAL CONTROL				
THE BASIS OF BEARINGS FOR THIS SURVEY IS THE CALIFORNIA COORDINATE SYSTEM 83 (NAD 83) BETWEEN POINT NUMBERS 122 AND 326 AS SHOWN ON RDS 14922				
SURVEYOR: SAMPO ENGINEERING, INC.				
DATE STARTED:				
INSPECTOR:				
DATE COMPLETED:				



BID OPENING SUMMARY

NAME: PARADISE CREEK MITIGATION PROJECT AT KIMBALL WAY
CIP NO: 19-35
DATE: Tuesday, August 17, 2021
TIME: 11:00 A.M.
ESTIMATE: \$620,155.00
PROJECT ENGINEER: Roberto Yano, P.E.

NO.	BIDDER'S NAME	BID AMOUNT	ADDENDA #1,2	BID SECURITY
1.	Wright Construction Engineering Corp 2625 S Santa Fe Ave San Marcos, California 92069	\$818,733.60	Yes	Bond
2.	3-D Enterprises, Inc. 3665 Ruffin Road, Suite 103 San Diego, California 92123	\$845,600.00	Yes	Bond
3.	Blue Pacific Engineering & Construction 3545 Camino del Rio South Suite A San Diego, California 92108	\$949,500.00	Yes	Bond
4.	HSCC, Inc. 12101 Lakeside Ave Lakeside, California 92040	\$1,072,716.89	Yes	Bond
5.	Western Rim Constructors, Inc. 621 S. Andreasen Drive, Suite B Escondido, California 92029	\$1,114,459.52	Yes	Bond
6.	Whillock Contracting, Inc La Mesa, California 91943	\$1,154,196.00	Yes	Bond
7.	De La Fuente Construction, Inc 22W 35TH ST. SUITE 207 NATIONAL CITY, California 91950	\$1,197,986.93	Yes	Bond

Bid Results for Paradise Creek Mitigation Project at Kimball Way (CIP No. 19-35)

Item No.	Description	Unit	Qty.	Wright Construction Engineering Corp.	3-D Enterprises, Inc.	Blue Pacific Engineering & Construction			
Base Bid - for Paradise Creek Mitigation Project at Kimball Way Project									
1	Mobilization/Demobilization	LS	1	\$65,000.00	\$65,000.00	\$40,000	\$40,000	\$40,000	\$40,000
2	Water Quality Control	LS	1	\$10,000.00	\$10,000.00	\$12,000	\$12,000	\$20,000	\$20,000
3	Traffic Control Design and Implementation	LS	1	\$5,000.00	\$5,000.00	\$10,000	\$10,000	\$10,000	\$10,000
4	Creek Diversion Plan, Dewatering, Discharge, and Disposal	LS	1	\$10,000.00	\$10,000.00	\$30,000	\$30,000	\$20,000	\$20,000
5	Grading and Earthwork	CY	140	\$308.00	\$43,120.00	\$50.00	\$7,000	\$100	\$14,000
6	Clearing and Grubbing	SF	13000	\$2.00	\$26,000.00	\$1.00	\$13,000	\$1.00	\$13,000
7	Demolition	LS	1	\$20,000.00	\$20,000.00	\$45,000	\$45,000	\$30,000	\$30,000
8	Articulated Concrete Blocks	SF	5100	\$20.00	\$102,000.00	\$21.00	\$107,100	\$18.00	\$91,800
9	6' Wrought Iron Fence and Gates	LF	905	\$240.00	\$217,200.00	\$240.00	\$217,200	\$300	\$271,500
10	8' Retaining Wall	CY	154	\$733.40	\$112,943.60	\$900.00	\$138,600	\$700	\$107,800
11	1/4 Ton Rock Riprap	CY	42	\$335.00	\$14,070.00	\$100.00	\$4,200	\$300	\$12,600
12	14' Concrete Driveway	EA	2	\$5,000.00	\$10,000.00	\$4,000	\$8,000	\$1,800	\$3,600
13	4" Concrete Access Pad	CY	34	\$1,000.00	\$34,000.00	\$500.00	\$17,000	\$800	\$27,200
14	72" Bar Screen	EA	3	\$10,000.00	\$30,000.00	\$16,000	\$48,000	\$20,000	\$60,000
15	60" Bar Screen	EA	3	\$7,500.00	\$22,500.00	\$17,000	\$51,000	\$40,000	\$120,000
16	Headwall and Storm Drain Pipe	LS	1	\$12,000.00	\$12,000.00	\$30,000	\$30,000	\$10,000	\$10,000
17	Landscaping, planting, and irrigation	LS	1	\$32,000.00	\$32,000.00	\$26,000	\$26,000	\$45,000	\$45,000
18	Landscaping, planting, and irrigation (maintenance period)	MO	12	\$1,200.00	\$14,400.00	\$1,000	\$12,000	\$2,000	\$24,000
19	Over-Excavation	CY	10	\$1,000.00	\$10,000.00	\$100.	\$1,000	\$1,000	\$10,000
20	Shotcrete	SF	950	\$30.00	\$28,500.00	\$30.00	\$28,500	\$20.00	\$19,000
Total				\$818,733.60	\$845,600.00	\$949,500.00			

OWNER - CONTRACTOR AGREEMENT

PARADISE CREEK MITIGATION PROJECT AT KIMBALL WAY, CIP NO. 19-35

This Owner-Contractor Agreement ("Agreement") is made by and between the City of National City, 1243 National City Boulevard National City, California 91950 and **WRIGHT CONSTRUCTION ENGINEERING CORP ("Contractor")**, 2625 South Santa Fe Avenue, San Marcos, CA 92069 on the 7th day of September, 2021, for the construction of the above referenced Project.

In consideration of the mutual covenants and agreements set forth herein, the Owner and Contractor have mutually agreed as follows:

1. CONSTRUCTION

The Contractor agrees to do all the work and furnish all the labor, services, materials and equipment necessary to construct and complete the Project in a turn-key manner in accordance with this Agreement and all documents and plans referenced in Exhibit "A", (hereinafter "Contract Documents"), in compliance with all relevant Federal, State of California, County of San Diego and City of National City codes and regulations, and to the satisfaction of the Owner.

2. CONTRACT PRICE

Owner hereby agrees to pay and the Contractor agrees to accept as full compensation for constructing the project in accordance with these Contract Documents in an amount not to exceed the contract price as set forth in Exhibit "B" attached hereto and incorporated herein by reference. Payments to the Contractor shall be made in the manner described in the Special Provisions.

3. TIME FOR PERFORMANCE

Time is of the essence for this Agreement and the Contractor shall construct the project in every detail to a complete and turn-key fashion to the satisfaction of the Owner within the specified duration set forth in the Special Provisions.

4. NON-DISCRIMINATION

In the performance of this Agreement, the Contractor shall not refuse or fail to hire or employ any qualified person, or bar or discharge from employment any person, or discriminate against any person, with respect to such person's compensation, terms, conditions or privileges of employment because of such person's race, religious status, sex or age.

5. AUTHORIZED OWNER REPRESENTATIVES

On behalf of the Owner, the Project Manager designated at the pre-construction meeting shall be the Owner's authorized representative in the interpretation and enforcement of all Work performed in connection with this Agreement.

6. WORKERS' COMPENSATION INSURANCE

a) By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the Work of this Agreement.

b) The Contractor shall require each subcontractor to comply with the requirements of Section 3700 of the Labor Code. Before commencing any Work, the Contractor shall cause each subcontractor to execute the following certification:

"I am aware of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the Work of this Agreement."

7. ENTIRE AGREEMENT; CONFLICT

The Contract Documents comprise the entire agreement between the Owner and the Contractor with respect to the Work. In the event of conflict between the terms of this Agreement and the bid of the Contractor, then this Agreement shall control and nothing herein shall be considered as an acceptance of the terms of the bid conflicting herewith.

8. MAINTENANCE OF AGREEMENT DOCUMENTATION

Contractor shall maintain all books, documents, papers, employee time sheets, accounting records and other evidence pertaining to costs incurred and shall make such materials available at its office at all reasonable times during the term of this Agreement and for three (3) years from the date of final payment under this Agreement, for inspection by Owner and copies thereof shall be furnished to Owner if requested.

9. INDEPENDENT CONTRACTOR

At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee, agent, partner or joint venturer of the Owner.

Owner shall have the right to control Contractor insofar as the results of Contractor's services rendered pursuant to this Agreement; however, Owner shall not have the right to control the means by which Contractor accomplishes such services.

10. LICENSES AND PERMITS

Contractor represents and declares to Owner that it has all licenses, permits, qualifications and approvals of whatever nature which are legally required to practice its profession. Contractor represents and warrants to Owner that Contractor shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any licenses, permits, qualifications or approvals which are legally required for Contractor to practice its profession.

11. GOVERNING LAW, VENUE

This Agreement and the Contract Documents shall be construed under and in accordance with the laws of the State of California, and the appropriate venue for any action or proceeding arising from this Agreement and/or the Contract Documents shall be had in the Superior Court of San Diego, Central Branch.


12. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall for all purposes be deemed to be an original.

13. FALSE CLAIMS

Contractor acknowledges that if a false claim is submitted to the Owner, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that the False Claims Act, California Government Code sections 12650, et seq., provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include within their scope false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of the information. In the event the Owner seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorneys' fees. Contractor hereby acknowledges that the filing of a false claim may the Contractor to an administrative debarment proceeding wherein Contractor may be prevented from further bidding on public contracts for a period of up to five (5) years.

I have read and understood all of the provisions of this Section 15, above:


(Initial)


(Initial)

14. AGREEMENT MODIFICATION

This Agreement and the Contract Documents may not be modified orally or in any manner other than by an amendment in writing and signed by the Owner and the Contractor.

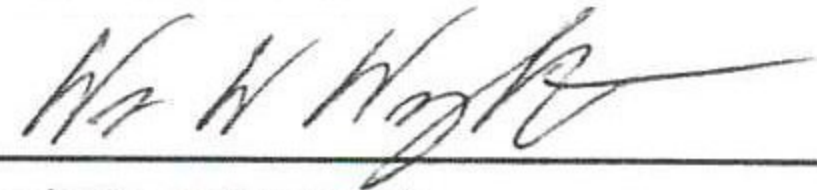
IN WITNESS WHEREOF this Agreement is executed as of the date first written above.

Owner:

Contractor:

**WRIGHT CONSTRUCTION
ENGINEERING CORP**

Alejandra Sotelo-Solis
Mayor, City of National City



(Owner/Officer signature)

Wesley Wright- President

Print name and title

APPROVED AS TO FORM:

(Second officer signature if a corporation)

By: _____
Charles E. Bell, Jr.
City Attorney

Print name and title

Contractor's City Business License No.

995153 - Class "A"

State Contractor's License No. and Class

2625 S. Santa Fe Ave.

Business street address

San Marcos, CA 92069

City, State and Zip Code

**CERTIFICATE OF CORPORATE RESOLUTION
WRIGHT CONSTRUCTION ENGINEERING CORP.**

I, Wesley Wright, President of Wright Construction Engineering Corp., organized and existing under the laws of California and having its principal place of business at 3725 Trieste Dr. Carlsbad, California, hereby certify that the following is a true copy of a resolution adopted by the Board of Directors of the Corporation at a meeting convened and held on July 1, 2014 at which a quorum was present and voting throughout and that such resolution is now in full force and effect and is in accordance with the provisions of the charter and by-laws of the Corporation.

RESOLVED: That the President, Wesley Wright, of the Corporation is hereby authorized to sign any contracts or forms on behalf of the Corporation.

RESOLVED FURTHER: That the President, Wesley Wright, is hereby authorized and directed to certify to any interested party that this resolution has been duly adopted, is in full force and effect, and is in accordance with the provisions of the charter and by-laws of the Corporation.

I further certify that this Corporation is duly organized and existing, and has the power to take the action called for by the foregoing resolution.

DIRECTORS

<u>Wesley Wright</u>	<u>7-1-2014</u>
President	Date
<u>Wesley Wright</u>	<u>7-1-2014</u>
Vice President	Date
<u>Wesley Wright</u>	<u>7-1-2014</u>
Secretary	Date
<u>Wesley Wright</u>	<u>7-1-2014</u>
Treasurer	Date

Witness my hand seal of this corporation on this 1st day of July, 2014.

EXHIBIT A

CONTRACT DOCUMENTS

Owner/Contractor Agreement

Bid Schedule

Addenda

Plans

Special Provisions (Specifications)

San Diego County Regional Standard Drawings

City of National City Standard Drawings

Standard Specifications for Public Works Construction and Regional Supplements
(Greenbook)

State Standard Specifications

State Standard Plans

California Building, Mechanical, Plumbing and Electrical Codes

Permits issued by jurisdictional regulatory agencies

Electric, gas, and communications companies specifications and standards

Sweetwater Authority specifications and standards

Specifications, standards and requirements of MTS, BNSF, SANDAG, Port of San Diego and all other agencies that may be adjacent and/or affected by the project.

EXHIBIT B

CONTRACT PRICE

(NOTE - TO BE COMPLETED TO CONFORM WITH BID SCHEDULE ITEMS)

EXHIBIT B

CONTRACT PRICE

Bid Results for Paradise Creek Mitigation Project at Kimaball Way (CIP No. 19-35)					
Item No.	Description	Unit	Qty.	Wright Construction Engineering Corp.	
Base Bid - Civic Center Basement Power Upgrade Project					
1	Mobilization/Demobilization	LS	1	\$65,000.00	\$65,000.00
2	Water Quality Control	LS	1	\$10,000.00	\$10,000.00
3	Traffic Control Design and Imple	LS	1	\$5,000.00	\$5,000.00
4	Creek Diversion Plan, Dewateri	LS	1	\$10,000.00	\$10,000.00
5	Grading and Earthwork	CY	140	\$308.00	\$43,120.00
6	Clearing and Grubbing	SF	13000	\$2.00	\$26,000.00
7	Demolition	LS	1	\$20,000.00	\$20,000.00
8	Articulated Concrete Blocks	SF	5100	\$20.00	\$102,000.00
9	6' Wrought Iron Fence and Gate	LF	905	\$240.00	\$217,200.00
10	8' Retaining Wall	CY	154	\$733.40	\$112,943.60
11	1/4 Ton Rock Riprap	CY	42	\$335.00	\$14,070.00
12	14' Concrete Driveway	EA	2	\$5,000.00	\$10,000.00
13	4" Concrete Access Pad	CY	34	\$1,000.00	\$34,000.00
14	72" Bar Screen	EA	3	\$10,000.00	\$30,000.00
15	60" Bar Screen	EA	3	\$7,500.00	\$22,500.00
16	Headwall and Storm Drain Pipe	LS	1	\$12,000.00	\$12,000.00
17	Landscaping, planting, and irrig	LS	1	\$32,000.00	\$32,000.00
18	Landscaping, planting, and irrig	MO	12	\$1,200.00	\$14,400.00
19	Over-Excavation	CY	10	\$1,000.00	\$10,000.00
20	Shotcrete	SF	950	\$30.00	\$28,500.00
Total					\$818,733.60

CORPORATE CERTIFICATE

I, Wesley Wright certify that I am the Secretary of the Corporation named as Contractor in the foregoing Contract; that Wesley Wright, who signed said contract on behalf of the Contractor, was then President of said Corporation; that said contract was duly signed for and in behalf of said Corporation by authority of its governing body and is within the scope of its corporate powers.

I, Wesley Wright certify that I am the Secretary of the Corporation named as Contractor in the foregoing Contract; that Wesley Wright, who signed said contract on behalf of the Contractor, was then President of said Corporation; that said contract was duly signed for and in behalf of said Corporation by authority of its governing body and is within the scope of its corporate powers.

Corporate Seal: _____

Executed in Triplicate

PERFORMANCE BOND

Bond Number: 1001155638
Premium: \$14,737.00
Premium is for the contract term
and is subject to adjustment based
on the final contract price.

Bonds effective September 7, 2021

WHEREAS, the City Council of the City of National City, by Resolution No. 2021-_____, on the 7th day of September, 2021, has awarded **WRIGHT CONSTRUCTION ENGINEERING CORP**, hereinafter designated as the "Principal", the PARADISE CREEK MITIGATION PROJECT AT KIMBALL WAY, CIP NO. 19-35

WHEREAS, said Principal is required under the terms of said contract to furnish a bond for the faithful performance of said contract.

NOW, THEREFORE, we, the Principal and U.S. Specialty Insurance Company as surety, are held and firmly bound unto the City of National City, hereinafter called the "City", in the penal sum of **Eight Hundred Eighteen Thousand, Seven Hundred Thirty-Three and Sixty Cents (\$818,733.60)** dollars lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT if the above bounden Principal, his/her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the said contract any alteration thereof made as therein provides, on his or their part, to be kept and performed at the time and in the amount therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City of National City, its officers, agents, employees, and volunteers as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and virtue.

And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed herein or the specifications accompanying the same shall in any wise affect its obligations on this bond, and it does hereby waive notice of any such

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

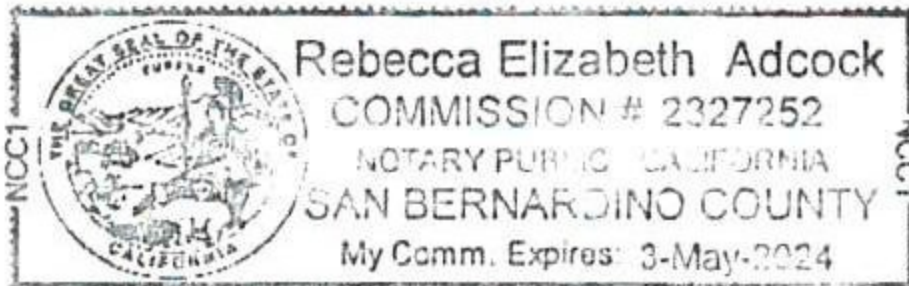
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Bernardino } ss.

On AUG 20 2021 before me, Rebecca Elizabeth Adcock, Notary Public
Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Cynthia J. Young
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Handwritten Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

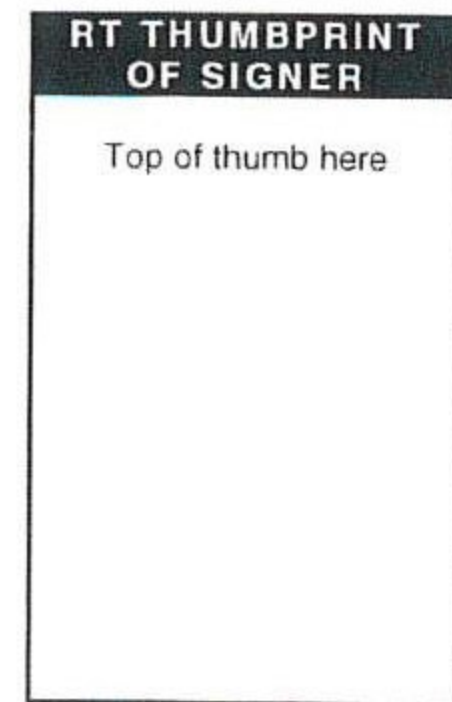
Description of Attached Document

Title or Type of Document: _____
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer
Title _____
- Partner -- Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Diego

On August 23, 2021 before me, Patricia Rosales Notary Public

personally appeared Wes W. Wright

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Patricia Rosales
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Performance Bond Attorney-in-Fact Acknowledgment of Surety
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE NO 07984
SAN FRANCISCO

Amended

Certificate of Authority

THIS IS TO CERTIFY THAT, Pursuant to the Insurance Code of the State of California,

U.S. Specialty Insurance Company

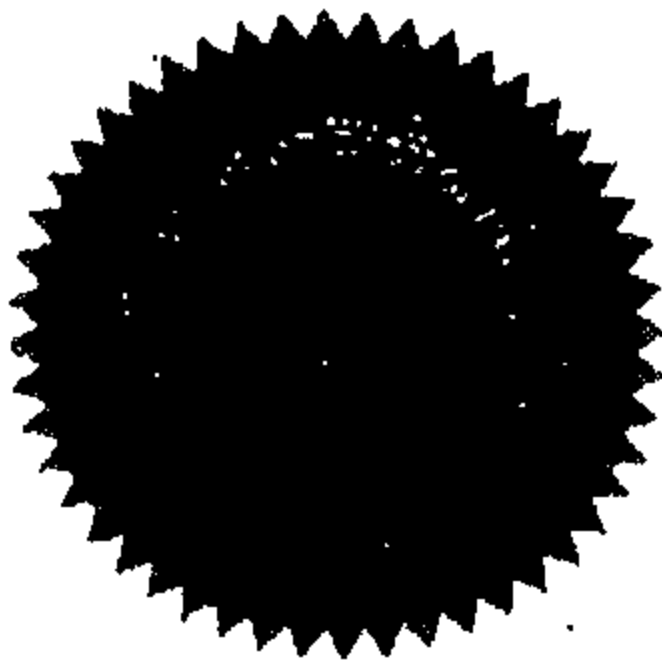
of Houston, Texas , organized under the
laws of Texas , subject to its Articles of Incorporation or
other fundamental organizational documents, is hereby authorized to transact within the State, subject to
all provisions of this Certificate, the following classes of insurance:

Fire, Marine, Surety, Disability, Liability,
Workers' Compensation, Aircraft, and Miscellaneous

as such classes are now or may hereafter be defined in the Insurance Laws of the State of California.

THIS CERTIFICATE is expressly conditioned upon the holder hereof now and hereafter being in
full compliance with all, and not in violation of any, of the applicable laws and lawful requirements made
under authority of the laws of the State of California as long as such laws or requirements are in effect
and applicable, and as such laws and requirements now are, or may hereafter be changed or amended.

IN WITNESS WHEREOF, effective as of the 29th
day of December , 2004 , I have hereunto
set my hand and caused my official seal to be affixed this
29th day of December , 2004 .



By

John Garamendi
Insurance Commissioner

Victoria S. Sideris
Victoria S. Sideris
for Ida Zodrow Deputy
Asst. Chief Deputy

NOTICE:

Qualification with the Secretary of State must be accomplished as required by the California Corporations Code promptly
after issuance of this Certificate of Authority. Failure to do so will be a violation of Insurance Code Section 701 and will be
grounds for revoking this Certificate of Authority pursuant to the covenants made in the application therefor and the
conditions contained herein.

FORM 07-2

CSIS 03P 00 2001



**TOKIOMARINE
HCC**

**POWER OF ATTORNEY
AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY**

KNOW ALL MEN BY THESE PRESENTS: That American Contractors Indemnity Company, a California corporation, Texas Bonding Company, an assumed name of American Contractors Indemnity Company, United States Surety Company, a Maryland corporation and U.S. Specialty Insurance Company, a Texas corporation (collectively, the "Companies"), do by these presents make, constitute and appoint:

Jay P. Freeman, Laurie B. Druck, Cynthia J. Young, Christina Mountz
or Melissa Dawn Schwartz of San Bernardino, California

its true and lawful Attorney(s)-in-fact, each in their separate capacity if more than one is named above, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver **any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include riders, amendments, and consents of surety, providing the bond penalty does not exceed** *****Three Million***** Dollars (***\$3,000,000.00***). This Power of Attorney shall expire without further action on April 23rd, 2022. This Power of Attorney is granted under and by authority of the following resolutions adopted by the Boards of Directors of the Companies:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, The Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 1st day of June, 2018.

**AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY**

State of California
County of Los Angeles



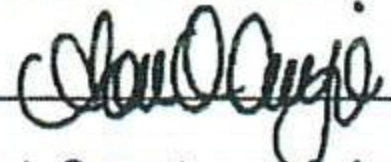
By: 
Daniel P. Aguilar, Vice President

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

On this 1st day of June, 2018, before me, Sonia O. Carrejo, a notary public, personally appeared Daniel P. Aguilar, Vice President of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (seal)



I, Kio Lo, Assistant Secretary of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Los Angeles, California this 20th day of August, 2021

Corporate Seals
Bond No. 1001155738
Agency No. 3501




Kio Lo, Assistant Secretary

Executed in Triplicate

Bond Number: 1001155638
Premium included in charge for
Performance Bond

PAYMENT BOND

Bonds effective September 7, 2021

WHEREAS, the City Council of the City of National City, by Resolution No. 2021-_____, on the 7th day of September, 2021 has awarded WRIGHT CONSTRUCTION ENGINEERING CORP., hereinafter designated as the "Principal", the PARADISE CREEK MITIGATION PROJECT AT KIMBALL WAY, CIP NO. 19-35

WHEREAS, said Principal is required by Chapter 5 (commencing at Section 3225) and Chapter 7 (commencing at Section 3247), Title 15, Part 4, Division 3 of the California Civil Code to furnish a bond in connection with said contract;

NOW, THEREFORE, we, the Principal and U.S. Specialty Insurance Company as surety, are held and firmly bound unto the City of National City, hereinafter called the "City", in the penal sum of Eight Hundred Eighteen Thousand, Seven Hundred Thirty-Three and Sixty Cents (\$818,733.60) dollars lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

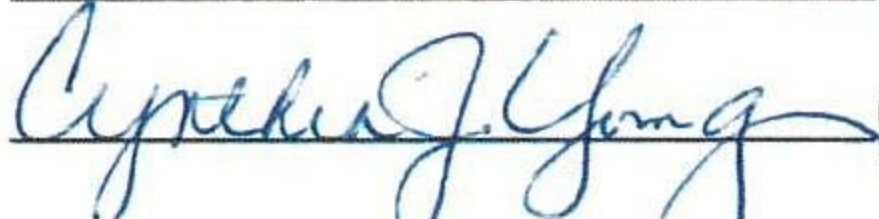
THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his/her or its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay any of the persons named in Section 3181 of the California Civil Code, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or for any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the Contractor and his subcontractors pursuant to Section 18806 of the Revenue and Taxation Code, with respect to such work and labor the Surety will pay for the same in an amount not exceeding the sum hereinafter specified, and also, in case suit is brought upon this bond, a reasonable attorney's fee, to be fixed by the Court.

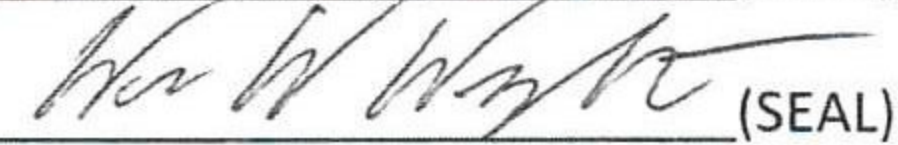
This Bond shall inure to the benefit of any of the persons named in Section 3181 of the California Civil Code, so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement hereinabove described or pertaining or relating to the furnishing of labor, materials, or equipment therefore, not by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement hereinabove described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner of Public Entity and original contractor or on the part of any obliges named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 3110 or 3112 of the California Civil Code, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

IN WITNESS WHEREOF three identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the 20th day of August, 2021.

U.S. Specialty Insurance Company (SEAL) Wright Construction Engineering Corp(SEAL)

 (SEAL)

 (SEAL)

Cynthia J. Young, Attorney-In-Fact(SEAL)

_____ (SEAL)

Surety

Principal



CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

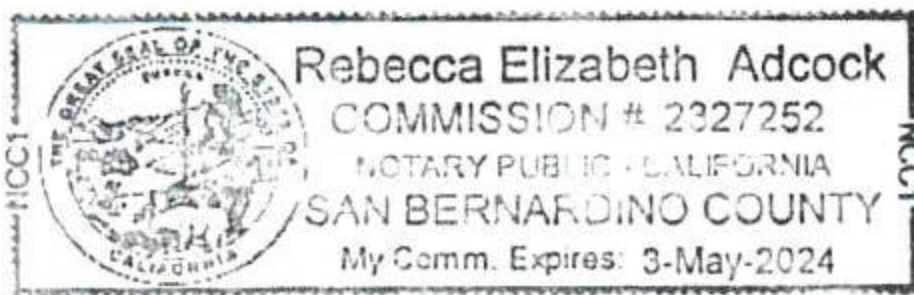
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Bernardino } ss.

On AUG 20 2021 before me, Rebecca Elizabeth Adcock, Notary Public
Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Cynthia J. Young
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Handwritten Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

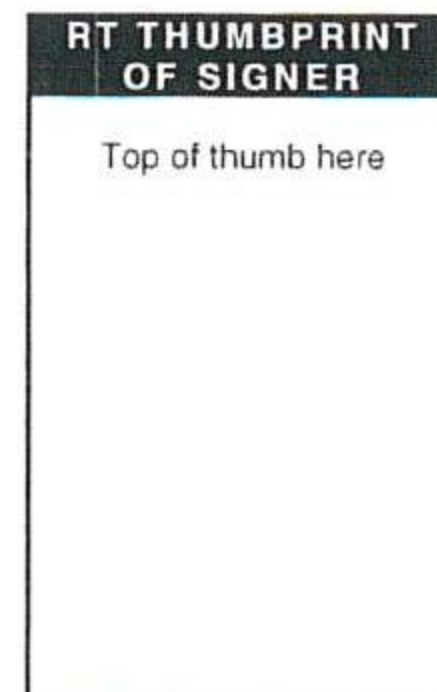
Description of Attached Document

Title or Type of Document: _____
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer
Title _____
- Partner -- Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Diego

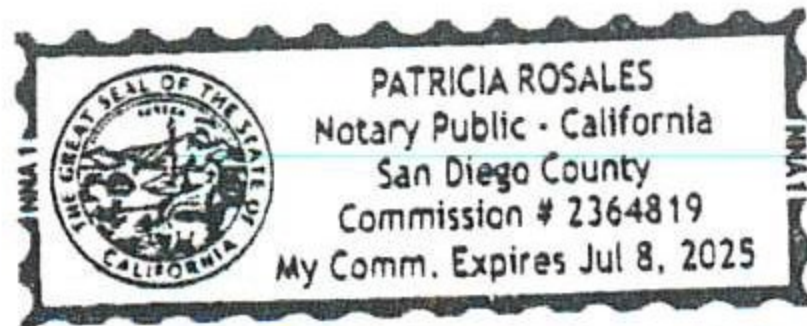
On August 23, 2021 before me, Patricia Rosales NOTARY PUBLIC
Date Here Insert Name and Title of the Officer

personally appeared Nes W. Wright
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Patricia Rosales
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Attorney in-Fact Acknowledgment of Surety

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Partner — Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer Is Representing: _____

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Partner — Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer Is Representing: _____

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE NQ 07984
SAN FRANCISCO

Amended

Certificate of Authority

THIS IS TO CERTIFY THAT, Pursuant to the Insurance Code of the State of California,

U.S. Specialty Insurance Company

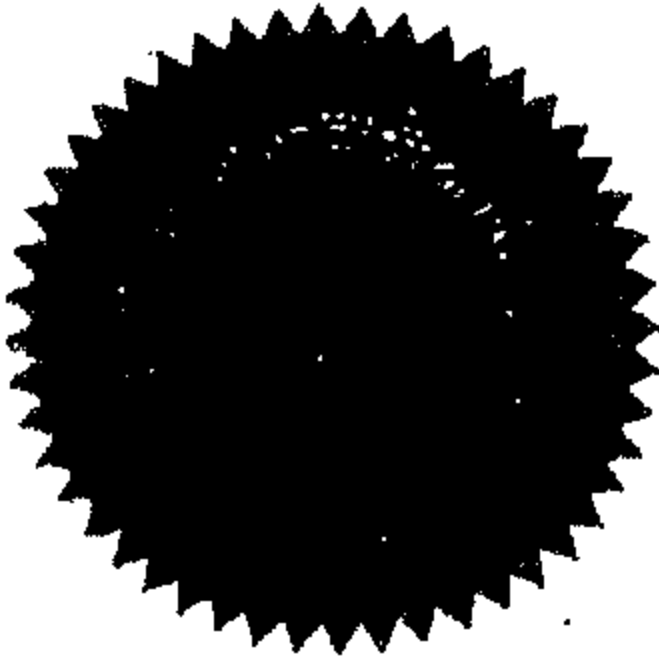
of Houston, Texas , organized under the
laws of Texas , subject to its Articles of Incorporation or
other fundamental organizational documents, is hereby authorized to transact within the State, subject to
all provisions of this Certificate, the following classes of insurance:

Fire, Marine, Surety, Disability, Liability,
Workers' Compensation, Aircraft, and Miscellaneous

as such classes are now or may hereafter be defined in the Insurance Laws of the State of California.

THIS CERTIFICATE is expressly conditioned upon the holder hereof now and hereafter being in
full compliance with all, and not in violation of any, of the applicable laws and lawful requirements made
under authority of the laws of the State of California as long as such laws or requirements are in effect
and applicable, and as such laws and requirements now are, or may hereafter be changed or amended.

IN WITNESS WHEREOF, effective as of the 29th
day of December, 2004, I have hereunto
set my hand and caused my official seal to be affixed this
29th day of December, 2004.



By

John Garamendi
Insurance Commissioner

Victoria S. Stoddy
Victoria S. Stoddy
for Ida Zodrow Deputy
Asst. Chief Deputy

NOTICE:

Qualification with the Secretary of State must be accomplished as required by the California Corporations Code promptly
after issuance of this Certificate of Authority. Failure to do so will be a violation of Insurance Code Section 701 and will be
grounds for revoking this Certificate of Authority pursuant to the covenants made in the application therefor and the
conditions contained herein.

FORM 100-1

05/01 03P 07 3001



TOKIOMARINE
HCC

POWER OF ATTORNEY
AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

KNOW ALL MEN BY THESE PRESENTS: That American Contractors Indemnity Company, a California corporation, Texas Bonding Company, an assumed name of American Contractors Indemnity Company, United States Surety Company, a Maryland corporation and U.S. Specialty Insurance Company, a Texas corporation (collectively, the "Companies"), do by these presents make, constitute and appoint:

Jay P. Freeman, Laurie B. Druck, Cynthia J. Young, Christina Mountz
or Melissa Dawn Schwartz of San Bernardino, California

its true and lawful Attorney(s)-in-fact, each in their separate capacity if more than one is named above, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include riders, amendments, and consents of surety, providing the bond penalty does not exceed *****Three Million***** Dollars (***\$3,000,000.00***). This Power of Attorney shall expire without further action on April 23rd, 2022. This Power of Attorney is granted under and by authority of the following resolutions adopted by the Boards of Directors of the Companies:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, The Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 1st day of June, 2018.

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

State of California
County of Los Angeles



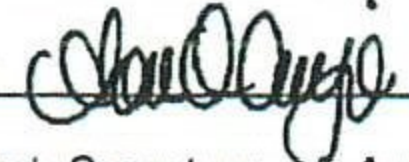
By: 
Daniel P. Aguilar, Vice President

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

On this 1st day of June, 2018, before me, Sonia O. Carrejo, a notary public, personally appeared Daniel P. Aguilar, Vice President of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (seal)



I, Kio Lo, Assistant Secretary of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Los Angeles, California this 20th day of August, 2021.

Corporate Seals
Bond No. 1001155638
Agency No. 3501




Kio Lo, Assistant Secretary

visit tmhcc.com/surety for more information

HCCSMANPOA06/2018

RESOLUTION NO. 2021 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, 1) AWARDED A CONTRACT FOR THE PARADISE CREEK MITIGATION PROJECT AT KIMBALL WAY, CIP NO. 19-35 TO WRIGHT CONSTRUCTION ENGINEERING CORP. IN THE NOT-TO-EXCEED AMOUNT OF \$818,733.60, 2) AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT, AND 3) AUTHORIZING A 15% CONTINGENCY IN THE AMOUNT OF \$122,810.04 FOR ANY UNFORESEEN CHANGES

WHEREAS, the Paradise Creek Mitigation Project at Kimball Way CIP No. 19-35 ("Project") will repair sections of Paradise Creek at Kimball Way, including removal of existing concrete lining on the south creek bank, earthwork and regrading, and installing articulated concrete blocks and a cutoff wall on south creek bank; and

WHEREAS, on November 1, 2017, the City of National City ("City") Engineering and Public Works Department submitted a project proposal for a California Governor's Office of Emergency Services ("CalOES") grant to improve Paradise Creek between Highland Avenue and Kimball Way; and

WHEREAS, on July 27, 2021, the City posted the bid solicitation on PlanetBids, a free public electronic bidding system for contractors, and on July 26, 2021, and July 28, 2021, the City advertised in local newspapers; and

WHEREAS, on August 17, 2021, the City received seven (7) bids by the 11:00 a.m. deadline for the Project; and

WHEREAS, Wright Construction Engineering Corp. was the lowest responsive bidder with a total bid amount of \$818,733.60; and

WHEREAS, upon review of all documents submitted, City staff determined Wright Construction Engineering Corp. the lowest responsive bidder qualified to perform the work as described in the Project specifications; and

WHEREAS, City staff recommends awarding a contract to Wright Construction Engineering Corp. in the not-to-exceed amount of \$818,733.60; and

WHEREAS, City staff requests City Council authorize the Mayor to execute the contract with Wright Construction Engineering Corp. for the Project; and

WHEREAS, City staff recommends authorizing a 15% contingency amount up to \$122,810.04 for any unforeseen conditions that may arise during the Project.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: Awards the Paradise Creek Mitigation Project at Kimball Way, CIP No. 19-35, to the lowest responsive, responsible bidder, to wit:

WRIGHT CONSTRUCTION ENGINEERING CORP.

Section 2: Authorizes the Mayor to execute a contract for \$818,733.60 with Wright Construction Engineering Corp. for the Paradise Creek Mitigation Project at Kimball Way, CIP No. 19-35.

Section 3: Authorizes a 15% contingency in the amount of up to \$122,810.04 for any unforeseen changes.

Section 4: The City Clerk shall certify the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED and ADOPTED this 7th day of September, 2021.

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City: 1\) authorizing the Mayor to execute the First Amendment to the Agreement by and between the City of National City and Hinderliter De Llamas & Associates for tax and fee administrative services, extending the Agreement to December 31, 2021, with the option to extend year to year thereafter, and adding compliance services; 2\) authorizing a General Fund appropriation of \\$67,000 and corresponding revenue budget for the contracted services. \(Finance\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.:

ITEM TITLE:

Resolution of the City Council of the City of National City 1) authorizing the Mayor to execute the First Amendment to the Agreement by and between the City of National City and Hinderliter De Llamas & Associates for tax and fee administrative services, extending the Agreement to December 31, 2021, with the option to extend year to year thereafter, and adding compliance services; 2) authorizing a General Fund appropriation of \$67,000 and corresponding revenue budget for the contracted services.

PREPARED BY: Molly Brennan, Administrative Services Director **DEPARTMENT:** Finance

PHONE: 619-336-4265

APPROVED BY: _____

Molly Brennan

EXPLANATION:

See attached.

FINANCIAL STATEMENT:

APPROVED: _____

Pavela Brennan

FINANCE

APPROVED: _____

MIS

Based on the number of business licenses and historical transient occupancy tax revenue for fiscal year 2021, the estimated annual base cost is \$67,000 for fiscal year 2022, with any compliance service costs offset by increased revenue collections. Budgeted expenditures (001-404-045-213-0000) and revenue (001-00000-3040) will grow by approximately \$67,000, with no impact on the General Fund bottom line.

ENVIRONMENTAL REVIEW:

This is not a project and, therefore, not subject to environmental review.

ORDINANCE: INTRODUCTION FINAL ADOPTION

STAFF RECOMMENDATION:

Adopt the resolution, authorizing the Mayor to execute the First Amendment to the Agreement by and between the City of National City and Hinderliter De Llamas & Associates for tax and fee administrative services, extending the Agreement to December 31, 2021, with the option to extend year to year thereafter, and adding compliance services. Authorize the establishment of a General Fund appropriation of \$67,000 and corresponding revenue budget for the contracted services.

BOARD / COMMISSION RECOMMENDATION:

ATTACHMENTS:

1. Staff Report
2. Hinderliter De Llamas & Associates (HdL) Amendment
3. Hinderliter De Llamas & Associates (HdL) Agreement
4. Resolution



City Council Staff Report

September 7, 2021

AGENDA ITEM:

Resolution of the City Council of the City of National City authorizing the Mayor to execute the First Amendment to the Agreement by and between the City of National City and Hinderliter De Llamas & Associates for tax and fee administrative services, extending the Agreement to December 31, 2021, with the option to extend year to year thereafter, and adding compliance services. Authorization to establish a General Fund appropriation of \$67,000 and corresponding revenue budget for the contracted services.

EXPLANATION:

The City of National City entered into an agreement with Hinderliter De Llamas & Associates (HdL) on December 19, 2019 for tax and fee administration and related services for the City for the period of December 19, 2019 through December 18, 2020. Specifically, the services were for business licensing and transient occupancy tax (TOT) operations management. The services include a tax registration database, license renewal processing, new account processing, business support, and an online filing and payment portal. The agreement amendment will commence retroactively to January 1, 2021 and continue year to year unless terminated by either party with appropriate notice. The scope of work is expanded to include compliance services, such as discovery, collections, and audits. The additional services will improve enforcement of business licenses and increase revenue to the City. HdL only receives compensation for compliance services that result in additional revenue collections.

HdL's services will help the City achieve its objective to implement regulatory strategy, apply customer service prerequisites, expedite payment processing and recordation of fees and taxes due, and yield vital information at reach within a portal for both the business owner and City of National City Staff. HdL provides numerous services including but not limited to; business license renewals, follow-through and collection of delinquent business licenses, and most importantly business license application support. HdL's familiarity with the importance of the business practice and program will serve as a boundless resource for both the business owners who conduct business

within the city limits and the city itself. Staff is confident that utilizing the services HdL has to offer will help the City implement administrative control of business licenses and serve as an advantage to the City and the public as compliance is met.

The costs for HdL's contracted services for business license and TOT tax and fee administration will be approximately \$67,000 for fiscal year 2022. Prior to business license administration by HdL, this process was handled internally by a dedicated member of the Finance Department. The administration took 100% of the employee's time at a fully burdened cost of approximately \$77,000 per year. Since outsourcing business license administration to HdL, the Finance employee has transitioned to a new role within the Department and allowed the Department to reduce the number of Accounting Assistants by one position, for a net savings of \$10,000. In addition, by expanding the services HdL will be providing to include compliance and collections, services which City staff did not have the capacity to pursue, revenue is expected to grow beyond adopted fiscal year 2022 budget levels. Between personnel cost savings and new revenue, the services covered by the contract amendment with HdL will be cost neutral to the City's General Fund.

**AMENDMENT TO AGREEMENT BETWEEN THE CITY OF NATIONAL CITY AND HINDERLITER DE LLAMAS
& ASSOCIATES**

This First Amendment to the Agreement between the City of National City and Hinderliter De Llamas & Associates for Tax and Fee Administration Services is made and entered into as of the 7th day of September 2021 ("Amendment Date"), by and between the City of National City, a municipal corporation, hereinafter referred to as City, and Hinderliter De Llamas & Associates, a California corporation, hereinafter referred to as HdL.

WHEREAS HdL and City entered into that certain Agreement for Tax and Fee Administration and related services dated December 19th, 2019 ("Original Agreement"); and

WHEREAS HdL and City now desire to amend the "Original Agreement" to extend the term and add compliance services and provide for the compensation there-of.

THEREFORE, it is agreed by City and HdL as follows:

1. SCOPE OF SERVICES

Exhibit A detailing the specific services to be performed by HdL is hereby amended and restated in its entirety with **Exhibit A** attached to this Amendment.

2. COMPENSATION

Exhibit B detailing the compensation for services is hereby amended and restated in its entirety with **Exhibit B** attached to this Amendment.

3. TERM OF AMENDMENT

The term for this First Amendment shall commence on January 1st, 2020 and continue year to year unless terminated earlier by either party pursuant to the Original Agreement's termination provisions.

4. NOTICE

All notices required by this Amendment shall be given to the City and to HdL in writing, by personal delivery or first-class mail postage prepaid, addressed as follows:

City Administrative Services Director
City of National City
1243 National City Boulevard
National City, California 91950-4397

HdL Attn: Contracts
HdL Companies
120 S State College Blvd Suite 200
Brea, California 92821

5. PROJECT COORDINATION AND SUPERVISION

The designated Project Coordinator for the CITY shall be the Administrative Services Director, or in their absence, the Acting Administrative Services Director. This amends Section 4 of the "Original Agreement" dated December 19th, 2019.

6. FULL FORCE AND EFFECT

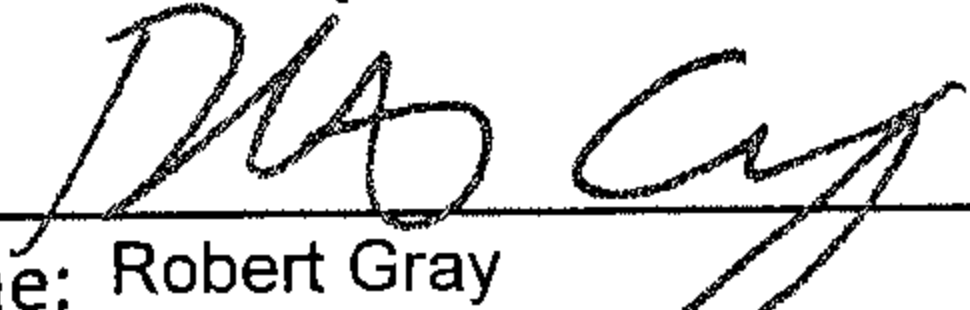
Except as modified pursuant to this amendment, all other terms and conditions of the Original Agreement shall remain in full force and effect.

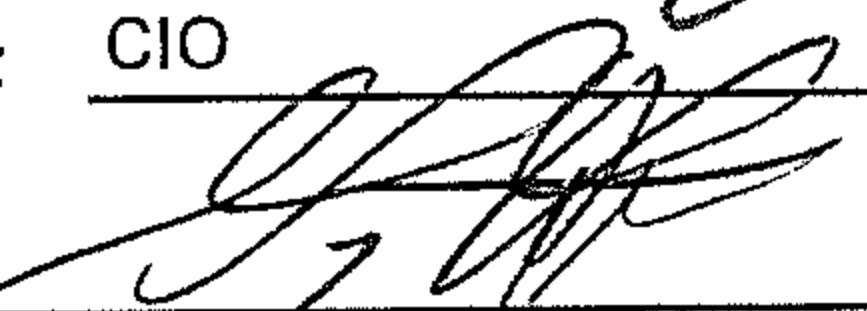
IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed on the date first above written by their respective officers duly authorized in that behalf.

CITY OF NATIONAL CITY, CA

By: _____
Name: _____
Title: _____

**Hinderliter, De Llamas & Associates, a
California Corporation**

By: 
Name: Robert Gray
Title: CIO

By: 
Name: Gary Lott
Title: COO

APPROVED AS TO FORM:

Gabriela M. Torres, Deputy City Attorney

EXHIBIT A

SCOPE OF SERVICES

HdL will provide the following Services:

1. Business License Tax Operations Management Services

- 1.1. Establish and maintain database of City businesses.
- 1.2. Receive and process applications, renewals, and payments in a timely fashion.
- 1.3. Send renewal notices to active businesses within 30 days of the renewal period end date or at another interval specified by City.
- 1.4. Provide businesses multiple options for submitting applications, renewals, payments, or support requests (including via website, email, mail, phone, and fax. HdL license specialists will be available for live interactions Monday through Friday, 8:00am to 5:00pm Pacific).
- 1.5. Remit revenue to City no less than monthly.
- 1.6. Provide City staff access to website portal offering business registry inquiry, reporting, and electronic department approval capabilities.

2. Compliance Services: 1) Identify and register businesses which are subject to licensure or taxation, 2) collect known debt as pertains to business license or tax, and 3) identify under-reported tax liability.

2.1. Discovery Services

- 2.1.1. Develop a list of businesses subject to City licensure or taxation.
- 2.1.2. Notify non-compliant businesses of their options to comply or dispute their non-compliant status. Notification and support to businesses will be facilitated through the website, mail, email, phone, and fax.
- 2.1.3. Review information and forms submitted by the business for completion and accuracy, inclusive of any additional required documentation (i.e., home occupation permit). All submissions are filed and stored electronically and made available to City upon request.
- 2.1.4. Provide businesses with detailed invoicing and options to pay via website, mail, and phone.
- 2.1.5. Remit revenue to City no less than monthly, along with all business applications and any additional documentation.

2.2. Collection Services

- 2.2.1. Identify businesses subject to City licensure or taxation which have known debt to City and have failed to pay within an appropriate time frame.
- 2.2.2. Notify businesses of their options to comply or dispute their non-compliant status.
- 2.2.3. Provide businesses with detailed invoicing and options to pay via website, mail, and phone.
- 2.2.4. Remit revenue to City no less than monthly.

2.3. Audit Services

- 2.3.1. Identify potential under-reporting and/or misclassified businesses.
- 2.3.2. Audit businesses mutually agreed to by City and HdL that are identified as potential under-reporting businesses.
- 2.3.3. Submit audit summaries to City and discuss further actions.
- 2.3.4. Educate businesses on proper reporting practices.
- 2.3.5. Invoice and collect identified delinquencies.

3. Transient Occupancy Tax Operations Management Services

- 3.1. Establish and maintain database of City lodging providers.
- 3.2. Receive and process registrations, tax returns and payments in a timely fashion.

- 3.3. Provide lodging providers multiple options for submitting registrations, tax returns, payments, or support requests (including via website, email, mail, phone, and fax. HdL tax specialists will be available for live interactions Monday through Friday, 8:00am to 5:00pm Pacific).
- 3.4. Remit revenue to City no less than monthly.
- 3.5. Provide City staff access to website portal offering lodging provider registry inquiry and reporting capabilities.
- 3.6. Endeavor to ensure accurate filings of returns by consistently monitoring returns, providing compliance audits, and educating lodging providers as mutually agreed to by City and HdL.
- 3.7. Provide analysis reports monthly and annually provide revenue trends and key insights on City lodging providers.

EXHIBIT B

FEES

4. Business License Tax Operations Management Services

- 4.1. Fees for performing operations management Services shall be \$13.50 for each processed account, which is any account for which an application or renewal/return was processed, or active account which was sent a renewal notice.
- 4.2. Beginning January 1st, 2023 Fees will be increased as of January 1st of each calendar year with reference to the 12-month percent change in the most recently published annual Consumer Price Index for All Urban Consumers (CPI-U), West Region, as reported by the U.S Bureau of Labor Statistics (the "CPI Change"). Each annual increase in the Fees will be equal to the greater of two percent (2%) or the actual CPI Change and the lesser of ten percent (10%) or the actual CPI Change. For example, if the actual CPI Change is 1.5%, then the annual increase will be 2%, if the actual CPI Change is 3.5%, then the annual increase will be 3.5%, and if the actual CPI Change is 12% then the annual increase will be 10%.
- 4.3. Fees related to travel and lodging expenses are billed at cost and apply to all meetings (including implementation, training, operations, and support). Travel expenses only apply to out-of-scope travel and must therefore be pre-approved by Qty.
- 4.4. Fees will be invoiced monthly to Qty for Services performed during the prior month. Fees will be netted out of Qty's monthly revenue disbursement. Qty will submit payment for any balance due to HdL within 30 days of receiving the invoice.

5. Compliance Services

- 5.1. Fees for performing compliance Services apply to all monies received for the current tax/license period and any other prior period collected (including monies received for taxes, penalties, interest, and fees). Fees do not apply to payments for future periods.
 - 5.1.1. Fees for performing discovery Services shall be a contingency Fee of 35% of the revenues received as a result of the Services.
 - 5.1.2. In the event that Qty discovers a non-compliant business and reports the business to HdL (including a calculation of all taxes/fees due), HdL will categorize the business as a collection service effort and thus apply the lower collection Services contingency Fee rate.
 - 5.1.3. Fees for performing collection Services shall be a contingency Fee of 25% of the revenues received as a result of the Services.
 - 5.1.4. Fees for performing audit Services shall be a contingency Fee of 35% of the revenues received as a result of the Services.
- 5.2. HdL recognizes Qty's authority to waive or reduce the tax/fee debt of a business. Should Qty decide to do so for a business whose deficiency was identified by HdL, HdL shall be entitled to compensation in the amount of one half (1/2) of the Fees HdL would have otherwise earned. Deficiencies which are uncollectable due to insolvency or dissolution of the business, or for deficiencies which are otherwise incapable of collection (i.e., statute of limitation or other legal defense) shall not be considered a Qty voluntary election to waive, and thus, HdL would not be entitled to compensation related thereto under this provision.
- 5.3. Fees related to travel and lodging expenses are billed at cost and applied to all meetings (including implementation, training, operations, and support). Travel expenses only apply to out-of-scope travel and must therefore be pre-approved by Qty.

5.4. Fees will be invoiced monthly to City for Services performed during the prior month. Fees will be netted out of City's monthly revenue disbursement. City will submit payment for any balance due to HdL within 30 days of receiving the invoice.

6. Transient Occupancy Tax Operations Management Services

6.1. Fees for performing operations management Services shall be \$650.00 per year for each quarterly filing property, and \$750.00 per year for each monthly filing property.

6.2. Beginning January 1st, 2023 Fees will be increased as of January 1st of each calendar year with reference to the 12-month percent change in the most recently published annual Consumer Price Index for All Urban Consumers (CPI-U), West Region, as reported by the U.S. Bureau of Labor Statistics (the "CPI Change"). Each annual increase in the Fees will be equal to the greater of two percent (2%) or the actual CPI Change and the lesser of ten percent (10%) or the actual CPI Change. For example, if the actual CPI Change is 1.5%, then the annual increase will be 2%, if the actual CPI Change is 3.5%, then the annual increase will be 3.5%, and if the actual CPI Change is 12%, then the annual increase will be 10%.

6.3. Fees related to travel and lodging expenses are billed at cost and apply to all meetings (including implementation, training, operations, and support).

6.4. Fees will be invoiced monthly to City for Services performed during the prior month. Fees will be netted out of City's monthly revenue disbursement. City will submit payment for any balance due to HdL within 30 days of receiving the invoice.

**AGREEMENT
BETWEEN
THE CITY OF NATIONAL CITY
AND
HINDERLITER, DE LLAMAS & ASSOCIATES**

THIS AGREEMENT is entered into on this 19th day of December, 2019, between the CITY OF NATIONAL CITY, a municipal corporation (the "CITY"), and HINDERLITER, DE LLAMAS & ASSOCIATES, a California corporation (the "CONSULTANT").

RECITALS

WHEREAS, the CITY desires to employ a CONSULTANT to provide business tax operations management regarding the renewal and issuance of CITY business licenses.

WHEREAS, the CITY has determined that the CONSULTANT is experienced in municipal sales tax matters and is qualified by experience and ability to perform the services desired by the CITY, and the CONSULTANT is willing to perform such services.

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY AGREE AS FOLLOWS:

1. **ENGAGEMENT OF CONSULTANT.** The CITY agrees to engage the CONSULTANT to provide business tax operations management, and the CONSULTANT agrees to perform the services set forth here in accordance with all terms and conditions contained herein.

The CONSULTANT represents that all services shall be performed directly by the CONSULTANT or under direct supervision of the CONSULTANT.

2. **EFFECTIVE DATE AND LENGTH OF AGREEMENT.** This Agreement will become effective on December 19, 2019. The duration of this Agreement is for the period of December 19, 2019 through December 18, 2020. Completion dates or time durations for specific portions of the project are set forth in Exhibit "A".

3. **SCOPE OF SERVICES.** The CONSULTANT will perform those business tax operations management services as set forth in the attached Exhibit "A".

The CONSULTANT shall be responsible for all research and reviews related to the work and shall not rely on personnel of the CITY for such services, except as authorized in advance by the CITY. The CONSULTANT shall appear at meetings specified in Exhibit "A" to keep staff and City Council advised of the progress on the project.

The CITY may unilaterally, or upon request from the CONSULTANT, from time to time reduce or increase the Scope of Services to be performed by the CONSULTANT under this Agreement. Upon doing so, the CITY and the CONSULTANT agree to meet in good faith and confer for the purpose of negotiating a corresponding reduction or increase in the compensation associated with said change in services.

4. **PROJECT COORDINATION AND SUPERVISION.** Mark Roberts hereby is designated as the Project Coordinator for the CITY and will monitor the progress and execution of this Agreement. The CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this Agreement for the CONSULTANT. Josh Davis thereby is designated as the Project Director for the CONSULTANT.

5. **COMPENSATION AND PAYMENT.** The compensation for the CONSULTANT shall be based on billings covering actual work performed and actual CITY revenue received by CONSULTANT. Billings shall include labor classifications, respective rates, hours worked and also materials, if any. The total cost for all work described in Exhibit "A" shall not exceed \$49,500. CONSULTANT shall invoice the CITY at the end of: (1) January; (2) February; and (3) March, with each invoice detailing the amount of CITY revenue CONSULTANT collected for that month, and the amount of CITY revenue CONSULTANT retains as compensation for CONSULTANT's services, provided that work is accomplished consistent with Exhibit "A", as determined by the CITY.

The CONSULTANT shall maintain all books, documents, papers, employee time sheets, accounting records, and other evidence pertaining to costs incurred, and shall make such materials available at its office at all reasonable times during the term of this Agreement and for three (3) years from the date of final payment under this Agreement, for inspection by the CITY, and for furnishing of copies to the CITY, if requested.

6. **ACCEPTABILITY OF WORK.** The CITY shall decide any and all questions which may arise as to the quality or acceptability of the services performed and the manner of performance, the acceptable completion of this Agreement, and the amount of compensation due. In the event the CONSULTANT and the CITY cannot agree to the quality or acceptability of the work, the manner of performance and/or the compensation payable to the CONSULTANT in this Agreement, the CITY or the CONSULTANT shall give to the other written notice. Within ten (10) business days, the CONSULTANT and the CITY shall each prepare a report which supports their position and file the same with the other party. The CITY shall, with reasonable diligence, determine the quality or acceptability of the work, the manner of performance and/or the compensation payable to the CONSULTANT.

7. **DISPOSITION AND OWNERSHIP OF DOCUMENTS.** The Memoranda, Reports, Maps, Drawings, Plans, Specifications, and other documents prepared by the CONSULTANT for this project, whether paper or electronic, shall: (1) be free from defects; (2) become the property of the CITY for use with respect to this project; and (3) shall be turned over to the CITY upon completion of the project, or any phase thereof, as contemplated by this Agreement.

Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the CITY, and CONSULTANT thereby expressly waives and disclaims any copyright in, and the right to reproduce, all written material, drawings, plans, specifications, or other work prepared under this Agreement, except upon the CITY'S prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the CITY, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

The CONSULTANT agrees that the CITY may use, reuse, alter, reproduce, modify, assign, transfer, or in any other way, medium, or method utilize the CONSULTANT'S written work product for the CITY'S purposes, and the CONSULTANT expressly waives and disclaims any residual rights granted to it by Civil Code Sections 980 through 989 relating to intellectual property and artistic works.

Any modification or reuse by the CITY of documents, drawings, or specifications prepared by the CONSULTANT shall relieve the CONSULTANT from liability under Section 14, but only with respect to the effect of the modification or reuse by the CITY, or for any liability to the CITY should the documents be used by the CITY for some project other than what was expressly agreed upon within the Scope of Services of this project, unless otherwise mutually agreed.

8. **INDEPENDENT CONTRACTOR.** Both parties hereto in the performance of this Agreement will be acting in an independent capacity and not as agents, employees, partners, or joint venturers with one another. Neither the CONSULTANT nor the CONSULTANT'S employees are employees of the CITY, and are not entitled to any of the rights, benefits, or privileges of the CITY'S employees, including but not limited to retirement, medical, unemployment, or workers' compensation insurance.

This Agreement contemplates the personal services of the CONSULTANT and the CONSULTANT'S employees, and it is recognized by the parties that a substantial inducement to the CITY for entering into this Agreement was, and is, the professional reputation and competence of the CONSULTANT and its employees. Neither this Agreement, nor any interest herein, may be assigned by the CONSULTANT without the prior written consent of the CITY. Nothing herein contained is intended to prevent the CONSULTANT from employing or hiring as many employees, or SUBCONSULTANTS, as the CONSULTANT may deem necessary for the proper and efficient performance of this Agreement. All agreements by CONSULTANT with its SUBCONSULTANT(S) shall require the SUBCONSULTANT(S) to adhere to the applicable terms of this Agreement.

9. **CONTROL.** Neither the CITY, nor its officers, agents, or employees shall have any control over the conduct of the CONSULTANT or any of the CONSULTANT'S employees, except as set forth in this Agreement. The CONSULTANT, or the CONSULTANT'S agents, servants, or employees are not in any manner agents, servants, or employees of the CITY. The CONSULTANT and its agents, servants, and employees are wholly independent from the CITY and CONSULTANT'S obligations to the CITY are solely prescribed by this Agreement.

10. **COMPLIANCE WITH APPLICABLE LAW.** The CONSULTANT, in the performance of the services to be provided herein, shall comply with all applicable state and federal statutes and regulations, and all applicable ordinances, rules, and regulations of the City of National City, whether now in force or subsequently enacted. The CONSULTANT and each of its SUBCONSULTANT(S), shall obtain and maintain a current City of National City business license prior to and during performance of any work pursuant to this Agreement.

11. **LICENSES, PERMITS, ETC.** The CONSULTANT represents and covenants that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession. CONSULTANT must promptly produce a copy of any such license, permit, or approval to CITY upon request. The CONSULTANT represents and

covenants that the CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, or approval which is legally required for the CONSULTANT to practice its profession.

12. **STANDARD OF CARE.**

A. The CONSULTANT, in performing any services under this Agreement, shall perform in a manner consistent with that level of care and skill ordinarily exercised by members of the CONSULTANT'S trade or profession currently practicing under similar conditions and in similar locations. The CONSULTANT shall take all special precautions necessary to protect the CONSULTANT'S employees and members of the public from risk of harm arising out of the nature of the work and/or the conditions of the work site.

B. Unless disclosed in writing prior to the date of this Agreement, the CONSULTANT warrants to the CITY that it is not now, nor has it for the five (5) years preceding, been debarred by a governmental agency or involved in debarment, arbitration or litigation proceedings concerning the CONSULTANT'S professional performance or the furnishing of materials or services relating thereto.

C. The CONSULTANT is responsible for identifying any unique products, treatments, processes or materials whose availability is critical to the success of the project the CONSULTANT has been retained to perform, within the time requirements of the CITY, or, when no time is specified, then within a commercially reasonable time. Accordingly, unless the CONSULTANT has notified the CITY otherwise, the CONSULTANT warrants that all products, materials, processes or treatments identified in the project documents prepared for the CITY are reasonably commercially available. Any failure by the CONSULTANT to use due diligence under this sub-section will render the CONSULTANT liable to the CITY for any increased costs that result from the CITY'S later inability to obtain the specified items or any reasonable substitute within a price range that allows for project completion in the time frame specified or, when not specified, then within a commercially reasonable time.

13. **NON-DISCRIMINATION PROVISIONS.** The CONSULTANT shall not discriminate against any employee or applicant for employment because of age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. The CONSULTANT will take positive action to insure that applicants are employed without regard to their age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the CITY setting forth the provisions of this non-discrimination clause.

14. **CONFIDENTIAL INFORMATION.** The CITY may from time to time communicate to the CONSULTANT certain confidential information to enable the CONSULTANT to effectively perform the services to be provided herein. The CONSULTANT shall treat all such information as confidential and shall not disclose any part thereof without the prior written consent of the CITY. The CONSULTANT shall limit the use and circulation of such information, even within its own organization, to the extent necessary to perform the services to be provided herein. The foregoing obligation of this Section 14, however, shall not

apply to any part of the information that (i) has been disclosed in publicly available sources of information; (ii) is, through no fault of the CONSULTANT, hereafter disclosed in publicly available sources of information; (iii) is already in the possession of the CONSULTANT without any obligation of confidentiality; or (iv) has been or is hereafter rightfully disclosed to the CONSULTANT by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party.

The CONSULTANT shall not disclose any reports, recommendations, conclusions or other results of the services or the existence of the subject matter of this Agreement without the prior written consent of the CITY. In its performance hereunder, the CONSULTANT shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm or corporation.

CONSULTANT shall be liable to CITY for any damages caused by breach of this condition, pursuant to the provisions of Section 15.

15. **INDEMNIFICATION AND HOLD HARMLESS.** To the maximum extent provided by law, The CONSULTANT agrees to defend, indemnify and hold harmless the City of National City, its officers, officials, agents, employees, and volunteers against and from any and all liability, loss, damages to property, injuries to, or death of any person or persons, and all claims, demands, suits, actions, proceedings, reasonable attorneys' fees, and defense costs, of any kind or nature, including workers' compensation claims, of or by anyone whomsoever, resulting from or arising out of the CONSULTANT'S performance or other obligations under this Agreement; provided, however, that this indemnification and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of the CITY, its agents, officers, employees or volunteers. CITY will cooperate reasonably in the defense of any action, and CONSULTANT shall employ competent counsel, reasonably acceptable to the City Attorney.

The indemnity, defense, and hold harmless obligations contained herein shall survive the termination of this Agreement for any alleged or actual omission, act, or negligence under this Agreement that occurred during the term of this Agreement.

16. **EMPLOYEE PAYMENTS AND INDEMNIFICATION.**

A. **PERS Eligibility Indemnification.** If CONTRACTOR's employee(s) 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 of the CITY, CONTRACTOR shall indemnify, defend, and hold harmless CITY for the payment of any employer and employee contributions for PERS benefits on behalf of the employee as well as for payment of any penalties and interest on such contributions which would otherwise be the responsibility of the CITY.

CONTRACTOR'S employees providing service under this Agreement shall not: (1) qualify for any compensation and benefit under PERS; (2) be entitled to any benefits under PERS; (3) enroll in PERS as an employee of CITY; (4) receive any employer contributions paid by CITY for PERS benefits; or (5) be entitled to any other PERS-related benefit that would accrue to a CITY employee. CONTRACTOR's employees hereby waive any claims to benefits or compensation described in this Section 16. This Section 16 applies to CONTRACTOR

notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary.

B. Limitation of CITY Liability. The payment made to CONTRACTOR under this Agreement shall be the full and complete compensation to which CONTRACTOR and CONTRACTOR's officers, employees, agents, and subcontractors are entitled for performance of any work under this Agreement. Neither CONTRACTOR nor CONTRACTOR's officers, employees, agents, and subcontractors are entitled to any salary or wages, or retirement, health, leave or other fringe benefits applicable to CITY employees. The CITY will not make any federal or state tax withholdings on behalf of CONTRACTOR. The CITY shall not be required to pay any workers' compensation insurance on behalf of CONTRACTOR.

C. Indemnification for Employee Payments. CONTRACTOR agrees to defend and indemnify the CITY for any obligation, claim, suit, or demand for tax, retirement contribution including any contribution to PERS, social security, salary or wages, overtime payment, or workers' compensation payment which the CITY may be required to make on behalf of (1) CONTRACTOR, (2) any employee of CONTRACTOR, or (3) any employee of CONTRACTOR construed to be an employee of the CITY, for work performed under this Agreement. This is a continuing obligation that survives the termination of this Agreement.

17. WORKERS' COMPENSATION. The CONSULTANT shall comply with all of the provisions of the Workers' Compensation Insurance and Safety Acts of the State of California, the applicable provisions of Division 4 and 5 of the California Labor Code and all amendments thereto; and all similar State or federal acts or laws applicable; and shall indemnify, and hold harmless the CITY and its officers, employees, and volunteers from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description, including reasonable attorney's fees and defense costs presented, brought or recovered against the CITY or its officers, employees, or volunteers, for or on account of any liability under any of said acts which may be incurred by reason of any work to be performed by the CONSULTANT under this Agreement.

18. INSURANCE. The CONSULTANT, at its sole cost and expense, shall purchase and maintain, and shall require its SUBCONSULTANT(S), when applicable, to purchase and maintain throughout the term of this Agreement, the following insurance policies:

A. **Professional Liability** Insurance (errors and omissions) with minimum limits of \$2,000,000 per claim.

B. **Automobile Insurance** covering all bodily injury and property damage incurred during the performance of this Agreement, with a minimum coverage of \$1,000,000 combined single limit per accident. Such automobile insurance shall include owned, non-owned, and hired vehicles ("any auto"). The policy shall name the CITY and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided.

C. **Commercial General Liability Insurance**, with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate with a \$3,000,000 umbrella policy, covering all bodily injury and property damage arising out of its operations, work, or performance under this Agreement. The policy shall name the CITY and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement

shall be provided. The general aggregate limit must apply solely to this “project” or “location”. The “project” or “location” should be noted with specificity on an endorsement that shall be incorporated into the policy.

D. **Workers’ Compensation Insurance** in an amount sufficient to meet statutory requirements covering all of CONSULTANT’S employees and employers’ liability insurance with limits of at least \$1,000,000 per accident. In addition, the policy shall be endorsed with a waiver of subrogation in favor of the CITY. Said endorsement shall be provided prior to commencement of work under this Agreement.

If CONSULTANT has no employees subject to the California Workers’ Compensation and Labor laws, CONSULTANT shall execute a Declaration to that effect. Said Declaration shall be provided to CONSULTANT by CITY.

E. **Cyber Liability Insurance** with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Such coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by CONSULTANT in this Agreement and coverage shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. The policy shall name the CITY, its officers, officials, employees, and volunteers as additional insureds on the Cyber Liability policy with respect to liability arising out of work or operations performed by or on behalf of CONSULTANT including materials, parts, or equipment furnished in connection with such work or operations.

F. The aforesaid policies shall constitute primary insurance as to the CITY, its officers, officials, employees, and volunteers, so that any other policies held by the CITY shall not contribute to any loss under said insurance. Said policies shall provide for thirty (30) days prior written notice to the CITY’S Risk Manager, at the address listed in subsection G below, of cancellation or material change.

G. If required insurance coverage is provided on a “claims made” rather than “occurrence” form, the CONSULTANT shall maintain such insurance coverage for three years after expiration of the term (and any extensions) of this Agreement. In addition, the “retro” date must be on or before the date of this Agreement.

H. The Certificate Holder for all policies of insurance required by this Section shall be:

City of National City
c/o Risk Manager
1243 National City Boulevard
National City, CA 91950-4397

I. Insurance shall be written with only insurers authorized to conduct business in California that hold a current policy holder’s alphabetic and financial size category rating of not less than A:VII according to the current Best’s Key Rating Guide, or a company of equal financial stability that is approved by the CITY’S Risk Manager. In the event coverage is

provided by non-admitted “surplus lines” carriers, they must be included on the most recent List of Approved Surplus Line Insurers (“LASLI”) and otherwise meet rating requirements.

J. This Agreement shall not take effect until certificate(s) or other sufficient proof that these insurance provisions have been complied with, are filed with and approved by the CITY’S Risk Manager. If the CONSULTANT does not keep all insurance policies required by this Section 18 in full force and effect at all times during the term of this Agreement, the CITY may treat the failure to maintain the requisite insurance as a breach of this Agreement and terminate the Agreement as provided herein.

K. All deductibles and self-insured retentions in excess of \$10,000 must be disclosed to and approved by the CITY. CITY reserves the right to modify the insurance requirements of this Section 18, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

L. If the CONSULTANT maintains broader coverage or higher limits (or both) than the minimum limits shown above, the CITY shall be entitled to the broader coverage or higher limits (or both) maintained by the CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the CITY.

19. **LEGAL FEES.** If any party brings a suit or action against the other party arising from any breach of any of the covenants or agreements or any inaccuracies in any of the representations and warranties on the part of the other party arising out of this Agreement, then in that event, the prevailing party in such action or dispute, whether by final judgment or out-of-court settlement, shall be entitled to have and recover of and from the other party all costs and expenses of suit, including attorneys’ fees.

For purposes of determining who is to be considered the prevailing party, it is stipulated that attorney’s fees incurred in the prosecution or defense of the action or suit shall not be considered in determining the amount of the judgment or award. Attorney’s fees to the prevailing party if other than the CITY shall, in addition, be limited to the amount of attorney’s fees incurred by the CITY in its prosecution or defense of the action, irrespective of the actual amount of attorney’s fees incurred by the prevailing party.

20. **TERMINATION.**

A. The services component that CONSULTANT provides CITY may be terminated with or without cause by the CITY. Termination without cause shall be effective only upon 60-day’s written notice to the CONSULTANT. During said 60-day period the CONSULTANT shall perform all services in accordance with this Agreement.

B. Software services may be terminated by either party upon written notice at least 90 days prior to the end of the established annual billing cycle. Software services are provided on an annual basis. No credit will be provided for any unused portion of the annual term. Upon termination, the software license shall expire and (1) CITY will immediately remove the software from computers, servers and network, and destroy or erase all copies of the software and any Proprietary Information (as defined in Exhibit “A”) and confirm destruction of same by signing and returning to CONSULTANT an “Affidavit of Destruction” acceptable to CONSULTANT, and (2) upon CITY’s request, CONSULTANT will assist in extracting the CITY data in a format acceptable to both the CITY and CONSULTANT.

C. This Agreement may also be terminated immediately by the CITY for cause in the event of a material breach of this Agreement, misrepresentation by the

CONSULTANT in connection with the formation of this Agreement or the performance of services, or the failure to perform services as directed by the CITY.

D. Termination with or without cause shall be effected by delivery of written Notice of Termination to the CONSULTANT as provided for herein.

E. In the event of termination, all finished or unfinished Memoranda Reports, Maps, Drawings, Plans, Specifications and other documents prepared by the CONSULTANT, whether paper or electronic, shall immediately become the property of and be delivered to the CITY, and the CONSULTANT shall be entitled to receive just and equitable compensation for any work satisfactorily completed on such documents and other materials up to the effective date of the Notice of Termination, not to exceed the amounts payable hereunder, and less any damages caused the CITY by the CONSULTANT'S breach, if any. Thereafter, ownership of said written material shall vest in the CITY all rights set forth in Section 7.

F. The CITY further reserves the right to immediately terminate this Agreement upon: (1) the filing of a petition in bankruptcy affecting the CONSULTANT; (2) a reorganization of the CONSULTANT for the benefit of creditors; or (3) a business reorganization, change in business name or change in business status of the CONSULTANT.

21. **NOTICES.** All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered; or sent by overnight mail (Federal Express or the like); or sent by registered or certified mail, postage prepaid, return receipt requested; or sent by ordinary mail, postage prepaid; or telegraphed or cabled; or delivered or sent by telex, telecopy, facsimile or fax; and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if sent by overnight mail, the business day following its deposit in such overnight mail facility, (iii) if mailed by registered, certified or ordinary mail, five (5) days (ten (10) days if the address is outside the State of California) after the date of deposit in a post office, mailbox, mail chute, or other like facility regularly maintained by the United States Postal Service, (iv) if given by telegraph or cable, when delivered to the telegraph company with charges prepaid, or (v) if given by telex, telecopy, facsimile or fax, when sent. Any notice, request, demand, direction or other communication delivered or sent as specified above shall be directed to the following persons:

To CITY: Mark Roberts
 Director of Finance
 City of National City
 1243 National City Boulevard
 National City, California 91950-4397

To CONSULTANT:
 Andy Nickerson
 President, HdL
 120 South State College Boulevard, Suite 200
 Brea, California 92821

Notice of change of address shall be given by written notice in the manner specified in this Section. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the notice,

demand, request or communication sent. Any notice, request, demand, direction or other communication sent by cable, telex, telecopy, facsimile or fax must be confirmed within forty-eight (48) hours by letter mailed or delivered as specified in this Section.

22. **CONFLICT OF INTEREST AND POLITICAL REFORM ACT**

OBLIGATIONS. During the term of this Agreement, the CONSULTANT shall not perform services of any kind for any person or entity whose interests conflict in any way with those of the City of National City. The CONSULTANT also agrees not to specify any product, treatment, process or material for the project in which the CONSULTANT has a material financial interest, either direct or indirect, without first notifying the CITY of that fact. The CONSULTANT shall at all times comply with the terms of the Political Reform Act and the National City Conflict of Interest Code. The CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the CITY in which the CONSULTANT has a financial interest as defined in Government Code Section 87103. The CONSULTANT represents that it has no knowledge of any financial interests that would require it to disqualify itself from any matter on which it might perform services for the CITY.

The CONSULTANT shall comply with all of the reporting requirements of the Political Reform Act and the National City Conflict of Interest Code. Specifically, the CONSULTANT shall file a Statement of Economic Interests with the City Clerk of the City of National City in a timely manner on forms which the CONSULTANT shall obtain from the City Clerk.

The CONSULTANT shall be strictly liable to the CITY for all damages, costs or expenses the CITY may suffer by virtue of any violation of this Section 22 by the CONSULTANT.

23. **PREVAILING WAGES.** State prevailing wage rates may apply to work performed under this Agreement. State prevailing wages rates apply to all public works contracts as set forth in California Labor Code, including but not limited to, Sections 1720, 1720.2, 1720.3, 1720.4, and 1771. Consultant is solely responsible to determine if State prevailing wage rates apply and, if applicable, pay such rates in accordance with all laws, ordinances, rules, and regulations.

24. **ADMINISTRATIVE PROVISIONS.**

A. *Computation of Time Periods.* If any date or time period provided for in this Agreement is or ends on a Saturday, Sunday or federal, state or legal holiday, then such date shall automatically be extended until 5:00 p.m. Pacific Time of the next day which is not a Saturday, Sunday or federal, state, or legal holiday.

B. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

C. *Captions.* Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

D. *No Obligations to Third Parties.* Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, or obligate any of the parties hereto, to any person or entity other than the parties hereto.

E. *Exhibits and Schedules.* The Exhibits and Schedules attached hereto are hereby incorporated herein by this reference for all purposes. To the extent any exhibits, schedules, or provisions thereof conflict or are inconsistent with the terms and conditions contained in this Agreement, the terms and conditions of this Agreement shall control.

F. *Amendment to this Agreement.* The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

G. *Assignment & Assumption of Rights.* CONSULTANT shall not assign this Agreement, in whole or in part, to any other party without first obtaining the written consent of CITY.

H. *Waiver.* The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

I. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California. The venue for any legal action arising under this Agreement shall be in either state or federal court in the County of San Diego, State of California.

J. *Audit.* If this Agreement exceeds ten-thousand dollars (\$10,000), the parties shall be subject to the examination and audit of the State Auditor for a period of three (3) years after final payment under the Agreement, per Government Code Section 8546.7.

K. *Entire Agreement.* This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of any party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

L. *Successors and Assigns.* This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

M. *Subcontractors or Subconsultants.* The CITY is engaging the services of the CONSULTANT identified in this Agreement. The CONSULTANT shall not subcontract any portion of the work, unless such subcontracting was part of the original proposal or is allowed by the CITY in writing. In the event any portion of the work under this Agreement is subcontracted, the subconsultant(s) shall be required to comply with and agree to, for the benefit of and in favor of the CITY, both the insurance provisions in Section 18 and the indemnification and hold harmless provision of Section 15 of this Agreement.

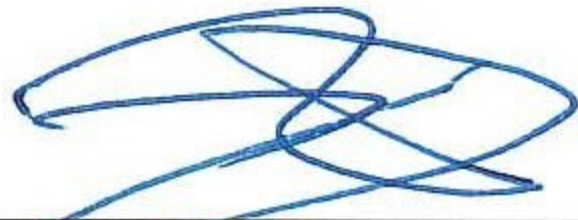
N. *Construction.* The parties acknowledge and agree that (i) each party is of equal bargaining strength, (ii) each party has actively participated in the drafting, preparation and negotiation of this Agreement, (iii) each such party has consulted with or has had the opportunity to consult with its own, independent counsel and such other professional advisors as such party has deemed appropriate, relative to any and all matters contemplated under this Agreement, (iv) each party and such party's counsel and advisors have reviewed this Agreement, (v) each party has agreed to enter into this Agreement following such review and the rendering of such advice, and (vi) any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement, or any portions hereof, or any amendments hereto.

///

///

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

CITY OF NATIONAL CITY

By: 

Brad Raulston, City Manager

APPROVED AS TO FORM:

Angil P. Morris-Jones
City Attorney

By: 

Roberto M. Contreras
Deputy City Attorney

**HINDERLITER, DE LLAMAS &
ASSOCIATES, A CALIFORNIA
CORPORATION**

(Corporation – signatures of two corporate officers required)

By: _____
(Name)

(Print)

(Title)

By: _____
(Name)

(Print)

(Title)

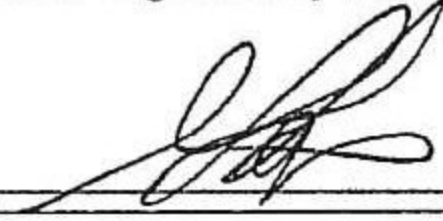
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

CITY OF NATIONAL CITY

HINDERLITER, DE LLAMAS & ASSOCIATES, A CALIFORNIA CORPORATION

(Corporation -- signatures of two corporate officers required)

By: _____
Brad Raulston, City Manager

By:  _____
(Name)

APPROVED AS TO FORM:

Angil P. Morris-Jones
City Attorney

GARY LOTT
(Print)

COO
(Title)

By: _____
Roberto M. Contreras
Deputy City Attorney

By:   _____
(Name)

RICHARD P. ...
(Print)

CFO
(Title)

EXHIBIT A - SCOPE OF SERVICE

1. Business Tax Operations Management

- 1.1. **Tax Registration Database Management** – HdL will transfer the City’s existing databases as they relate to business license into HdL’s internal administration tools. HdL will maintain the data and provide copies of data or reports at the City’s request. City will not be required to use or maintain any software in house for managing the business license registry.
- 1.2. **Renewal Processing** – Send active business license accounts a renewal notice within 30 days of the renewal period end date. Accounts will receive all applicable forms necessary to complete the renewal process.
- 1.3. **New Account Processing** – HdL will process any new business license applications and complete the new account registration process in a timely fashion.
- 1.4. **Payment Posting/Processing** – HdL will process all payments for new and renewal accounts. License accounts will be updated with payment information and revenues will be remitted to the City net banking and related processing fees on no less than a monthly basis.
- 1.5. **Business Support Center** – HdL will provide businesses with multiple support options for registering, renewing, making payments and for general inquiries. Businesses will have access to our license specialists Monday through Friday, 8:00am to 5:00pm Pacific, via phone, mail, e-mail, fax, and the Business Support Center On-Line.
- 1.6. **On-Line Filing & Payment Processing** – HdL will make available options for businesses to visit a website, linked to the City’s website, to submit online transactions.

2. Transient Occupancy Tax Operations Management

- 2.1. **Tax Registration Database Management** – HdL will transfer the City’s existing databases as they relate to TOT into HdL’s internal administration tools. HdL will maintain the data and provide reports to the City as needed.
- 2.2. **Return Processing** – HdL will process TOT filings within 5 days of submission. Lodging providers will receive all applicable forms necessary to complete the filing process.
- 2.3. **New Account Processing** – HdL will process any new TOT registrations for lodging establishments that change hand or newly offered properties.
- 2.4. **Payment Posting / Processing** – HdL will process all payments made for new and existing lodging providers. Accounts will be updated with payment information and revenues will be remitted to the City net HdL’s fees on no less than a monthly basis.
- 2.5. **Customer Support Center** – HdL will provide lodging providers with multiple support options for registering, filing returns, making payments and for general inquiries. Lodging providers will be able to access one of our tax specialists Monday-Friday 8:00am to 5:00pm Pacific via phone, email, fax, and the online support center.
- 2.6. **On-Line Filing & Payment Processing** – HdL will provide a website for lodging providers to make payments online.
- 2.7. **Annual Reporting** – In addition to standard monthly reports, HdL will provide the City with annual analysis reports designed to provide key insights on the lodging provider community and reporting details for each lodging provider.

EXHIBIT B - COMPENSATION

1. Business Tax and Transient Occupancy Tax Operations Management Services

HdL’s compensation for performing Operations Management Services is a fee of \$49,500.00 for twelve months of service.

2. Payment

Fees for service will be invoiced against collected revenue.

EXHIBIT C
GENERAL TERMS AND CONDITIONS

1. OWNERSHIP OF MATERIALS, CONFIDENTIALITY.

- 1.1. **Software License.** If access to any HdL software systems are provided to City as part of this Agreement, HdL hereby provides a license to the City to use HdL's software while the associated service is in effect through this Agreement. The software shall only be used by the City. The City shall not sublet, duplicate, modify, decompile, reverse engineer, disassemble, or attempt to derive the source code of said software. The license granted hereunder shall not imply ownership by City of said software, rights of the City to sell said software, or rights to use said software for the benefits of others. This license is not transferable. City shall not create any derivative work or product based on or derived from the Software or documentation, or modify the Software or documentation without the prior written consent of HdL. In the event of a breach of this provision (And without limiting HdL's remedies), said modification, derivative work or product based on the Software or documentation is hereby deemed assigned to HdL. Upon termination, the software license shall expire, all copies of the software shall be removed from the City's computers and network and all digital copies deleted or otherwise destroyed.
 - 1.2. **Agency Data.** HdL acknowledges that the data provided by the City ("Agency Data") during the course of this Agreement is the property of the City. City authorizes HdL to access, import, process and generate reports from the Agency Data with its various proprietary systems. No confidential or otherwise sensitive information will be released by HdL. If appropriate, at the termination of this Agreement the Agency Data will be made available to the City in a format acceptable to both the City and HdL.
 - 1.3. **Consultant Proprietary Information.** As used herein, the term "proprietary information" means any information which relates to Consultant's software systems, audit processes or related services, techniques, or general business processes. City shall hold in confidence and shall not disclose to any other party any Consultant proprietary information in connection with this Agreement, or otherwise learned or obtained from the Consultant in connection with this Agreement. The obligations imposed by this Paragraph shall survive any expiration or termination of this Agreement. The terms of this section shall not apply to any information that is public information. City is subject to the Public Records Act and this Section 1.3 is not intended to impede or impair City's requirements or obligations under that Act. If City receives a request for a copy of any information or documentation which Consultant has indicated, by written notice to City, that Consultant considers confidential and proprietary, City shall notify Consultant so that Consultant may, at Consultant's sole cost and expense, seek relief from compliance with such request.
2. **OPTIONAL SERVICES.** Optional services beyond the scope of this Agreement are available at HdL's hourly rates in effect at the time service is requested. HdL will provide City a Statement of Work specifying the scope, timeline, and cost for the requested service. Depending on the personnel assigned to perform the work, HdL's standard hourly rates range between \$195.00 and \$325.00 per hour.
 3. **MISCELLANEOUS EXPENSES.** HdL will notify the City of any miscellaneous expenses and request authorization to proceed. HdL will not be reimbursed for any miscellaneous expenses unless authorized by the City, and in no event shall exceed \$500. Miscellaneous expenses may include travel, lodging and meal expenses, and other expenses which are above and beyond the ordinary expenses associated with performance of this Agreement.
 4. **PRICING ADJUSTMENTS.** All pricing listed in this Agreement will be honored during initial implementation of the services. Any additional/optional services needed after services are active will be provided using the pricing currently established at the time the service is requested.
 5. **LICENSE, PERMITS, FEES AND ASSESSMENTS.** HdL shall obtain such licenses, permits and approvals (collectively the "Permits") as may be required by law for the performance of the services required by this Agreement. City shall assist HdL in obtaining such Permits, and City shall absorb all fees, assessments and taxes which are necessary for any Permits required to be issued by City. If City requires payment for such Permits, the associated costs will be included with the next invoice.
 6. **COOPERATIVE AGREEMENT.** It is intended that any other public agency (e.g. city, county, district, public authority, public agency, municipality, or other political subdivision of California) located in the State of California shall have an option to procure identical services as set forth in this Agreement. CITY shall incur no responsibility, financial or otherwise, in connection with orders for services issued by another public agency. The participating public agency shall accept responsibility for securing services or making payments to the vendor.

RESOLUTION NO. 2021 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, AUTHORIZING THE MAYOR TO EXECUTE A FIRST AMENDMENT TO THE AGREEMENT BY AND BETWEEN THE CITY OF NATIONAL CITY AND HINDERLITER DE LLAMAS AND ASSOCIATES (“HDL”) FOR TAX AND FEE ADMINISTRATION SERVICES AND AUTHORIZING A GENERAL FUND APPROPRIATION OF \$67,000 AND CORRESPONDING REVENUE BUDGET FOR THE CONTRACTED SERVICES

WHEREAS, Hinderliter De Llamas and Associates (“HDL”) and the City of National City (“City”) entered into an agreement for Tax and Fee Administration and related services on December 19, 2019 (“Original Agreement”); and

WHEREAS, HDL is experienced in municipal sales tax matters and is qualified by experience and ability to perform the services desired by the City; and

WHEREAS, the City is satisfied by HDL’s performance under the Agreement; and

WHEREAS, City staff now requests authority to amend the Agreement to extend the term, add compliance services, and to provide compensation there-of; and

WHEREAS, City staff requests City County authorize the Mayor to execute a First Amendment to the Agreement and authorize a general fund appropriation of \$67,000 and a corresponding revenue budget for the services.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: Authorizes the Mayor to execute a First Amendment to the Agreement by and between the City of National City and Hinderliter De Llamas and Associates for tax and fee administration and related services, extending the Agreement to December 31, 2021, with the option to extend year to year thereafter.

Section 2: Authorizes a General Fund Appropriation of \$67,000 and Corresponding Revenue Budget for the contracted services.

Section 3: The City Clerk shall certify the passage and adoption of this Resolution and enter it into the book of original Resolution.

///

PASSED and ADOPTED this 7th day of September, 2021

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City waiving the formal bid process pursuant to National City Municipal Code Section 2.60.222 regarding open market procedure and authorizing the purchase and build-out of one \(1\) R 1250 RT-P Motorcycle in an amount not-to-exceed \\$34,995.15 from sole source vendor BMW of Escondido. \(Engineering/Public Works\)](#)
Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.:

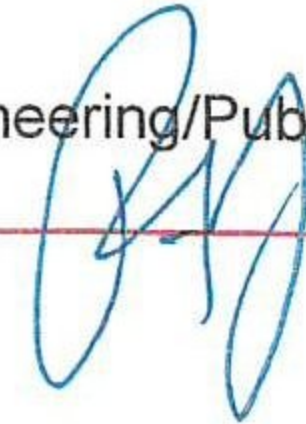
ITEM TITLE:

Resolution of the City Council of the City of National City, waiving the formal bid process pursuant to National City Municipal Code Section 2.60.222 regarding open market procedure and authorizing the purchase and build-out of one (1) R 1250 RT-P Motorcycle in an amount not-to-exceed \$34,995.15 from sole source vendor BMW of Escondido.

PREPARED BY: Tirza Gonzales, Management Analyst II
PHONE: 619-336-4318

DEPARTMENT: Engineering/Public Works

APPROVED BY: _____



EXPLANATION:

See staff report.

FINANCIAL STATEMENT:

ACCOUNT NO.

644-411-000-511-0000 (Automotive Equipment) \$34,995.15.

APPROVED: _____

FINANCE

APPROVED: _____

MIS

ENVIRONMENTAL REVIEW:

This is not a project and, therefore, not subject to environmental review.

ORDINANCE: INTRODUCTION FINAL ADOPTION

STAFF RECOMMENDATION:

Adopt the resolution awarding the purchase and build-out of one (1) R 120 RT-P Motorcycle for the National City Police Department.

BOARD / COMMISSION RECOMMENDATION:

ATTACHMENTS:

1. Explanation
2. Quote
3. Sole Source Letter
4. Resolution

Explanation:

A National City Police Department Patrol Motorcycle in service for over ten years has exceeded its useful and optimum life cycle of seven years and is scheduled to be replaced. Staff requests approval for the purchase of one (1) R 1250 RT-P Motorcycle. As allowed by National City Municipal Code Section 2.60.220 (B) - Open market procedure—Exception to bidding requirements, there is an opportunity to purchase from sole source vendor BMW Motorcycles of Escondido to allow for the purchase.

NCMC Section 2.60.220 - Open market procedure- Exception to bidding requirements: provides authority for sole source procurements be used when there is only one source from which a particular commodity is available and there is no adequate substitute. For this purchase, BMW Motorcycle of Escondido has provided documentation of a sole source vendor (see attached Exhibit).

Therefore, staff requests that City Council authorize the purchase of (1) R 1250 RT-P Motorcycle to BMW Motorcycles of Escondido in an amount not-to-exceed \$34,995.15, consistent with National City Municipal Code Section 2.60.220 (B) - Open market procedure—Exception to bidding requirements.

The funding to purchase this motorcycle was approved by City Council through adoption of the FY22 annual budget.

R 1250 RT-P Motor Pricing Form



Revised: 8-17-2021

Color	Option Code
1 Night Black & Alpine White III	753
0 Night Black	716
0 Alpine White III (special order)	751
0 Black Blue (special order +60 days)	754
0 Saphir Blue (special order + 60 days)	755
0 Violet Blue (special order +60 days)	756
0 Glacier Silver Metallic (special order)	N99

Quotation:			Motorcycle
NATIONAL CITY	Option Code	Retail Price	\$21,250.00

Factory Special-Order Options - Plan 90-120 Days for Delivery			
0	Adaptive Headlight (includes 219)	134	\$550.00
0	Keyless Ride w/two transmitters	193	\$400.00
0	Gear Shift Assist Pro	222	\$450.00
0	Ride Modes Pro (includes 18B)	224	\$220.00
0	Chrome Exhaust	350	\$150.00
0	Additional LED Headlights (driving lights)	562	\$450.00
0	PA Microphone	599	\$565.00
0	High Seat Black	610	\$0.00
0	Low Seat Black	776	\$0.00
0	Enhanced Smart Phone Connectivity	6NS	\$250.00

The Options Below denote Standard Order Deck - Removal is only by Special Order - Option Delete			
1	Heated Seat	518	\$200.00
1	Tire Pressure Monitoring	530	\$200.00
1	Cruise Control (standard feature)	538	\$0.00
1	Weather Protection	649	\$185.00

Additional Labor Operations Provided by Dealer

PAINT SIDE PANELS BLACK	\$350.00
EXHAUST SYSTEM REQUIREMENTS	\$2,834.28
PVP UNIT	\$1,056.00
RADIO INSTALLATION	\$220.00
GUN RACK WITH SECURITY FEATURES	\$850.00
CLEARWATER LIGHTS (DARLA)	\$632.00
	\$0.00
	\$0.00
BMW MOTORCYCLES OF ESCONDIDO	\$0.00
ATTN: CJ	\$0.00
760-520-1288	\$0.00
	\$0.00
	\$0.00
	\$0.00

Units	Quotation valid for 60 days	Total Price - Page 1	\$27,777.28
1	from date noted below.	Total Price - Page 2	\$2,726.69
		Total Price - Page 3	\$0.00
Date of Quote: 8-17-21		Parts From Other Suppliers - Page 4	\$300.47

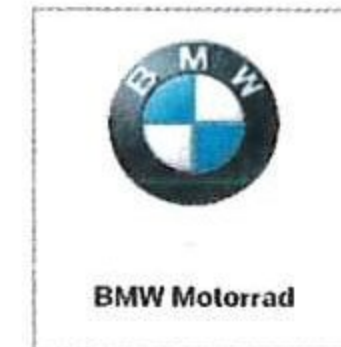
Dealer Basic Assembly / Preparation	\$880.00
Motorcycle Freight	\$495.00
Total Retail Price per Unit with Options	\$32,179.44
8.75% State Sales Tax (if applicable)	\$2,815.70
Total Retail Price per Unit with Options	\$34,995.15

Note: Prices subject to change without notice. Final price is always determined by the selling authorized BMW Motorcycle dealer.

R 1250 RT-P Motor Pricing Form - Page 2

See Special Notation Comment

Quotation for:
NATIONAL CITY



Per	Item Description	BMW P/N	Order #	Retail	Total Retail
Blue ID Light Selection (1)					
1	Standard Blue Pod-Mounted ID Lights - SID	63 17 2 361 717		\$0.00	\$0.00
0	Round Blue License Plate ID Lights - RID	71 60 2 452 897		\$0.00	\$0.00
Emergency Warning Lights (10)					
5	Red LED-X Light	63 17 2 361 718	5	\$108.36	\$541.82
5	Blue LED-X Light	63 17 2 361 719	5	\$108.36	\$541.82
0	Amber LED-X Light	63 17 2 361 720	0	\$108.36	\$0.00
0	White LED-X Light	63 17 2 361 721	0	\$117.09	\$0.00
0	Green LED-X Light	63 17 2 450 782	0	\$117.09	\$0.00
Rear Duplex Emergency Warning Light (1)					
0	Duplex LED-X Red / Red	63 17 2 361 728	0	\$345.88	\$0.00
0	Duplex LED-X Blue / Blue	63 17 2 361 729	0	\$378.25	\$0.00
1	Duplex LED-X Red / Blue	63 17 2 361 730	1	\$362.07	\$362.07
0	Duplex LED-X Blue / Amber	63 17 2 361 731	0	\$362.07	\$0.00
0	Duplex LED-X Green / Green	63 17 2 450 783	0	\$362.07	\$0.00
0	Duplex LED-X Amber / Amber	63 17 2 450 784	0	\$362.07	\$0.00
Take-Down (4) Alley (2) TS (2) BT (2) Saddlebag Light (1) Red ID (1)					
6	White Torus LED TDL/Alley	63 17 2 361 722	6	\$76.91	\$461.44
2	Auxiliary LED Turn Signals	63 17 2 361 725	2	\$72.82	\$145.65
2	Auxiliary LED Brake/Tail Light	63 17 2 361 726	2	\$56.64	\$113.27
1	Saddlebag LED Lights w/sensor switch	63 17 2 361 727	1	\$143.61	\$143.61
0	Red ID Lights (replacing blue ID lights)	63 17 2 361 724	0	\$107.33	\$0.00
0	Round Blue License Plate ID Light Kit	71 60 2 452 876	0	\$130.59	\$0.00
Dealer Installed Options / Retrofits					
0	Shift Assistant Pro (hardware)	23 41 8 536 884	0	\$677.22	\$0.00
0	Shift Assistant Pro - Enabling Code	77 15 8 395 839	0	\$40.54	\$0.00
1	Ride Modes Pro - Enabling Code	77 53 8 395 840	1	\$202.89	\$202.89
1	Also Requires DTC Enabling Code	77 53 8 395 841	1	\$52.71	\$52.71
0	LED Auxiliary Headlights Nano (order 2)	63 17 8 556 937	0	\$154.00	\$0.00
0	Bolt 6 x 40 (order 2)	63 12 7 699 141	0	\$5.35	\$0.00
0	M6 Hex Nut (order 2)	07 12 9 905 826	0	\$3.06	\$0.00
Requires Activation by Dealer - No Code Needed					
Convenience Options					
0	Extra Ignition Key - No Keyless Ride	51 25 8 540 950	0	\$91.60	\$0.00
0	Extra Ignition Key - Keyless Fob Transmitter	66 12 8 555 168	0	\$320.66	\$0.00
0	Heated Seat - Low	52 53 8 544 786	0	\$529.58	\$0.00
0	Heated Seat - High	52 53 8 544 792	0	\$529.58	\$0.00
0	Tire Pressure Gauge	82 12 0 140 377	0	\$32.12	\$0.00
1	BMW Motorrad Battery Charger (2.5 Ah)	77 02 2 470 951	1	\$161.41	\$161.41
0	DVD Repair Manuals R Models K5x	01 59 8 405 651	0	\$91.55	\$0.00
0	Motorcycle Full Cover	71 60 2 450 408	0	\$136.88	\$0.00

Note: Prices subject to change without notice. Always verify accuracy of part pricing before submitting quotations.

Final price is always determined by the selling authorized BMW Motorcycle dealer.

R 1250 RT-P Motor Pricing Form - Page 3



Quotation for:
NATIONAL CITY

Additional Accessories

Page 3

Qty	Item Description	BMW P/N	Order #	Retail	Total Retail
Per	Additional Accessories				
	Storage Options				
0	Saddlebag Liners (each)	71 60 7 704 109	0	\$123.46	\$0.00
0	Tank Top Bag	77 45 8 543 227	0	\$291.18	\$0.00
	Engine Protection				
0	Rocker Cover Protection	77 14 8 406 187	0	\$225.18	\$0.00
0	Sump / Engine Protection Guard (order 1)	11 84 8 532 939	0	\$120.22	\$0.00
0	Fillister Head Screws M6 x 20 (order 5)	07 12 9 908 076	0	\$3.15	\$0.00
0	Grommet (order 5)	13 53 1 341 283	0	\$2.58	\$0.00
0	Bushing (order 5)	11 84 8 544 832	0	\$5.06	\$0.00
0	Bracket front (order 1)	11 84 8 532 937	0	\$53.87	\$0.00
0	Bracket Rear (order 1)	11 84 8 532 940	0	\$67.34	\$0.00
0	C-Clip Nut M6 (have been included w/brackets)	07 14 7 693 887	0	\$2.58	\$0.00
0	Fillister Head Screws M8 x 25 (order 5)	07 12 9 907 382	0	\$1.58	\$0.00

Note: Prices subject to change without notice. Always verify accuracy of part pricing before submitting quotations.

Final price is always determined by the selling authorized BMW Motorcycle dealer.

Additional Accessories From Other Suppliers - Page 4

Qty	Description	PN	Price Each	Total Price
0	NOTE PAD HOLDER			\$ -
0	POLICE SIDE STAND EXTENSION			\$ -
0	LED MAP LIGHT			\$ -
0	FLASH LIGHT BATON HOLDER (SCMW)			\$ -
0	STANDARD AR GUN RACK (SCMW)			
1	RADIO SPEAKER PLUG		\$ 10.00	\$ 10.00
1	RADIO QUICK MOUNT PLATE		\$ 26.47	\$ 26.47
1	3 ACCESSORY PLUGS		\$ 10.00	\$ 10.00
0	FRONT 12V POWER OUTLET			\$ -
0	FRONT USB POWER OUTLET			\$ -
0	FUSED FRONT POWER SOCKET HARNESS			\$ -
0	PVP UNIT			\$ -
0	ENGINE SKID PLATE (SCMW)			\$ -
0	LIDAR HOLDER PRO LASER IV			\$ -
1	RADIO POWER PLUG CONNECTOR		\$ 10.00	\$ 10.00
1	RADIO "Y" HARNESS		\$ 36.00	\$ 36.00
1	SIDE BAG MOUNTED TICKET BOOK HOLDER		\$ 208.00	\$ 208.00

Chris Johns
760-520-1288
BMW Motorcycles of Escondido
Aug 24, 2021

Management Analyst II
City of National City
Engineering and Public Works Department
1243 National City Blvd.
National City, CA 91950

Re: Sole Source letter for BMW R1250RTP Police Motorcycles in San Diego County

Dear: Madam / Sir

This Letter is to notify you that the item that has been listed in the attached quote is a proprietary item built by BMW Motorcycles of Escondido. The Gun Rack AR15 design is not available on the market and is the sole property and design of Motorcycle Dynamics. We are the sole source for the product and would be happy to make this item available to your Police Department for purchase.

If you have any questions or concerns in reference to the sole source of this product, feel free to contact Chris Johns at the above listed number.

We thank you for your consideration of our products.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Chris Johns', written in a cursive style.

Chris Johns

RESOLUTION NO. 2021 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, WAIVING THE FORMAL BID PROCESS PURSUANT TO NATIONAL CITY MUNICIPAL CODE SECTION 2.60.222 REGARDING OPEN MARKET PROCEDURE AND AUTHORIZING THE PURCHASE AND ACCESSORIZE OF ONE (1) R 1250 RT-P MOTORCYCLE IN AN AMOUNT NOT-TO-EXCEED \$34,995.15 FROM SOLE SOURCE VENDOR BMW OF ESCONDIDO

WHEREAS, a City of National City (“City”) Police Department Patrol Motorcycle has been in service for over ten years, exceeding its practical and optimum life cycle of seven years and is due to be replaced; and

WHEREAS, the City’s Engineering and Public Works Department desires to purchase and accessorize one (1) R 1250 RT-P Motorcycle from sole source vendor BMW Motorcycles of Escondido; and

WHEREAS, National City Municipal Code Section 2.60.220 (B) - Open market procedure- Exception to bidding requirements: provides authority for sole source procurements be used when there is only one source from which a particular commodity is available, and there is no adequate substitute; and

WHEREAS, National City Municipal Code Section 2.60.220 (B) - Open market procedure—Exception to bidding requirements, provides the opportunity to purchase one (1) R 1250 RT-P Motorcycle from sole source vendor BMW Motorcycles of Escondido; and

WHEREAS, City staff recommends adoption of a resolution waiving the formal bid process pursuant to National City Municipal Code Section 2.60.220, regarding open market procedure respectively, and authorizing the purchasing and accessorizing of one (1) R 1250 RT-P Motorcycle from sole source vendor BMW Motorcycles of Escondido in an amount not-to-exceed \$34,995.15.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: Waive the formal bid process pursuant to National City Municipal Code Section 2.60.220 regarding the open market procedure, respectively, and authorize purchasing and accessorizing one (1) R 1250 RT-P Motorcycle from sole source vendor BMW Motorcycles of Escondido in an amount not-to-exceed \$34,995.15.

Section 2: The City Clerk shall certify the passage and adoption of this Resolution and enter it into the book of original Resolutions.

///

PASSED and ADOPTED this 7th day of September, 2021.

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City authorizing the installation of 80 feet of “No Parking for vehicles over 6 feet high” signage and 10 feet of red curb “No Parking” on the north side of E. 16th Street, west of “K” Avenue, to improve visibility at the intersection. \(TSC No. 2021-15\). \(Engineering/Public Works\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.

ITEM TITLE:

Resolution of the City Council of the City of National City authorizing the installation of 80 feet of "No Parking for vehicles over 6 feet high" signage and 10 feet of red curb "No Parking" on the north side of E. 16th Street, west of "K" Avenue, to improve visibility at the intersection. (TSC No. 2021-15).

PREPARED BY: Luca Zappiello, Assistant Engineer – Civil

DEPARTMENT: Engineering/Public Works

PHONE: 619-336-4360

APPROVED BY: 



EXPLANATION:

See attached..

FINANCIAL STATEMENT:

APPROVED: _____ **Finance**

ACCOUNT NO.

APPROVED: _____ **MIS**

N/A

ENVIRONMENTAL REVIEW:

This is not a project and, therefore, not subject to environmental review.

ORDINANCE: INTRODUCTION:

FINAL ADOPTION:

STAFF RECOMMENDATION:

Adopt a Resolution authorizing installation of 80 feet of "No Parking for vehicles over 6 feet high" signage and 10 feet of red curb "No Parking" on the north side of E. 16th Street, west of "K" Avenue, to improve visibility at the intersection.

BOARD / COMMISSION RECOMMENDATION:

At their meeting on July 14, 2021, the Traffic Safety Committee approved staff's recommendation to install 80 feet of "No Parking for vehicles over 6 feet high" signage and 10 feet of red curb "No Parking" on the north side of E. 16th Street, west of "K" Avenue, to improve visibility at the intersection.

ATTACHMENTS:

1. Explanation w/ Exhibit
2. Staff Report to the Traffic Safety Committee on July 14, 2021 (TSC No. 2021-15)
3. Resolution

EXPLANATION

An area resident expressed concerns at the intersection of E. 16th Street and "K" Avenue and requested to improve visibility and enhance safety for the vehicles exiting from "K" Avenue onto E. 16th Street.

Staff performed a site evaluation. E. 16th Street is currently a 2-lane collector roadway and has available parking on both sides of the street and a speed limit of 30 mph. "K" Avenue is a 2-lane residential street and has available parking on both sides of the street and a speed limit of 25 mph. The intersection between E. 16th Street and "K" Avenue is currently stop controlled for southbound traffic on "K" Avenue. Staff confirmed that E. 16th Street has a 4% slope at the intersection with "K" Avenue. Currently, there are 50 feet of red curb "No Parking" on the north side of E. 16th Street, east of "K" Avenue, and there are 10 feet of red curb "No Parking" on the north side of E. 16th Street, west of "K" Avenue.

Staff confirmed that when a large vehicle parks to the west corner of E. 16th Street and "K" Avenue, visibility for the vehicles that are exiting "K" Avenue onto E. 16th Street is partially obstructed.

For this reason, in accordance with Section 22507 of the Vehicle Code (see attachment), staff recommends the installation of 80 feet of "No Parking Vehicles Over 6' High" signs on the north side of E. 16th Street, west of "K" Avenue, in order to prohibit parking for large vehicles with heights of six feet or more (RV, van, SUV, etc.) during all day, in order to improve the visibility and enhance safety at this intersection. In addition, staff recommends the extension of the existing 10 feet of red curb "No Parking" on the north side of E. 16th Street, west of "K" Avenue, for an additional 10 feet, for a total of 20 feet of red curb "No Parking". These measures are necessary due to visibility issues and also due to the high speed limit on E. 16th Street.

Staff also reviewed the traffic collision history for this location, which confirmed there was no "reported" traffic collision within the past four years at this intersection.

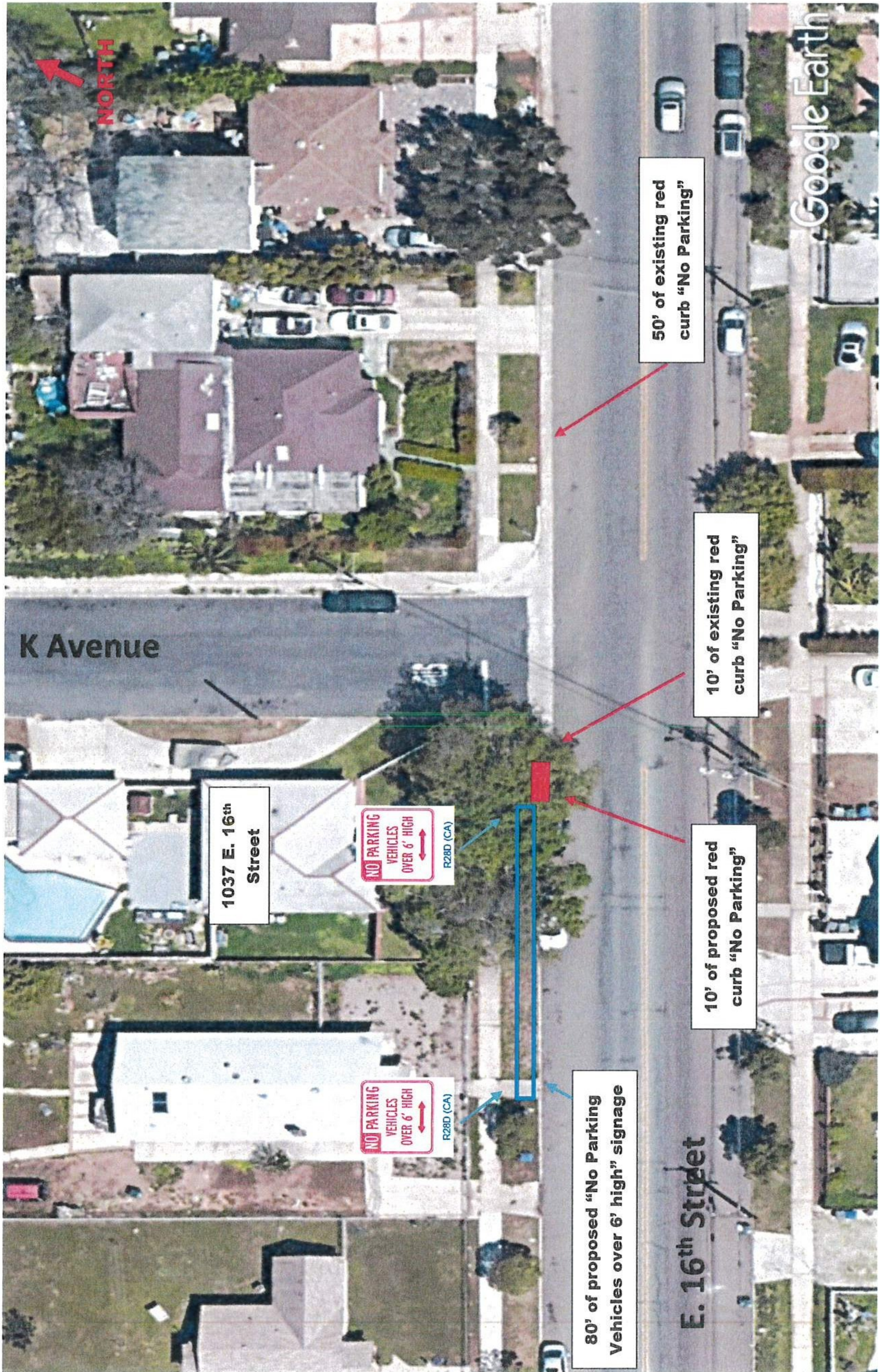
This item was presented to the Traffic Safety Committee on July 14, 2021. Public notices were sent to area residents inviting them to attend the meeting via Zoom-in or call-in to the Traffic Safety Committee Meeting and/or contact staff with any questions. There were no members of the community present to speak on the item.

Based on the staff report, the Traffic Safety Committee unanimously approved staff's recommendation to the following traffic safety enhancements:

1. Installation of 80 feet of "No Parking for vehicles over 6 feet high" signage on the north side of E. 16th Street, west of "K" Avenue;
2. Extension of the existing 10 feet of red curb "No Parking" on the north side of E. 16th Street, west of "K" Avenue, for an additional 10 feet for a total of 20 feet.

If approved by City Council, all work will be performed by City Public Works.

Location Map with Proposed Enhancements (TSC Item: 2021-15)



**NATIONAL CITY TRAFFIC SAFETY COMMITTEE
AGENDA REPORT FOR JULY 14, 2021**

ITEM NO. 2021-15

ITEM TITLE: REQUEST TO INSTALL 80 FEET OF "NO PARKING FOR VEHICLES OVER 6 FEET HIGH" SIGNAGE AND 10 FEET OF RED CURB "NO PARKING" ON THE NORTH SIDE OF E. 16TH STREET, WEST OF "K" AVENUE TO IMPROVE VISIBILITY AT THE INTERSECTION.

PREPARED BY: Luca Zappiello, Assistant Engineer - Civil Engineering & Public Works Department

DISCUSSION:

An area resident expressed concerns at the intersection of E. 16th Street and "K" Avenue, and requested to improve visibility and enhance safety for the vehicles exiting from "K" Avenue onto E. 16th Street.

Staff performed a site evaluation. E. 16th Street is currently a 2-lane collector roadway and has available parking on both sides of the street and a speed limit of 30 mph. "K" Avenue is a 2-lane residential street and has available parking on both sides of the street and a speed limit of 25 mph. The intersection between E. 16th Street and "K" Avenue are currently stop controlled for southbound traffic on "K" Avenue. Staff confirmed that E. 16th Street has a 4% slope at the intersection with "K" Avenue. Currently, there are 50 feet of red curb "No Parking" on the north side of E. 16th Street, east of "K" Avenue and there are 10 feet of red curb "No Parking" on the north side of E. 16th Street, west of "K" Avenue.

Staff confirmed that when a large vehicle parks to the west corner of E. 16th Street and "K" Avenue, visibility for the vehicles that are exiting "K" Avenue onto E. 16th Street is partially obstructed.

For this reason, in accordance with Section 22507 of the Vehicle Code (see attachment), staff recommends the installation of 80 feet of "No Parking Vehicles Over 6' High" signs on the north side of E. 16th Street, west of "K" Avenue in order to prohibit parking for large vehicles with heights of six feet or more (RV, van, SUV, etc.) during all day, in order to improve the visibility and enhance safety at this intersection. In addition, staff recommends the extension of the existing 10 feet of red curb "No Parking" on the north side of E. 16th Street, west of "K" Avenue for an additional 10 feet, for a total of 20 feet of red curb "No Parking". These measures are necessary due to visibility issues based on the 4% slope on E. 16th Street at the intersection and also due to the high speed limit on E. 16th Street.

Staff also reviewed the traffic collision history for this location, which confirmed there was no "reported" traffic collision within the past four years at this intersection.

STAFF RECOMMENDATION:

Based on evaluation of existing conditions, staff recommends the following safety enhancements:

1. Installation of 80 feet of "No Parking for vehicles over 6 feet high" signage on the north side of E. 16th Street, west of "K" Avenue;

2. Extension of the existing 10 feet of red curb "No Parking" on the north side of E. 16th Street, west of "K" Avenue for an additional 10 feet for a total of 20 feet.

EXHIBITS:

1. Public Request
2. Public Notice
3. Location Map
4. Photos
5. Vehicle Code – Section 22507

2021-15

SECLICKFIX ID
8860428

PRIORITY
Normal

REQUEST TYPE
Traffic (Signal or Street Signs)

ADDRESS
1037 E 16th St National City 91950, United States

ASSIGNEE
Engineering

SLA EXPIRES

REPORTED
11/03/2020 - 06:11PM

SECONDARY QUESTIONS

Where is the problem located?
16th And K Ave

Please provide a brief description of the problem
Need a red curb due to increased traffic

Please describe the signal or sign
Red Curb Needed

In case the City needs additional information to resolve this issue, please provide your preferred method of communication (email or phone number). This will be kept private.
[REDACTED]

LOCATION



SUMMARY & DESCRIPTION

Traffic (Signal or Street Signs)

Need a Red Curb. Vehicles parked at the curb are a sight obstructions. A sight obstruction at an intersection exists at the curb near the intersection is continuously occupied by a parked vehicle for a significant portion of the day, or when large vehicles (trucks, RVs, buses, vans, SUVs) are often parked at the corner. Under such circumstances, when parking activity constitutes a sight obstruction and a red curb is needed.

Reported by: Bev 11/03/2020 - 06:11PM

MEDIA



TIMESTAMP	INTERNAL COMMENT	COMMENTER
11/03/2020 06:11PM	City of National City assigned this issue to Engineering	City of National City
11/03/2020 06:56PM	Another person wants this fixed!	Margaret
11/04/2020 07:06AM	Thanks for reporting through National City Connect. This issue will be evaluated at the earliest possible time.	CM SOA



July 8, 2021

Resident/Property Owner

Subject: TRAFFIC SAFETY COMMITTEE (TSC) ITEM NO. 2021-15

REQUEST TO INSTALL 80 FEET OF "NO PARKING FOR VEHICLES OVER 6 FEET HIGH" AND 10 FEET OF RED CURB "NO PARKING" ON THE NORTH SIDE OF E. 16TH STREET, WEST OF "K" AVENUE TO IMPROVE VISIBILITY AT THE INTERSECTION.

Dear Sir/Madame:

The City of National City would like to invite you to our next public Traffic Safety Committee Conference Call scheduled for **Wednesday, July 14, 2021, at 1:00 P.M.** via Zoom. Please use the following information to call-in to the meeting during the scheduled time:

Join Zoom Meeting from computer

<https://zoom.us/j/99326289815?pwd=Qy9jVTNDQ0F3em95bmRxVmNpRDJWdz09>

Join Zoom Meeting by phone

+1 669-900-9128

Meeting ID: 993 2628 9815

Passcode: 110368

If you have any questions, comments, and/or concerns, please contact the Engineering Department at 619-336-4380 and reference Traffic Safety Committee Item Number 2021-15.

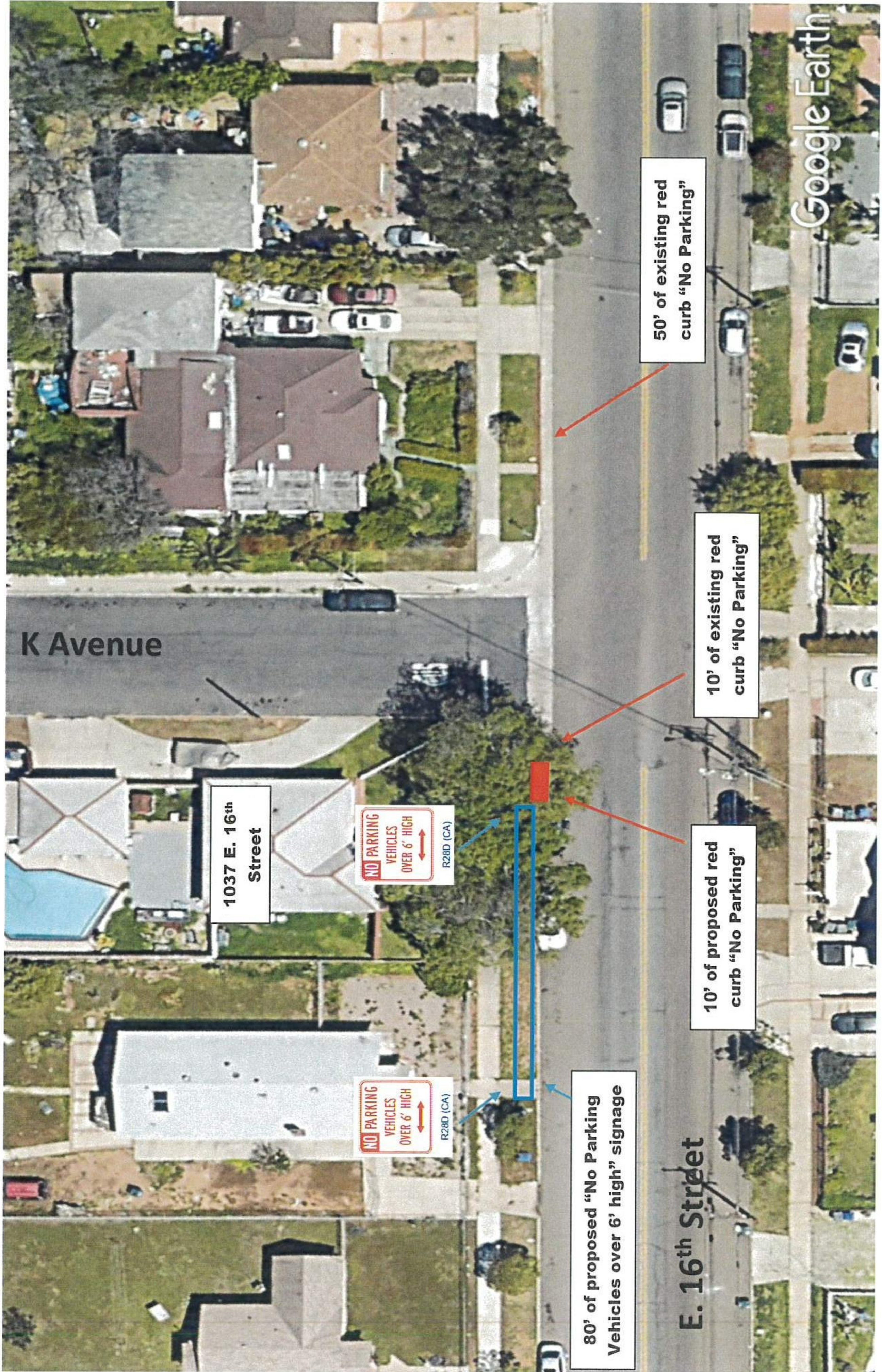
Sincerely,

Roberto Yano, P.E.
City Engineer/Director of Public Works

RY:lz

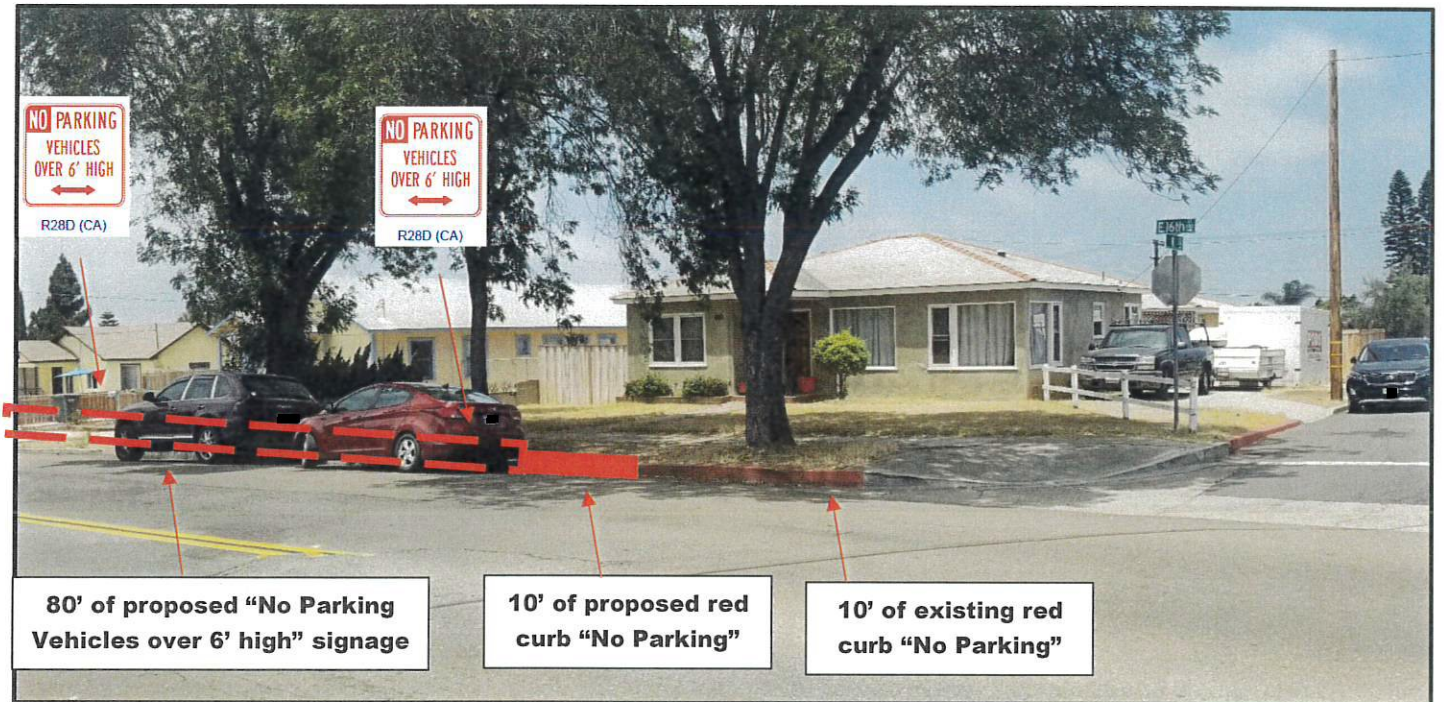
Enclosure: Location Map
2021-15

Location Map with Proposed Enhancements (TSC Item: 2021-15)





Location of proposed safety enhancements on the north side of E. 16th St, west of “K” Avenue (looking west)



Location of proposed safety enhancements on the north side of E. 16th St, west of “K” Avenue (looking northwest)



Location of proposed safety enhancements on the north side of E. 16th St, west of "K" Avenue (looking north)

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Search Phrase:

VEHICLE CODE - VEH**DIVISION 11. RULES OF THE ROAD [21000 - 23336]** (*Division 11 enacted by Stats. 1959, Ch. 3.*)**CHAPTER 9. Stopping, Standing, and Parking [22500 - 22526]** (*Chapter 9 enacted by Stats. 1959, Ch. 3.*)

22507. (a) Local authorities may, by ordinance or resolution, prohibit or restrict the stopping, parking, or standing of vehicles, including, but not limited to, vehicles that are six feet or more in height (including any load thereon) within 100 feet of any intersection, on certain streets or highways, or portions thereof, during all or certain hours of the day. The ordinance or resolution may include a designation of certain streets upon which preferential parking privileges are given to residents and merchants adjacent to the streets for their use and the use of their guests, under which the residents and merchants may be issued a permit or permits that exempt them from the prohibition or restriction of the ordinance or resolution. With the exception of alleys, the ordinance or resolution shall not apply until signs or markings giving adequate notice thereof have been placed. A local ordinance or resolution adopted pursuant to this section may contain provisions that are reasonable and necessary to ensure the effectiveness of a preferential parking program.

(b) An ordinance or resolution adopted under this section may also authorize preferential parking permits for members of organizations, professions, or other designated groups, including, but not limited to, school personnel, to park on specified streets if the local authority determines that the use of the permits will not adversely affect parking conditions for residents and merchants in the area.

(Amended by Stats. 2001, Ch. 223, Sec. 1. Effective January 1, 2002.)

RESOLUTION NO. 2021 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, AUTHORIZING THE INSTALLATION OF EIGHTY (80) FEET OF “NO PARKING FOR VEHICLES OVER 6 FEET HIGH” SIGNAGE AND TEN (10) FEET OF RED CURB “NO PARKING” ON THE NORTH SIDE OF EAST 16TH STREET, WEST OF “K” AVENUE, TO IMPROVE VISIBILITY AT THE INTERSECTION (TSC NO. 2021-15)

WHEREAS, an area resident requests the City install a red curb “No Parking” at the intersection of East 16th Street and “K” Avenue to improve visibility and enhance safety for the vehicles exiting from “K” Avenue onto East 16th Street; and

WHEREAS, City staff visited the site and verified that East 16th Street is currently 2-lanes wide and has available parking on both sides of the street with a speed limit of thirty (30) mph; and

WHEREAS, City staff verified that “K” Avenue is a 2-lane residential street and has available parking on both sides of the street with a speed limit of twenty (25) mph; and

WHEREAS, City Staff confirmed that when a large vehicle park on the west corner of East 16th Street and “K” Avenue, visibility for the vehicles that are exiting “K” Avenue onto East 16th Street is partially obstructed; and

WHEREAS, City staff reviewed the traffic collision history for this location, which confirmed there were no “reported” traffic collisions within the past four years; and

WHEREAS, City staff recommends the installation of eighty (80) feet of “No Parking Vehicles Over 6’ High” signs on the north side of East 16th Street, west of “K” Avenue, to prohibit parking for large vehicles with heights of six (6) feet or more (RV, van, SUV, etc.) during the day, to improve the visibility and enhance safety at this intersection; and

WHEREAS, City staff also recommends extending the existing ten (10) feet of red curb “No Parking” on the north side of East 16th Street, west of “K” Avenue, for an additional ten (10) feet, for a total of twenty (20) feet of red curb “No Parking” due to visibility issues and the high-speed limit on East 16th Street; and

WHEREAS, on July 14, 2021, the City of National City’s Traffic Safety Committee voted unanimously approving City staff’s recommendation to install eighty (80) feet of “No Parking Vehicles Over 6’ High” signage and existing ten (10) feet of red curb “No Parking” on the north side of East 16th Street, west of “K” Avenue, for an additional ten (10) feet, for a total of twenty (20) feet of red curb “No Parking.”

///

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: Authorizes the installing eighty (80) feet of “No Parking Vehicles Over 6’ High” signage, to prohibit parking for large vehicles with heights of six (6) feet or more (RV, van, SUV, etc.) during the day and extending the existing ten (10) feet of red curb “No Parking” on the north side of East 16th Street, west of “K” Avenue, for an additional ten (10) feet, for a total of twenty (20) feet of red curb “No Parking” to improve the visibility and enhance safety at this intersection. (TSC NO. 2021-15)

Section 2: The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED and ADOPTED this 7th day of September, 2021.

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City authorizing the installation of red curb “No Parking” at the intersection of E. 22nd Street and “B” Avenue and the intersection of E. 22nd Street and “C” Avenue in order to improve visibility at the intersection. \(TSC No. 2021-16\).](#)
[\(Engineering/Public Works\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.

ITEM TITLE:

Resolution of the City Council of the City of National City authorizing the installation of red curb "No Parking" at the intersection of E. 22nd Street & "B" Avenue and the intersection of E. 22nd Street & "C" Avenue in order to improve visibility at the intersection. (TSC No. 2021-16).

PREPARED BY: Luca Zappiello, Assistant Engineer – Civil

DEPARTMENT: Engineering/Public Works

PHONE: 619-336-4360

APPROVED BY: 

EXPLANATION:

See attached.

FINANCIAL STATEMENT:

APPROVED: _____ **Finance**

ACCOUNT NO.

APPROVED: _____ **MIS**

N/A

ENVIRONMENTAL REVIEW:

This is not a project and, therefore, not subject to environmental review.

ORDINANCE: INTRODUCTION:

FINAL ADOPTION:

STAFF RECOMMENDATION:

Adopt a Resolution authorizing installation of red curb "No Parking" at the intersection of E. 22nd Street & "B" Avenue and the intersection of E. 22nd Street & "C" Avenue in order to improve visibility at the intersection..

BOARD / COMMISSION RECOMMENDATION:

At their meeting on July 14, 2021, the Traffic Safety Committee approved staff's recommendation to install red curb "No Parking" at the intersection of E. 22nd Street & "B" Avenue and the intersection of E. 22nd Street & "C" Avenue.

ATTACHMENTS:

1. Explanation w/ Exhibit
2. Staff Report to the Traffic Safety Committee on July 14, 2021 (TSC No. 2021-16)
3. Resolution

EXPLANATION

An area resident has requested red curb "No Parking" at the intersection of E. 22nd Street and "B" Avenue and also E. 22nd Street and "C" Avenue to improve visibility and enhance safety for the vehicles exiting from "B" Avenue and "C" Avenue onto E. 22nd Street.

Staff performed a site evaluation. E. 22nd Street, "B" Avenue, and "C" Avenue are currently 2-lane residential streets and have available parking on both sides of the streets and a speed limit of 25 mph. The intersection between E. 22nd Street and "B" Avenue and also E. 22nd Street and "C" Avenue are currently "Yield" controlled for southbound traffic on "B" and "C" Avenue. Staff confirmed that E. 22nd Street has a 10% slope at the intersection with "B" Avenue and has a 7% slope at the intersection with "C" Avenue. Currently, there is no existing red curb "No Parking" on both sides of the intersections.

Staff confirmed that when vehicles are parked too close to the corners of 22nd Street and "B" Avenue and also E. 22nd Street and "C" Avenue, visibility for the vehicles that are exiting "B" Avenue and "C" Avenue onto E. 22nd Street is partially obstructed.

It should be noted that the on-street parking on the north side of E. 22nd Street are for residents that live in the residential parking district "A". This means that only residents that have a valid residential parking permits can park on the street. However, the on-street parking on the south side of E. 22nd Street is unrestricted parking and residents that park on-street parking do not need a residential parking permit. Staff performed a site evaluation and confirmed that in residential parking district "A", there are a total of 180 on-street parking spaces. Furthermore, staff verified that the total on-street parking permits issued for the residents living in residential parking district "A" are 98 parking permits.

Staff also reviewed the traffic collision history for this location, which confirmed there was one (1) "reported" traffic collision within the past four years at the intersection of E. 27th Street and "B" Avenue.

This item was presented to the Traffic Safety Committee on July 14, 2021. Public notices were sent to area residents inviting them to attend the meeting via Zoom-in or call-in to the Traffic Safety Committee Meeting and/or contact staff with any questions. There were no members of the community present to speak on the item.

Based on the staff report, the Traffic Safety Committee unanimously approved staff's recommendation to the following traffic safety enhancements:

1. Install 24 feet of red curb "No Parking" on the north side of E. 22nd Street, east of "B" Avenue. This will result in the loss of one (1) on-street parking space;
2. Install 10 feet of red curb "No Parking" on the north side of E. 22nd Street, west of "B" Avenue. This will result in no loss of on-street parking space;
3. Install 24 feet of red curb "No Parking" on the north side of E. 22nd Street, east of "C" Avenue. This will result in the loss of one (1) on-street parking space;

4. Install 10 feet of red curb "No Parking" on the west side of E. 22nd Street, west of "C" Avenue. This will result in no loss of on-street parking space.

If approved by City Council, all work will be performed by City Public Works.

Location Map with Proposed Enhancements (TSC Item: 2021-16)



**NATIONAL CITY TRAFFIC SAFETY COMMITTEE
AGENDA REPORT FOR JULY 14, 2021**

ITEM NO. 2021-16

ITEM TITLE: REQUEST TO INSTALL RED CURB "NO PARKING" AT THE INTERSECTION OF E. 22ND STREET & "B" AVENUE AND THE INTERSECTION OF E. 22ND STREET & "C" AVENUE IN ORDER TO IMPROVE VISIBILITY AT THE INTERSECTION.

PREPARED BY: Luca Zappiello, Assistant Engineer - Civil Engineering & Public Works Department

DISCUSSION:

An area resident has requested red curb "No Parking" at the intersection of E. 22nd Street and "B" Avenue and also E. 22nd Street and "C" Avenue to improve visibility and enhance safety for the vehicles exiting from "B" Avenue and "C" Avenue onto E. 22nd Street.

Staff performed a site evaluation. E. 22nd Street, "B" Avenue and "C" Avenue are currently 2-lane residential streets and have available parking on both sides of the streets and a speed limit of 25 mph. The intersection between E. 22nd Street and "B" Avenue and also E. 22nd Street and "C" Avenue are currently "Yield" controlled for southbound traffic on "B" and "C" Avenue. Staff confirmed that E. 22nd Street has a 10% slope at the intersection with "B" Avenue and has a 7% slope at the intersection with "C" Avenue. Currently, there is no existing red curb "No Parking" on both sides of the intersections.

Staff confirmed that when vehicles are parked too close to the corners of 22nd Street and "B" Avenue and also E. 22nd Street and "C" Avenue, visibility for the vehicles that are exiting "B" Avenue and "C" Avenue onto E. 22nd Street is partially obstructed.

It should be noted that the on-street parking on the north side of E. 22nd Street are for residents that live in the residential parking district "A". This means that only residents that have a valid residential parking permits can park on the street. However, the on-street parking on the south side of E. 22nd Street is unrestricted parking and residents that park on-street parking do not need a residential parking permit. Staff performed a site evaluation and confirmed that in residential parking district "A", there are a total of 180 on-street parking spaces. Furthermore, staff verified that the total on-street parking permits issued for the residents living in residential parking district "A" are 98 parking permits.

Staff also reviewed the traffic collision history for this location, which confirmed there was one (1) "reported" traffic collision within the past four years at the intersection of E. 27th Street and "B" Avenue.

STAFF RECOMMENDATION:

Based on evaluation of existing conditions, staff recommends the following safety enhancements:

1. Install 24 feet of red curb "No Parking" on the north side of E. 22nd Street, east of "B" Avenue. This will result in the loss of one (1) on-street parking space;

2. Install 10 feet of red curb "No Parking" on the north side of E. 22nd Street, west of "B" Avenue. This will result in no loss of on-street parking space;
3. Install 24 feet of red curb "No Parking" on the north side of E. 22nd Street, east of "C" Avenue. This will result in the loss of one (1) on-street parking space;
4. Install 10 feet of red curb "No Parking" on the west side of E. 22nd Street, west of "C" Avenue. This will result in no loss of on-street parking space.

As discussed in the meeting agenda, since the loss of two (2) on-street parking spaces are within residential parking district "A", this loss of parking is not going to impact the available on-street parking in residential parking district "A".

EXHIBITS:

1. Public Request
2. Public Notice
3. Location Map
4. Photos

2021-16

SECLICKFIX ID
10054115

PRIORITY
Normal

REQUEST TYPE
Sidewalk Issue

ADDRESS
2134 B Ave National City CA 91950, United States

ASSIGNEE
Engineering

SLA EXPIRES

REPORTED
June 03, 2021 07:53

SECONDARY QUESTIONS

What is the issue (check all that apply)?
Other (please describe in description field)

What is the location?
East-Bound 22nd Street between B & C

In case the City needs additional information to resolve this issue, please provide your preferred method of communication (email or phone number). This will be kept private.
No Answer Given

LOCATION



SUMMARY & DESCRIPTION

Code Compliance

On East bound "22nd" corners of "B" and "C" cars are parked so close to the corners that they are a danger and hazard. We cannot pull out of B & C safely onto 22nd Street. I request the curbs be painted the mandatory 25 feet to allow for free obstruction view. I feel it is the responsibility of the city to enforce code and to resolve these unsafe situations.

Reported by: An anonymous SeeClickFix user
06/03/2021 - 07:53AM

MEDIA



TIMESTAMP	INTERNAL COMMENT	COMMENTER
June 03, 2021 07:53	City of National City assigned this issue to Neighborhood Services	City of National City
June 03, 2021 07:57	Another person wants this fixed!	Frank
June 03, 2021 08:21	Another person wants this fixed!	Margaret
June 03, 2021 08:51	This issue was recategorized from Code Compliance to Sidewalk Issue.	NSD Admin
June 03, 2021 08:51	Yes NSD Admin assigned this issue to Engineering	NSD Admin
June 03, 2021 08:54	"Red Curb". Is it sidewalk, or traffic? Either way- the entire area is a blind intersection	NC Resident
June 03, 2021 09:42	Another person wants this fixed!	Daniel Isida

June 03,
2021 11:30

Please call the Engineering & Public Works Department at (619) 336-4380 to CM SOA provide your contact information such that our staff may contact you in the event additional information is needed to address your request and to provide updates on the status of your request. Thank you for using National City Connect.



July 8, 2021

Resident/Property Owner

Subject: TRAFFIC SAFETY COMMITTEE (TSC) ITEM NO. 2021-16

REQUEST TO INSTALL RED CURB "NO PARKING" AT THE INTERSECTION OF E. 22ND STREET & "B" AVENUE AND THE INTERSECTION OF E. 22ND STREET & "C" AVENUE IN ORDER TO IMPROVE VISIBILITY AT THE INTERSECTION.

Dear Sir/Madame:

The City of National City would like to invite you to our next public Traffic Safety Committee Conference Call scheduled for **Wednesday, July 14, 2021, at 1:00 P.M.** via Zoom. Please use the following information to call-in to the meeting during the scheduled time:

Join Zoom Meeting from computer

<https://zoom.us/j/99326289815?pwd=Qy9jVTNDQ0F3em95bmRxVmNpRDJWdz09>

Join Zoom Meeting by phone

+1 669-900-9128

Meeting ID: 993 2628 9815

Passcode: 110368

If you have any questions, comments, and/or concerns, please contact the Engineering Department at 619-336-4380 and reference Traffic Safety Committee Item Number 2021-16.

Sincerely,

Roberto Yano, P.E.
City Engineer/Director of Public Works

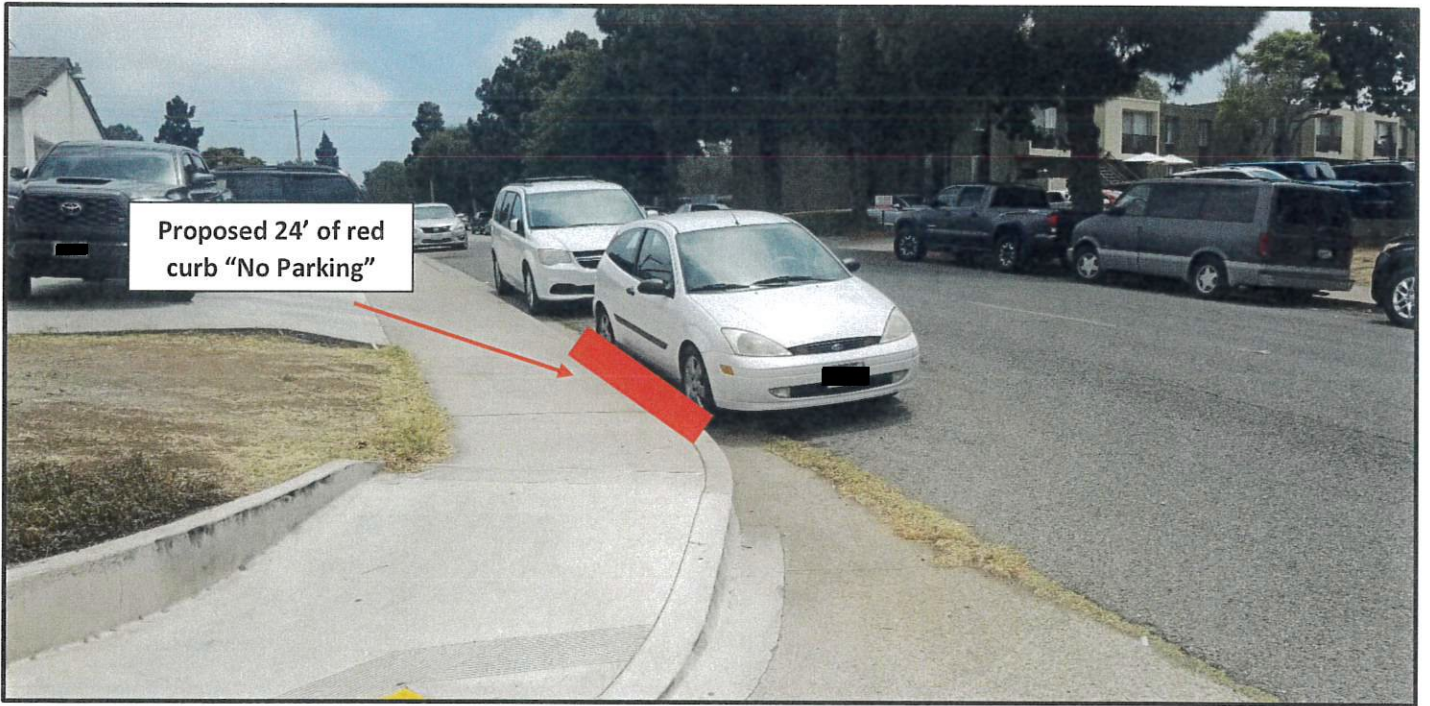
RY:lz

Enclosure: Location Map

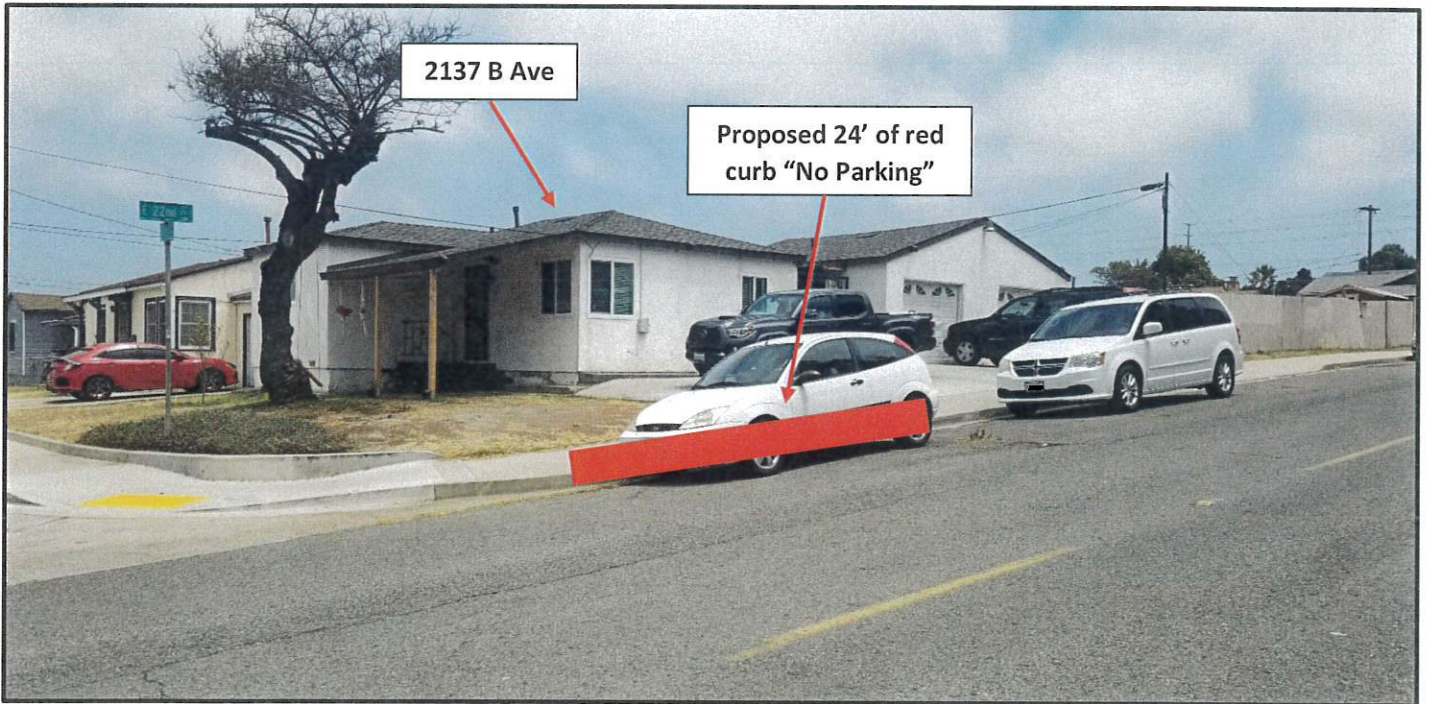
2021-16

Location Map with Proposed Enhancements (TSC Item: 2021-16)

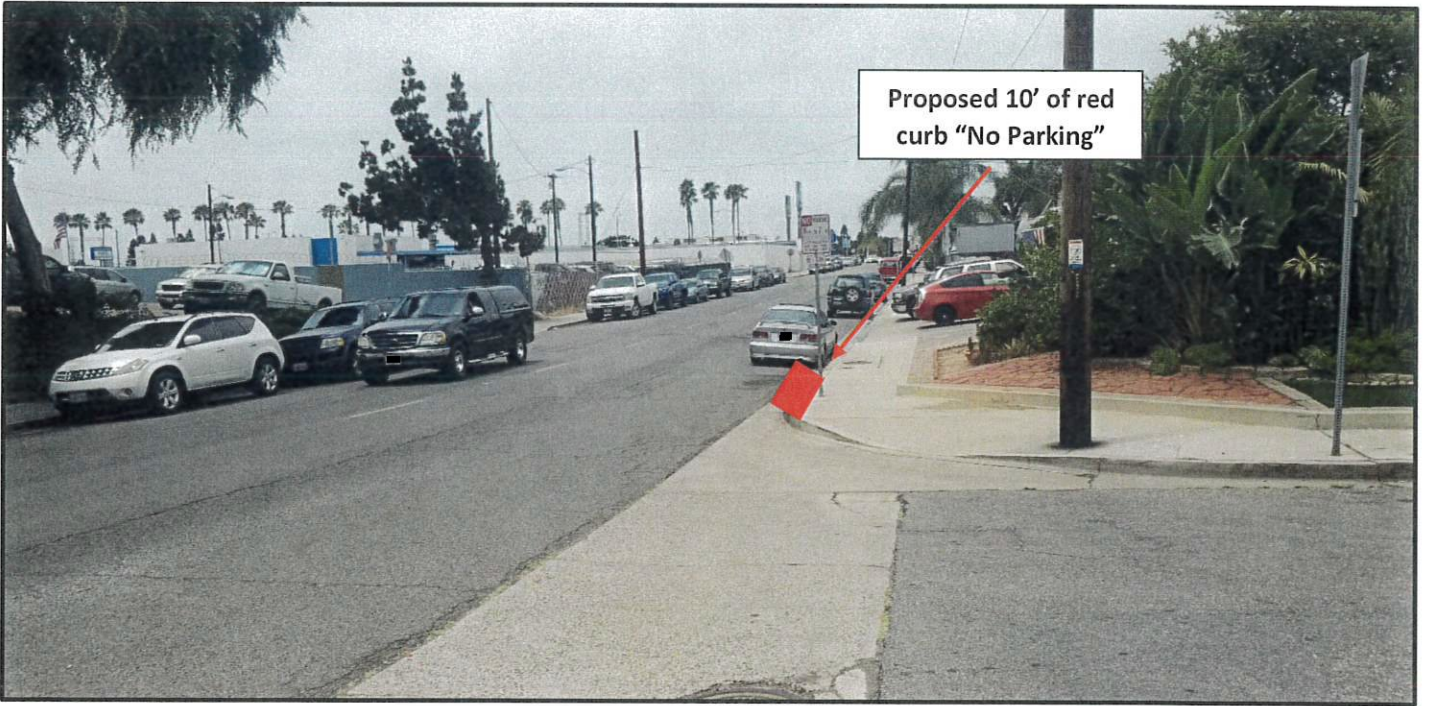




Location of proposed red curb "No Parking" on the north side of E. 22nd St., east of "B" Avenue (looking east)



Location of proposed red curb "No Parking" on the north side of E. 22nd St., east of "B" Avenue (looking north)



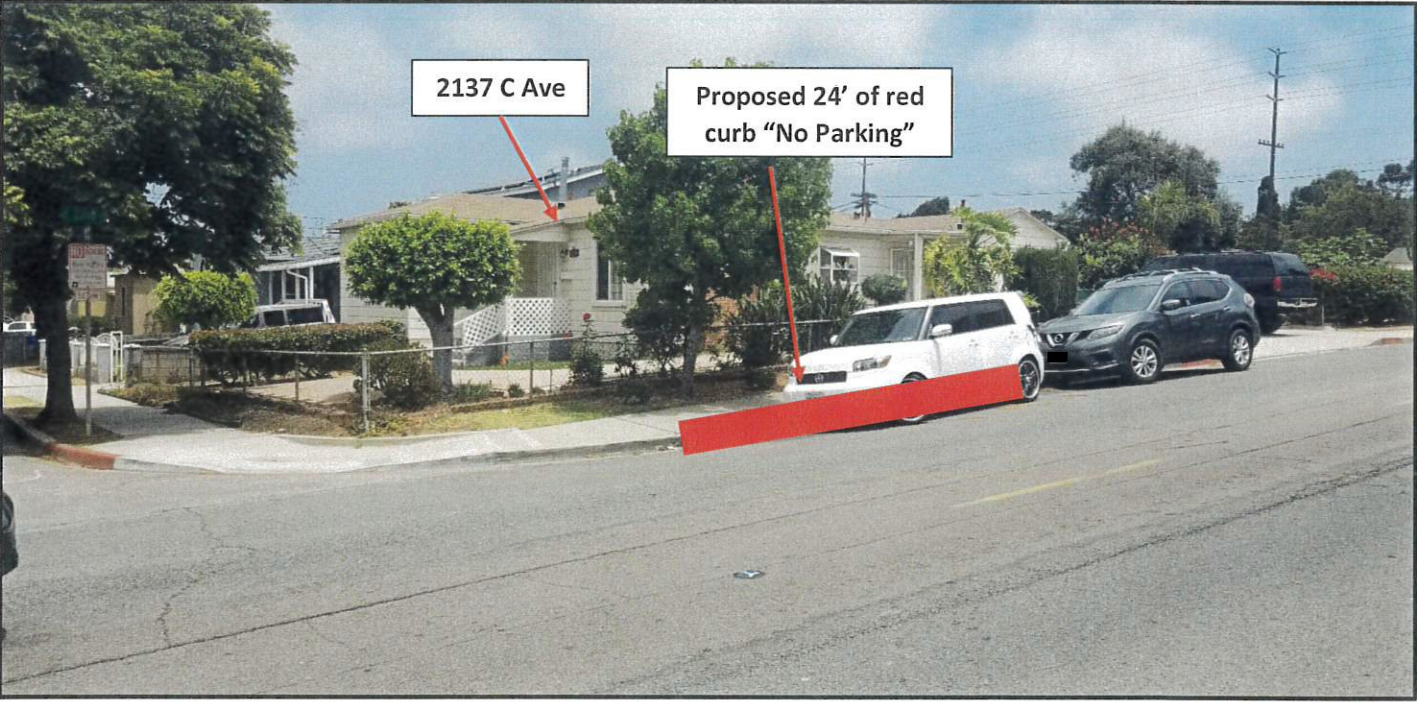
Location of proposed red curb "No Parking" on the north side of E. 22nd St., west of "B" Avenue (looking west)



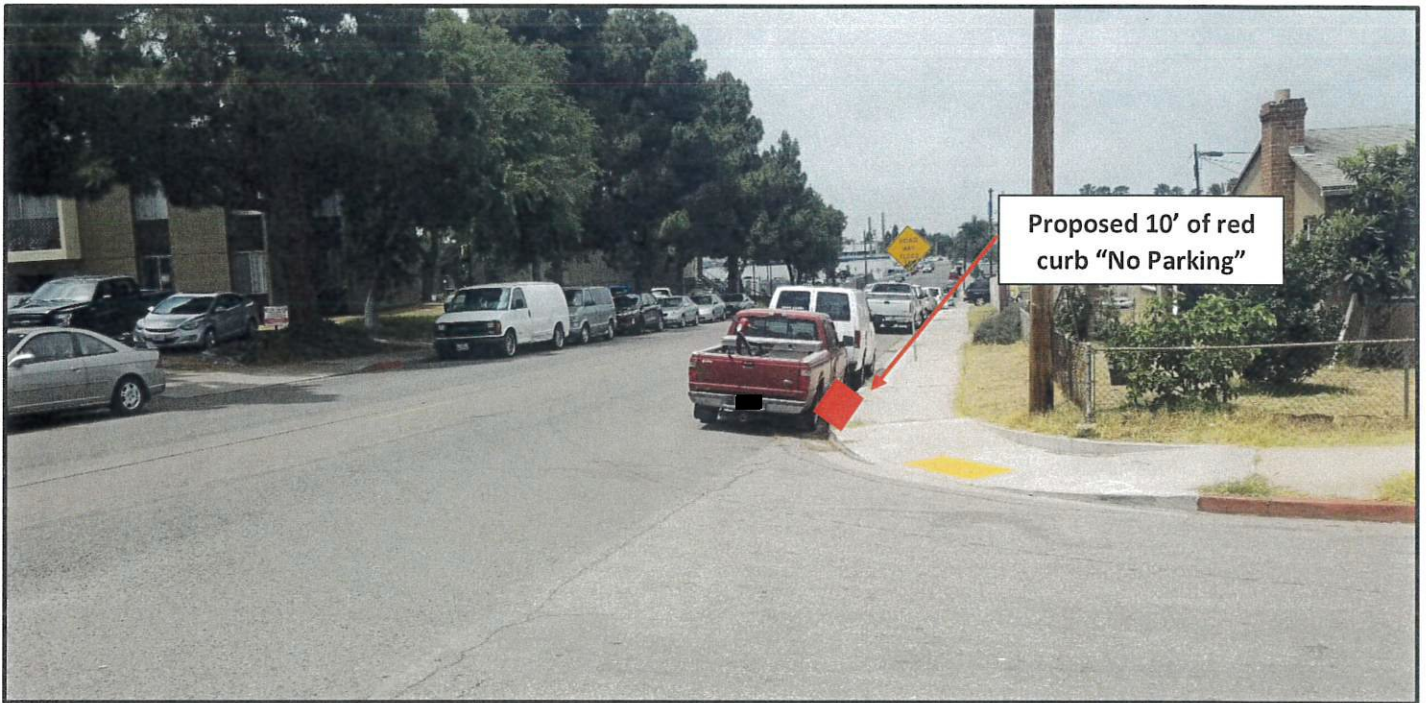
Location of proposed red curb "No Parking" on the north side of E. 22nd St., west of "B" Avenue (looking northwest)



Location of proposed red curb "No Parking" on the north side of E. 22nd St., east of "C" Avenue (looking southwest)



Location of proposed red curb "No Parking" on the north side of E. 22nd St., west of "C" Avenue (looking north)



Proposed 10' of red curb "No Parking"

Location of proposed red curb "No Parking" on the north side of E. 22nd St., west of "C" Avenue (looking west)



Proposed 10' of red curb "No Parking"

2138 C Ave

Location of proposed red curb "No Parking" on the north side of E. 22nd St., west of "C" Avenue (looking northeast)

RESOLUTION NO. 2021 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, AUTHORIZING THE INSTALLATION OF RED CURB “NO PARKING” AT THE INTERSECTION OF EAST 22ND STREET & “B” AVENUE AND THE INTERSECTION OF EAST 22ND STREET & “C” AVENUE TO IMPROVE VISIBILITY AT THE INTERSECTION (TSC NO. 2021-16)

WHEREAS, an area resident requests the City of National City (“City”) install a red curb “No Parking” at the intersection of East 22nd Street and “B” Avenue and also East 22nd Street and “C” Avenue to improve visibility and enhance safety for the vehicles exiting from “B” Avenue and “C” Avenue onto East 22nd Street; and

WHEREAS, City staff visited the site and verified that East 22nd Street, “B” Avenue, and “C” Avenue are currently two-lane residential streets with available parking on both sides of the streets with a speed limit of twenty-five (25) mph; and

WHEREAS, City Staff confirmed that when vehicles are parked too close to the corners of 22nd Street and “B” Avenue and also East 22nd Street and “C” Avenue, visibility for the vehicles that are exiting “B” Avenue and “C” Avenue onto East 22nd Street is partially obstructed; and

WHEREAS, City staff reviewed the traffic collision history for this location, which confirmed one (1) “reported” traffic collision within the past four years at the intersection of East 27th Street and “B” Avenue; and

WHEREAS, on July 14, 2021, the City of National City’s Traffic Safety Committee voted unanimously approving City staff’s recommendations to take the following action:

1. Install twenty-four (24) feet of red curb “No Parking” on the north side of East 22nd Street, east of “B” Avenue which will result in the loss of one (1) on-street parking space; and
2. Install ten (10) feet of red curb “No Parking” on the north side of East 22nd Street, west of “B” Avenue which will result in no loss of on-street parking space; and
3. Install twenty-four (24) feet of red curb “No Parking” on the north side of East 22nd Street, east of “C” Avenue which will result in the loss of one (1) on-street parking space; and
4. Install ten (10) feet of red curb “No Parking” on the west side of East 22nd Street, west of “C” Avenue which will result in no loss of on-street parking space.

WHEREAS, City staff recommends the installation of red curb “No Parking” at the intersection of East 22nd Street & “B” Avenue and the intersection of East 22nd Street and “C” Avenue to improve visibility at the intersection; and

Resolution No. 2021 -
Page Two

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: Authorizes installing a red curb “No Parking” at the intersection of East 22nd Street and “B” Avenue and the intersection of East 22nd Street and “C” Avenue in order to improve visibility at the intersection (TSC No. 2021-16).

Section 2: The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED and ADOPTED this 7th day of September, 2021.

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Warrant Register #3 for the period of 7/14/21 through 7/20/21 in the amount of \\$1,460,028.90. \(Finance\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.:

ITEM TITLE:

Warrant Register #3 for the period of 7/14/21 through 7/20/21 in the amount of \$1,460,028.90. (Finance)

PREPARED BY: Karla Apalategui, Senior Accounting Assistant

DEPARTMENT: Finance

PHONE: 619-336-4572

APPROVED BY: _____



EXPLANATION:

Per Government Section Code 37208, below are the payments issued for period 7/14/21 - 7/20/21. Consistent with Department of Finance's practice, listed below are all payments above \$50,000.

<u>Vendor</u>	<u>Check/Wire</u>	<u>Amount</u>	<u>Explanation</u>
Eagle Paving Co	353831	87,510.44	CIP 19-12 Sweetwater Road Safety Enhance
PRISM	353866	689,007.00	General Liability Insurance
PRISM	353867	266,280.00	Property Insurance
SDG&E	353882	52,253.18	Gas & Electric Utilities for Facilities

FINANCIAL STATEMENT:

APPROVED: _____



FINANCE

ACCOUNT NO.

APPROVED: _____

MIS

Warrant total \$1,460,028.90.

ENVIRONMENTAL REVIEW:

This is not a project and, therefore, not subject to environmental review.

ORDINANCE: INTRODUCTION FINAL ADOPTION

STAFF RECOMMENDATION:

Ratify warrants totaling \$1,460,028.90.

BOARD / COMMISSION RECOMMENDATION:

ATTACHMENTS:

Warrant Register # 3



**WARRANT REGISTER # 3
7/20/2021**

<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>CHK NO</u>	<u>DATE</u>	<u>AMOUNT</u>
ACE UNIFORMS & ACCESSORIES INC	K9 UNIT OUTER CARRY / PD	353807	7/20/21	1,228.16
ACME SAFETY & SUPPLY CORP	ACME / NSD	353808	7/20/21	67.00
ALL THE KINGS FLAGS	NATIONAL CITY MEMORIAL 3X5' S/R DY NY	353809	7/20/21	193.14
ALLSTAR FIRE EQUIPMENT INC	LION MODEL CVBM-K7 NATURAL 6 OZ /FIRE	353810	7/20/21	26,693.78
ALTA LANGUAGE SERVICES INC	EMPLOYEE BILINGUAL TESTING	353811	7/20/21	66.00
ATLAS TECHNICAL CONSULTANTS, BOOT WORLD	ROOSEVELT SMART GROWTH - ENG/PW	353812	7/20/21	7,189.00
BUCKNAM INFRASTRUCTURE	MOP 64096 SAFETY WEARING APPAREL - PW	353813	7/20/21	250.00
CCUG	NATIONAL CITY PAVEMENT MANAGEMENT PLAN	353814	7/20/21	5,574.19
CLEAN HARBORS ENVIRONMENTAL	TRAINING TUITION CLETS USER BROWDER	353815	7/20/21	425.00
CLF WAREHOUSE INC	HOUSEHOLD HAZARDOUS WASTE FOR JUNE 2021	353816	7/20/21	1,710.77
CODDINGTON LOCK AND SECURITY	MOP 80331 AUTO SUPPLIES - PW	353817	7/20/21	278.44
COMMERCIAL AQUATIC SERVICE INC	CITYWIDE ON-SITE ELECTRONIC DOOR REPAIRS	353818	7/20/21	1,313.25
CONCENTRA MEDICAL CENTERS	CHEMICALS – CHLORINE, ACID TABLETS / CSD	353819	7/20/21	888.09
COOK, BEATRIZ	DOT EXAM	353820	7/20/21	96.00
COUNTY OF SAN DIEGO	CITATION REFUNDS - JUNE 2021	353822	7/20/21	10.00
CYRACOM INTERNATIONAL, INC	COUNTY SD SHARE OF PARKING CITATION REV	353823	7/20/21	10,360.00
DEAN GAZZO ROISTACHER LLP	LANGUAGE LINE	353824	7/20/21	113.10
DEAN GAZZO ROISTACHER LLP	LIABILITY CLAIM COST	353825	7/20/21	4,184.09
DEAN GAZZO ROISTACHER LLP	LIABILITY CLAIM COST	353826	7/20/21	840.00
DENHAM	LIABILITY CLAIM COST	353827	7/20/21	539.00
DEUTSCH INC.	WORKING BREAKFAST BURRITOS / CSD	353828	7/20/21	169.71
DUNSMORE	INFLATABLE MOVIE SCREEN 30'X17' ISULPACK	353829	7/20/21	28,345.00
EAGLE PAVING COMPANY INC	CITATION REFUNDS - JUNE 2021	353830	7/20/21	70.00
ERGOMETRICS	CIP 19-12 SWEETWATER ROAD SAFETY ENHANCE	353831	7/20/21	87,510.44
EXPRESS PIPE AND SUPPLY	SERGEAMT & CPR-PRA; ASSESS,EMT CTR	353832	7/20/21	12,474.31
FABINSKI	CITYWIDE PLUMBING PARTS, MATERIALS TOOL	353833	7/20/21	185.83
FLORES	TRAINING ADV LDG INTR 1ST RSPD	353834	7/20/21	107.54
GEOSYNTEC CONSULTANTS INC	LICENSE REIMBURSEMENT	353835	7/20/21	75.00
GOVERNMENT FINANCE	CNC AS NEEDED SERVICES - HAZ MAT MGT- ENG	353836	7/20/21	5,231.24
GUERRERO, FEDERICO	GFOA MEMBERSHIP - PAUL VALADEZ	353837	7/20/21	150.00
HANDY METAL MART	CONSTRUCT INSTRUCTOR PAYMENT	353838	7/20/21	2,595.60
HDR ENGINEERING, INC.	3/16 6X6 PRE CUTS SIGN BASE	353839	7/20/21	217.50
HOME DEPOT CREDIT SERVICES	PROFESSIONAL SERVICES - ENG/PW	353840	7/20/21	4,498.00
JANI-KING OF CALIFORNIA INC	GENERAL SUPPLIES AS NEEDED FOR BUILDING	353841	7/20/21	1,289.89
JOHNSON, HOUSTON	COVID-19 JANITORIAL CLEANING SERIVCES	353842	7/20/21	5,500.00
KIMLEY HORN	CITATION REFUNDS - JUNE 2021	353843	7/20/21	100.00
L C ACTION POLICE SUPPLY	8TH AND ROOSEVELT ATP- ENG/PW	353844	7/20/21	32,636.82
LAFRENIERE	LESS LETHAL AMMO / PD	353845	7/20/21	705.17
LASER SAVER INC	EDUCATION REIMBURSEMENT	353846	7/20/21	224.00
LATHAN, KEYONEE	MOP 04840 TONER PD	353847	7/20/21	456.53
LIEBERT CASSIDY WHITMORE	LIABILITY CLAIM COST	353848	7/20/21	10,000.00
MAINTEX INC	CLIENT/MATTER #NA040-00024	353849	7/20/21	22,690.84
MAZZARELLA & MAZZARELLA LLP	CITYWIDE JANITORIAL SUPPLIES / PW	353850	7/20/21	113.65
MCGUIRE	LIABILITY CLAIM COST	353851	7/20/21	809.71
MEGA OUTDOOR ENTERTAINMENT	EDUCATION REIMBURSEMENT	353852	7/20/21	1,838.48
MEGLA MANUFACTURING INC	NATIONAL CITY MOVIE NIGHT JULY MOVIE SCREEN	353853	7/20/21	2,600.00
MONTANO, PATRICK	FABRICATED BRACKETS FOR WATER METERS	353854	7/20/21	3,609.25
	CITATION REFUNDS - JUNE 2021	353855	7/20/21	80.00



**WARRANT REGISTER # 3
7/20/2021**

<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>CHK NO</u>	<u>DATE</u>	<u>AMOUNT</u>
MOSSY NISSAN	MOP 80703 AUTO PARTS - PW	353856	7/20/21	37.55
MOYNAHAN, TOM	CITATION REFUNDS - JUNE 2021	353857	7/20/21	17.00
NATIONAL CITY TROPHY	MOP 66556. SUPPLIES FOR FACILITIES / PW	353858	7/20/21	90.81
NV5 INC	SEWER USER SURVEY & PREP OF TAX ROLL	353859	7/20/21	667.50
OFFICE SOLUTIONS BUSINESS	MLK BOXES OF PAPER RIM	353860	7/20/21	512.95
OPENGOV INC	OPENGOV REPORTING RENEWAL	353861	7/20/21	10,925.00
PADRE JANITORIAL SUPPLIES	JANITORIAL SUPPLIES FOR NUTRITON CENTER	353862	7/20/21	91.67
PARTS AUTHORITY METRO LLC	MOP 75943 AUTO SUPPLIES - PW	353863	7/20/21	26.69
POWERSTRIDE BATTERY CO INC	BATTERIES / PW	353864	7/20/21	512.95
PRECISION CONCRETE CUTTING	PAVEMENT MANAGEMENT SERVICES	353865	7/20/21	48,300.00
PRISM	GENERAL LIABILITY INSURANCE	353866	7/20/21	689,007.00
PRISM	PROPERTY INSURANCE	353867	7/20/21	266,280.00
PRISM	GENERAL LIABILITY INSURANCE	353868	7/20/21	14,985.00
PRO BUILD COMPANY	MOP 45707 GENERAL SUPPLIES - PW	353869	7/20/21	2,783.48
PROFESSIONAL SEARCH GROUP LLC	TEMP SVCS AP / WEEK ENDING 07182021	353870	7/20/21	1,802.00
PROFESSIONAL SEARCH GROUP LLC	TEMP SVCS AP/WEEK ENDING 07112021	353871	7/20/21	1,342.00
PROFESSIONAL SEARCH GROUP LLC	TEMPORARY PLACEMENT POSITION, SOA /FIRE	353872	7/20/21	272.00
PRUDENTIAL OVERALL SUPPLY	MOP 45742. JANITORIAL SUPPLIES / NUTRITION	353873	7/20/21	1,697.50
R & R CONTROLS, INC	CITYWIDE ON-SITE ENVIRONMENTAL CONTROL	353874	7/20/21	5,125.00
ROADLINE PRODUCTS INC	FAST DRY TRAFFIC PAINT - RED GALLON	353875	7/20/21	673.57
S D COUNTY SHERIFF'S DEPT	RANGE USE	353876	7/20/21	800.00
SAFETY-KLEEN SYSTEMS, INC	PART #905837 MODEL 90.5 W/2387 6365	353877	7/20/21	418.38
SAN DIEGO POLICE EQUIPMENT	SPRINGER VEST CARRIER	353878	7/20/21	118.54
SAN DIEGO UNION TRIBUNE	PRE BID - CIVIC CENTER BASEMENT POWER	353879	7/20/21	736.80
SAN DIEGO ZOO WILDLIFE	CASA DE SALUD YOUTH SUMMER CAMP FIELD	353880	7/20/21	919.50
SASI	REF#119012	353881	7/20/21	56.10
SDG&E	GAS AND ELECTRIC UTILITIES FOR FACILITIES	353882	7/20/21	52,253.18
SEAPORT MEAT COMPANY	FOOD FOR NUTRITION AS NEEDED FY 2021	353883	7/20/21	943.08
SERRANO, BENJAMIN	CITATION REFUNDS - JUNE 2021	353884	7/20/21	25.00
SHARP REES STEALY MED GROUP	PRE-EMPLOYMENT PHYSICALS	353885	7/20/21	1,176.00
SMART & FINAL	MOP 45756 POLICE PROMOTIONAL TESTING	353886	7/20/21	106.83
SOUTHLAND WATER TECHNOLOGIES	M852, MISSION COMMUNICATIONS M850 RTU	353887	7/20/21	8,247.48
SPEEDPRO IMAGING	FORD F250 VEHICLE VINYL MOCK UP~	353888	7/20/21	455.79
STAPLES BUSINESS ADVANTAGE	MOP 45704 OFFICE SUPPLIES - PW	353889	7/20/21	702.99
STATE CONTROLLER	ANNUAL STREET REPORT 19/20 FY SERVICE	353890	7/20/21	2,997.32
SWANK MOTION PICTURES INC	NATIONAL CITY MOVIE NIGHT RAYA EN THE LA	353891	7/20/21	450.00
SYMBOLARTS, LLC	REBANNING	353892	7/20/21	291.88
SYSCO SAN DIEGO INC	FOOD / NUTRITION	353893	7/20/21	4,118.44
THE BANK OF NEW YORK MELLON	CUSTODIAN FEE FOR PERIOD APRIL 1 2021	353894	7/20/21	300.00
THE BUMPER GUY INC	PARTS / PW	353895	7/20/21	13,626.17
THE COUNSELING TEAM	EMPLOYEE SUPPORT SERVICES / FIRE	353896	7/20/21	375.00
THE COUNSELING TEAM INTERNATIO	EMPLOYEE SUPPORT SVCS COUNSELING	353897	7/20/21	600.00
THE SHERWIN WILLIAMS CO	MOP 77816 PAINTING SUPPLIES - PW	353898	7/20/21	1,359.53
TINOSA INC	PERFORM AIR SAMPLE	353899	7/20/21	250.00
T'S & SIGNS	NATIONAL CITY MOVIE NIGHT BANNER	353900	7/20/21	574.20
U S BANK	MOP 19657 CC PD	353901	7/20/21	4,608.86
VALLEY INDUSTRIAL SPECIALTIES	MOP 46453 BUILDING SUPPLIES - PW	353902	7/20/21	448.16
VISTA PAINT	MOP 68834 GENERAL SUPPLIES - PW	353903	7/20/21	1,897.25



**WARRANT REGISTER # 3
7/20/2021**

<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>CHK NO</u>	<u>DATE</u>	<u>AMOUNT</u>
VULCAN MATERIALS COMPANY	COLD MIX 3/8 SC8	353904	7/20/21	2,678.31
WAXIE SANITARY SUPPLY	MISCELLANEOUS JANITORIAL SUPPLIES	353905	7/20/21	2,205.33
WESTNET INC	PROVIDE FIRST-IN ALERTING SYSTEMS	353906	7/20/21	6,408.72
WILLIAMS	EDUCATION REIMBURSEMENT	353908	7/20/21	494.09
WILSON	EDUCATION REIMBURSEMENT	353909	7/20/21	1,017.38
WSP USA INC	NATIONAL CITY PARKING PLAN - ENG/PW	353910	7/20/21	3,487.02
YANO	TRAINING REIMBURSEMENT - ENGINEERING & PW	353911	7/20/21	516.38

A/P Total 1,447,116.90

SECTION 8 HAPS

Start Date	End Date	
7/14/2021	7/20/2021	12,912.00

GRAND TOTAL \$ 1,460,028.90

Certification

IN ACCORDANCE WITH SECTION 37202, 37208, 372059 OF THE GOVERNMENT CODE, WE HEREBY CERTIFY TO THE ACCURACY OF THE DEMANDS LISTED ABOVE AND TO THE AVAILABILITY OF FUNDS FOR THE PAYMENT THEREOF AND FURTHER THAT THE ABOVE CLAIMS AND DEMANDS HAVE BEEN AUDITED AS REQUIRED BY LAW.



MOLLY BRENNAN, FINANCE

BRAD RAULSTON, CITY MANAGER

FINANCE COMMITTEE

ALEJANDRA SOTELO-SOLIS, MAYOR-CHAIRWOMAN

JOSE RODRIGUEZ, VICE-MAYOR

MARCUS BUSH, COUNCIL MEMBER

RONALD J. MORRISON, COUNCIL MEMBER

MONA RIOS, COUNCIL MEMBER

I HEREBY CERTIFY THAT THE FOREGOING CLAIMS AND DEMANDS WERE APPROVED AND THE CITY TREASURER IS AUTHORIZED TO ISSUE SAID WARRANTS IN PAYMENT THEREOF BY THE CITY COUNCIL ON THE 7th OF SEPTEMBER, 2021.

AYES _____

NAYS _____

ABSENT _____

The following page(s) contain the backup material for Agenda Item: [Warrant Register #4 for the period of 7/21/21 through 7/27/21 in the amount of \\$2,246,558.11. \(Finance\)](#)
Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.:

ITEM TITLE:

Warrant Register #4 for the period of 7/21/21 through 7/27/21 in the amount of \$2,246,558.11. (Finance)

PREPARED BY: Karla Apalategui, Senior Accounting Assistant

DEPARTMENT: Finance

PHONE: 619-336-4572

APPROVED BY: _____



EXPLANATION:

Per Government Section Code 37208, below are the payments issued for period 7/21/21 - 7/27/21. Consistent with Department of Finance's practice, listed below are all payments above \$50,000.

<u>Vendor</u>	<u>Check/Wire</u>	<u>Amount</u>	<u>Explanation</u>
Chen Ryan Assoc	353926	70,671.09	24 th St TODO – ENG/PW
Motorolla Solutions	353960	166,263.95	Portable Radios
Project Professionals	353977	62,000.37	CIP 19-12 Sweetwater Rd Safety Enhance
South Bay Comm Svc	353992	57,394.91	Home Agreement: South Bay Community

FINANCIAL STATEMENT:

APPROVED: _____



FINANCE

ACCOUNT NO.

APPROVED: _____

MIS

Warrant total \$2,246,558.11.

ENVIRONMENTAL REVIEW:

This is not a project and, therefore, not subject to environmental review.

ORDINANCE: INTRODUCTION FINAL ADOPTION

STAFF RECOMMENDATION:

Ratify warrants totaling \$2,246,558.11.

BOARD / COMMISSION RECOMMENDATION:

ATTACHMENTS:

Warrant Register # 4



WARRANT REGISTER # 4
7/27/2021

<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>CHK NO</u>	<u>DATE</u>	<u>AMOUNT</u>
ACE UNIFORMS & ACCESSORIES INC	RECRUIT YUEN	353912	7/27/21	2,824.52
ALDEMCO	FOOD AS NEEDED FOR NUTRITION CENTER FY	353913	7/27/21	6,351.28
ALL FRESH PRODUCTS	CONSUMABLES AS NEEDED FOR NUTRITION	353914	7/27/21	2,372.18
ALLSTATE SECURITY SERVICES INC	LIBRARY/SECURITY GUARD FOR JUNE 2021	353915	7/27/21	5,214.33
ALPHA CARD	LIBRARY CARDS	353916	7/27/21	2,375.00
AMAZON	CHARGERS FOR DELL LATITUDE 3190 LAPTOPS	353917	7/27/21	529.04
ASSI SECURITY INC	WALL MOUNT, READER REPLACEMENTS / PW	353918	7/27/21	12,610.00
BAKER & TAYLOR	BOOKS FOR FY21	353919	7/27/21	3,781.81
BAKER & TAYLOR	LIBRARY/BOOKS/FY21	353920	7/27/21	767.06
BOOT WORLD	MOP 64096 SAFETY SHOES	353921	7/27/21	125.00
BOOT WORLD	MOP 64096 SAFETY SHOES / PARKS	353922	7/27/21	125.00
BSN SPORTS, LLC	RECREATION SUPPLIES FOR ACTIVITY CAMP	353923	7/27/21	1,277.94
CAL FIRE	FSTEP-FS-FC30033 STRUCTURAL FIRE FIGHTING	353924	7/27/21	525.00
CALIFORNIA ELECTRIC SUPPLY	MOP 45698 ELECTRIC SUPPLIES - PW	353925	7/27/21	472.79
CHEN RYAN ASSOCIATES INC	24TH ST TODO - ENG/PW	353926	7/27/21	70,671.09
COLANTUONO HIGHSMITH	AFFORDABLE HOUSING COALITION	353927	7/27/21	1,541.84
CONCENTRA MEDICAL CENTERS	PRE-EMPLOYMENT PHYSICALS & DOT EXAM	353928	7/27/21	3,726.00
CONCENTRA MEDICAL CENTERS	PRE-EMPLOYMENT PHYSICAL	353929	7/27/21	648.00
CONCENTRA MEDICAL CENTERS	PRE-EMPLOYMENT PHYSICALS & DOT EXAMS	353930	7/27/21	611.00
CONCENTRA MEDICAL CENTERS	FIRST AID NO WC CLAIM	353931	7/27/21	237.08
CONCENTRA MEDICAL CENTERS	FIRST AID ONLY - RTN VISIT FOLLOW UP	353932	7/27/21	198.09
CONCENTRA MEDICAL CENTERS	PRE-EMPLOYMENT PHYSICAL	353933	7/27/21	186.00
CONCENTRA MEDICAL CENTERS	PRE-EMPLOYMENT PHYSICALS	353934	7/27/21	130.00
CONCENTRA MEDICAL CENTERS	FIRST AID ONLY NO WC CLAIM	353935	7/27/21	118.05
CONCENTRA MEDICAL CENTERS	PRE-EMPLOYMENT PHYSICALS	353936	7/27/21	80.00
CSA SAN DIEGO COUNTY	CDBG AGREEMENT WITH CSA SAN DIEGO	353937	7/27/21	7,713.69
DATA DETECTION GROUP	FIRST PAYMENT / DATA CONVERSION	353938	7/27/21	8,500.00
DELL MARKETING L P	VLA ADOBE ACROBAT PRO 2020 MPL	353939	7/27/21	1,947.90
DEMCO INC	BOOK PROCESSING SUPPLIES	353940	7/27/21	752.22
DEPT OF JUSTICE	FINGERPRINTING DOJ	353941	7/27/21	616.00
D-MAX ENGINEERING INC	T&A 90412 - RANCHO ARROYO VILLAS - ENG/PW	353942	7/27/21	3,310.03
FASTSIGNS	"EMPLOYEES ONLY" GLASS VINYL	353943	7/27/21	133.76
FERGUSON ENTERPRISES 1350	MOP 45723 GENERAL SUPPLIES - PW	353944	7/27/21	345.31
GOVCONNECTION INC	MONITORS	353945	7/27/21	6,015.86
GOVERNMENT TRAINING AGENCY	SD EMPLOYMENT RELATIONS CONSORTIUM FEES	353946	7/27/21	2,588.00
HAAKER EQUIPMENT COMPANY	SPRING DISC~	353947	7/27/21	891.77
WHITE CAP CONSTRUCTION SUPPLY	1211516M, MED ORANGE CL2 BLACK SERIES	353948	7/27/21	166.13
HDR ENGINEERING, INC.	CIP 19-35 PARADISE CREEK KIMBALL- ENG/PW	353949	7/27/21	20,465.68
HOME DEPOT CREDIT SERVICES	SAFETY SUPPLIES / PARKS	353950	7/27/21	519.00
INSIGHT PUBLIC SECTOR, INC.	32 PORT USB CHARGING CART	353951	7/27/21	1,479.00
LASER SAVER INC	REPAIR TO PLOTTER	353952	7/27/21	1,200.27
LEXIA LEARNING SYSTEMS LLC	LEXIA CORE5 SUBSCRIPTION RENEWAL	353953	7/27/21	400.00
LIEBERT CASSIDY WHITMORE	TRAINING / LCW / CAO	353954	7/27/21	3,475.00
LORONA	DOT PHYSICAL	353955	7/27/21	80.00
MAN K9 INC	JULY TRAINING	353956	7/27/21	1,120.00
MEYERS, NAVE, RIBACK, SILVER	MEYERS NAVE / CAO	353957	7/27/21	3,819.15
MIDWEST TAPE	AUDIOVISUAL MATERIALS FOR FY21	353958	7/27/21	195.02
MOSSY NISSAN	MOP 80703 AUTO SUPPLIES - PW	353959	7/27/21	109.90



WARRANT REGISTER # 4
7/27/2021

<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>CHK NO</u>	<u>DATE</u>	<u>AMOUNT</u>
MOTOROLA SOLUTIONS INC	PORTABLE RADIOS	353960	7/27/21	166,263.95
MYERS AND SONS	BARRICADE LIGHT, SOLAR, LED AMBER	353961	7/27/21	624.38
NAGUNSMITHING LLC	10 SPARC RED DOTS	353962	7/27/21	1,794.27
NEU	MILEAGE REIMBURSEMENT - TRIP TO SDCOL	353963	7/27/21	12.82
NEW READERS PRESS	NEWS FOR YOU CLASSROOM SUBSCRIPTION	353964	7/27/21	380.66
NV5 INC	IMPLEMENTATION OF DASHBOARD GIS WORK	353965	7/27/21	9,524.16
OFFICE SOLUTIONS BUSINESS	MOP #83778, CONFERENCE TABLE / FIRE	353966	7/27/21	2,406.78
O'REILLY AUTO PARTS	MOP 75877 AUTO SUPPLIES - PW	353967	7/27/21	119.07
PACIFIC PRODUCTS & SERVICES	PARTS / PW	353968	7/27/21	1,477.59
PACIFIC REFRIGERATION INC	NUTRITION CENTER REFRIGERATION SERVICES	353969	7/27/21	3,226.10
PALOMAR HEALTH	SART EXAMS	353970	7/27/21	2,700.00
PARTS AUTHORITY METRO LLC	MOP 75943 AUTO SUPPLIES - PW	353971	7/27/21	266.36
PENSKE FORD	PARTS FOR EMERGENCY VEHICLES	353972	7/27/21	951.17
PIERSON	TRAINING ADV POST SUB FTP / PD	353973	7/27/21	384.00
POWERSTRIDE BATTERY CO INC	MOP 67839 GENERAL SUPPLIES - PW	353974	7/27/21	452.36
PRO BUILD COMPANY	4 X 8 - 19/32 SYP CD EXT PLY~	353975	7/27/21	3,597.76
PROFESSIONAL SEARCH GROUP LLC	TEMPORARY EMPLOYEE - ADMIN ASSIST - CITY	353976	7/27/21	4,920.00
PROJECT PROFESSIONALS CORP	CIP 19-12 SWEETWATER RD SAFETY ENHANCE	353977	7/27/21	62,000.37
PRUDENTIAL OVERALL SUPPLY	MOP 45742 LAUNDRY SERVICES - PW	353978	7/27/21	1,255.07
RANDALL LAMB ASSOCIATES INC	CIP 20-03 CIVIC CENTER EOC POWER UPGRADE	353979	7/27/21	157.50
S D COUNTY SHERIFF'S DEPT	RANGE USE	353980	7/27/21	1,300.00
SAKAMOTO	TRAINING ADV SUB RAACL PRF TRN TRNR / PD	353981	7/27/21	631.72
SAM'S ALIGNMENT	WHEEL ALIGNMENT SERVICE FOR CITY	353982	7/27/21	100.00
SAN DIEGO GAS & ELECTRIC	UTILITIES FOR FACILITES	353983	7/27/21	957.53
SD COUNTY POLICE CHIEF'S	FY 22 CHIEF SHERIFF MEMBERSHIP	353984	7/27/21	500.00
SEAPORT MEAT COMPANY	FOR FOOD AS NEEDED FOR NUTRITION CENTER	353985	7/27/21	1,288.81
SHRED IT USA	SHREDDING SERVICE	353986	7/27/21	120.40
SILVER & WRIGHT LLP	SILVER AND WRIGHT LLP / CAO	353987	7/27/21	8,151.82
SIRSIDYNIX 774271	ITEM AND PATRON BARCODES	353988	7/27/21	1,144.50
SITONE LANDSCAPE SUPPLY LLC	MOP 69277 LANDSCAPE SUPPLIES / PARKS	353989	7/27/21	140.99
SITONE LANDSCAPE SUPPLY LLC	MOP 69277 LANDSCAPE SUPPLIES / PARKS	353990	7/27/21	105.52
SMART SOURCE OF CALIFORNIA LLC	MOP 63845 PRINTER SUPPLIES / FINANCE	353991	7/27/21	61.85
SOUTH BAY COMMUNITY SERVICES	HOME AGREEMENT: SOUTH BAY COMMUNITY	353992	7/27/21	57,394.91
SOUTHERN CALIF TRUCK STOP	MOP 45758 GENERAL AUTO SUPPLIES - PW	353993	7/27/21	419.59
STAPLES BUSINESS ADVANTAGE	MOP #45704/COPY PAPER/HR	353994	7/27/21	1,454.09
SWEETWATER AUTHORITY	WATER BILL FOR PARKS DIVISION FY 2021	353995	7/27/21	1,637.90
SWEETWATER AUTHORITY	WATER BILL FOR PARKS DIVISION FY 2021	353996	7/27/21	1,145.48
SWEETWATER AUTHORITY	WATER BILL FOR PARKS DIVISION FY 2021	353997	7/27/21	82.98
SWEETWATER AUTHORITY	WATER BILL FOR PARKS DIVISION FY 2021	353998	7/27/21	42.60
SWEETWATER AUTHORITY	WATER BILL FOR PARKS DIVISION FY 2021	353999	7/27/21	42.60
SWEETWATER AUTHORITY	WATER BILL FOR PARKS DIVISION FY 2021	354000	7/27/21	42.60
SWEETWATER AUTHORITY	WATER BILL FOR PARKS DIVISION FY 2021	354001	7/27/21	27.96
SYSCO SAN DIEGO INC	FOOD AS NEEDED FOR NUTRITION CENTER	354002	7/27/21	3,529.65
TAPIA	REIMB TAPIA CSO PANTS	354003	7/27/21	91.58
TELECOM LAW FIRM P C	TELECOM LAW FIRM PC / CAO	354004	7/27/21	4,596.00
THE COUNSELING TEAM	MONTHLY SVC & OIS / MANHUNT FOLLOWUP	354005	7/27/21	1,325.00
THE SHERWIN WILLIAMS CO	MOP 77816 PAINT SUPPLIES / NSD	354006	7/27/21	234.16
THOMSON REUTERS WEST	THOMSON REUTERS WEST / CAO	354007	7/27/21	1,101.98



**WARRANT REGISTER # 4
7/27/2021**

<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>CHK NO</u>	<u>DATE</u>	<u>AMOUNT</u>
TIP OF SAN DIEGO COUNTY	ON-SCENE 24 HOUR VOLUNTEER RESPONSE SVCS	354008	7/27/21	8,000.00
TRANS-LANG	INTERPRETATION SVCS - CITY COUNCIL MEETING	354009	7/27/21	714.00
U S BANK	TO REPLACE CKS 350142 350565 347689 & 34	354011	7/27/21	5,778.77
U S BANK	US BANK / CAO	354012	7/27/21	500.00
UNITED LABORATORIES INC	MAINTENANCE EQUIPMENT	354013	7/27/21	349.05
UNITED ROTARY BRUSH CORP	EAGLE POLY TB	354014	7/27/21	606.61
VALLEY INDUSTRIAL SPECIALTIES	MOP 46453 BUILDING SUPPLIES - PW	354015	7/27/21	266.28
VCA EMERGENCY ANIMAL HOSPITAL	CHON EMERGENCY VET CARE	354016	7/27/21	5,805.98
VCA MAIN ST ANIMAL HOSPITAL	CHON CHECK UP	354017	7/27/21	225.92
VISTA PAINT	ON LINE TRAFFICE FAST DRY WHITE	354018	7/27/21	1,368.29
WEST COAST ARBORISTS	ONGOING TREE TRIMMING SERVICE	354019	7/27/21	35,945.00
WEST PAYMENT CENTER	WEST JULY / PD	354020	7/27/21	633.22
WILKINS	RETIREE HEALTH BENEFITS - JULY 2021	354021	7/27/21	520.00
WILLY'S ELECTRONIC SUPPLY	MOP 45763 COMPUTER SUPPLIES	354022	7/27/21	22.45
WORTH AVE GROUP, LLC	INSURANCE DELL LATITUDE 3190 - PRC#11496	354023	7/27/21	2,961.00
WSP USA INC	WSP USA NTP FOR THE NATIONAL CITY	354024	7/27/21	12,461.36
WSP USA INC	FOCUSED GENERAL PLAN UPDATE	354025	7/27/21	2,284.18
			A/P Total	611,970.49
WIRED PAYMENTS				
THE BANK OF NEW YORK MELLON	HUD 108 LOAN PMNT FOR FY 2021-2022	170205	7/21/21	541,501.25
PAYROLL				
Pay period	Start Date	End Date	Check Date	
15	6/29/2021	7/12/2021	7/21/2021	1,093,086.37
			GRAND TOTAL	\$ 2,246,558.11

Certification

IN ACCORDANCE WITH SECTION 37202, 37208, 372059 OF THE GOVERNMENT CODE, WE HEREBY CERTIFY TO THE ACCURACY OF THE DEMANDS LISTED ABOVE AND TO THE AVAILABILITY OF FUNDS FOR THE PAYMENT THEREOF AND FURTHER THAT THE ABOVE CLAIMS AND DEMANDS HAVE BEEN AUDITED AS REQUIRED BY LAW.



MOLLY BRENNAN, FINANCE

BRAD RAULSTON, CITY MANAGER

FINANCE COMMITTEE

ALEJANDRA SOTELO-SOLIS, MAYOR-CHAIRWOMAN

JOSE RODRIGUEZ, VICE-MAYOR

MARCUS BUSH, COUNCIL MEMBER

RONALD J. MORRISON, COUNCIL MEMBER

MONA RIOS, COUNCIL MEMBER

I HEREBY CERTIFY THAT THE FOREGOING CLAIMS AND DEMANDS WERE APPROVED AND THE CITY TREASURER IS AUTHORIZED TO ISSUE SAID WARRANTS IN PAYMENT THEREOF BY THE CITY COUNCIL ON THE 7th OF SEPTEMBER, 2021.

AYES _____

NAYS _____

ABSENT _____

The following page(s) contain the backup material for Agenda Item: [Public Hearing and Introduction of an Ordinance of the City Council of the City of National City amending Sections 18.20.020, 18.21.040, 18.21.050, 18.45, and 18.50, and addition of Sections 18.30.380 and 18.30.390 of Title 18 \(Zoning\) of the National City Municipal Code. \(Applicant: City-Initiated\) \(Case File 2021-18 A\) \(Planning\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.

ITEM TITLE:

Public Hearing and Introduction of an Ordinance of the City Council of the City of National City amending Sections 18.20.020, 18.21.040, 18.21.050, 18.45, and 18.50, and addition of Sections 18.30.380 and 18.30.390 of Title 18 (Zoning) of the National City Municipal Code. (Applicant City-Initiated) (Case File 2021-18 A)

PREPARED BY: David Welch DW

DEPARTMENT: Community Development

PHONE: 619-336-4224

APPROVED BY: 

EXPLANATION:

Accessory Dwelling Units (ADUs) are becoming more popular as a way to provide affordable rental opportunities in a time of rapidly increasing housing costs. Construction of ADUs also provide for a range of housing types and the opportunity for property owners to add income.

While the City's Municipal Code does allow for second units, the Code is currently out of compliance with recent changes in state law related to ADUs. Staff has developed a new Ordinance to regulate the construction of ADUs and JADU's (Junior Accessory Dwelling Units and to provide consistency with state requirements.

Both the Housing Advisory Committee and the Planning Commission provided comments on the proposed amendments and recommended approval of the changes as contained in Attachment No. 3 herein.

The attached background report describes the project in detail.

FINANCIAL STATEMENT:

APPROVED: _____

Finance

ACCOUNT NO.

APPROVED: _____

MIS

ENVIRONMENTAL REVIEW:

This action does not constitute a project under California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(2).

ORDINANCE: INTRODUCTION:

FINAL ADOPTION:

STAFF RECOMMENDATION:

Staff concurs with the Planning Commission's recommendation and recommends that the amendments and additions to Title 18 be introduced.

BOARD / COMMISSION RECOMMENDATION:

The Planning Commission recommended approval of the Land Use Code amendments.
Ayes: Dela Paz, Roman, Sendt, Valenzuela, Yamane Absent: Natividad, Sanchez

ATTACHMENTS:

- | | |
|--------------------------|---|
| 1. Background report | 5. Planning Commission Resolution 2021-07 |
| 2. Findings | 6. PowerPoint presentation |
| 3. Proposed Code changes | 7. Ordinance |
| 4. Public Hearing Notice | |

BACKGROUND REPORT

Staff Recommendation

Staff recommends that the City Council recommend approval of the amendments to sections 18.20.020, 18.21.040, 18.21.050, 18.45, and 18.50, and addition of sections 18.30.380 and 18.30.390 of the Land Use Code (LUC). The Planning Commission held a public hearing on the proposed amendments and recommended approval of the changes as contained in the attached proposed Code changes.

Overview

California's housing production is not keeping pace with demand. In the last decade, less than half of the homes needed to keep up with the population growth were built. This lack of housing that meets the community's needs is impacting affordability and causing average housing costs, particularly for renters in California, to rise significantly. As affordable housing becomes less accessible, people drive longer distances between housing they can afford and their workplace or pack themselves into smaller shared spaces, both of which reduce quality of life and produce negative environmental impacts. Beyond traditional construction, widening the range of housing types can increase the housing supply and help more low-income Californians thrive.

An ADU (Accessory Dwelling Unit) is a complete independent living facility for one or more persons and has a few variations:

- Detached: The unit is separated from the primary structure.
- Attached: The unit is attached to the primary structure.
- Converted Existing Space: Space (e.g., master bedroom, attached garage, storage area, or similar use, or an accessory structure) on the lot of the primary residence that is converted into an independent living unit.
- Junior Accessory Dwelling Unit (JADU): A specific type of conversion of existing space that is contained entirely within an existing or proposed single-family residence.

In addition to expanding housing options for National City Residents, a robust ADU Ordinance will help the City to meet its RHNA (Regional Housing Needs Assessment) allocation (5,437). The Ordinance will also be consistent with the goals and policies of the City's Housing Element, which is currently being updated, including creating additional consistency with state ADU regulations.

ATTACHMENT 1

Section 18.21.050 of the LUC regulates second units, which are also referred to as Accessory Dwelling Units (ADUs). This section of the LUC is null and void after recent updates to the State of California Government Code (GOV) relating to ADUs and Junior Accessory Dwelling Units (JADUs) became effective on January 1, 2021. ADUs and JADUs in the City of National City are regulated by the requirements in GOV Sections 65852.2 and 65852.22 unless the City adopts an ordinance that complies with each section. Sections 18.30.380 and 18.30.390, as well as related changes within Title 18, are proposed for the regulation of ADUs and JADUs. These ordinance changes are intended to clarify the regulations that permit ADUs and JADUs as well as promote the compatibility of these housing types within existing neighborhoods.

It should also be noted that Planning Division staff is concurrently working on a draft ordinance related to Mobile Tiny Homes per direction of the City Council. While not part of the current effort related to ADUs and JADUs, the Council may still provide comments if appropriate.

Housing Advisory Committee

On July 19, 2021, an update on the draft code amendments and additions related to ADUs and JADUs was presented to the Housing Advisory Committee. Staff received several comments related to the proposed language and made some modifications. The following comments were received and addressed:

- *A one-story requirement for ADUs would be overly restrictive for smaller lots. An example is a 3,000 square foot lot only having enough area to construct a 300 square foot ADU.*
 - Staff added language to allow two-story ADUs for lots smaller than 5,000 square feet. In addition, proposed language was added to Table 18.21.040 of the LUC to address conflicts with ADU square footage and the standards for accessory structures.
- *Is there any enforcement of rental duration to keep ADUs from becoming short-term rentals?*
 - Staff added language requiring recorded restrictions for all ADUs. The restrictions must state that the ADU may not be rented for a period of less than 31 days.
- *The City should review the minimizing setbacks (overly restrictive) including the 20 foot front setback for ADUs.*
 - Staff revised the required front setback to a 15 foot minimum instead of 20 feet. This is consistent with the current front setbacks for medium density residential zones.

- *Can the landscaping requirement allow for a tree in the back or elsewhere?*
 - Staff revised the location requirement to allow for a tree in the abutting parkway and the required 15 foot front yard setback for ADUs. This provides more flexibility in mixed-use zones, which do not have a front setback area.

Planning Commission held a public hearing on August 16, 2021 and recommended approval to the City Council of the amendments.

Proposed Changes

Section 18.21.050 of the LUC should be removed completely, as this section is preempted by GOV Sections 65852.2 and 65852.22. In addition, other sections of Title 18 with references to second units are proposed to be removed. New ordinances under Sections 18.30.380 and 18.30.390, as well as related changes within Title 18, are proposed for the regulation of ADUs and JADUs. These ordinance changes are intended to clarify the regulations that permit ADUs and JADUs as well as promote the compatibility of these housing types within existing neighborhoods.

Proposed changes in addition to those required by state law include the following:

- ADUs constructed over garages or on a lot smaller than 5,000 square feet are permitted to have a maximum height of 25 feet instead of the height of the primary structure.
- A minimum front setback of 15 feet and minimum side and rear setbacks of four feet for all ADUs. ADUs are permitted in Mixed-Use zones, which currently have no setbacks unless they abut a Residential zone.
- A landscape requirement of one tree in the required 15 foot setback for ADUs or abutting parkway is added.
- ADUs are required to conform to the adopted single-family infill standards in Section 18.42.070.C of the LUC.
- The maximum size of most detached ADUs is 1,000 square feet instead of 1,200 square feet. A 1,200 square foot detached ADU is still permitted if parking is provided and the unit does not exceed the front setback of the existing home.
- An ADU constructed within the footprint of an existing home will not have a maximum size.
- Both ADUs and JADUs shall have restrictions, recorded with the County, that the units may not be sold separately or rented for periods of less than 31 days.
- JADUs are permitted on lots with an existing single-family dwelling and zoned to allow for residential use. This change will clarify that JADUs are permitted in Mixed-Use zones.

A strikethrough/underline version of the changes are attached to this staff report.

Findings

There are two findings required for approval of a Code Amendment, one related to General Plan consistency and one related to compliance with the California Environmental Quality Act (CEQA).

General Plan Conformance

The requested amendments to this section are consistent with the General Plan. The adopted 2013-2021 Housing Element provides both for enhanced quality of existing residential neighborhoods and a range of new housing types. Two goals apply in this case:

Goal H-1: Maintain and enhance the quality of existing residential neighborhoods.

Goal H-4: Provide a sufficient number of housing units and range of housing types to meet the current and projected needs of all economic segments of the community.

In addition, the draft Housing Element for the 2021-2029 cycle is required by GOV Section 65852.2 to promote the development of ADUs to meet housing needs. Draft Policy 1.4 is to “promote the development of accessory dwelling units (ADUs) throughout National City to meet residential housing needs.”

CEQA Compliance

This amendment is not considered to be a project under CEQA as any permits issued in relation to ADUs and JADUs would be ministerial and thus not subject to CEQA.

Summary and next steps

The proposed amendments are required both to rectify existing inconsistencies between the Municipal Code and state law, and to bring the City’s Land Use Code into compliance with state law in general. Both the Housing Advisory Committee and the Planning Commission recommended approval to the City Council of the changes to the City’s Municipal Code related to ADUs and JADUs. Staff is also recommending approval of the changes.

OPTIONS

1. Introduce the Ordinance approving the amendments to Sections 18.20.020, 18.21.040, 18.21.050, 18.45, and 18.50, and addition of Sections 18.30.380 and 18.30.390 of the Land Use Code based on the attached findings or findings to be determined by the City Council; or
2. Continue the item to a specific date for additional information.
3. File the report (deny the amendments)

RECOMMENDED FINDINGS FOR APPROVAL

1. That the proposed amendments to Sections 18.20.020, 18.21.040, 18.21.050, 18.45, and 18.50, and addition of Sections 18.30.380 and 18.30.390 are consistent with the General Plan, as Goal H-1 encourages the maintenance and enhancement of the quality of existing residential neighborhoods and Goal H-4 encourages the provision of a sufficient number of housing units and range of housing types to meet the current and projected needs of all economic segments of the community.

2. That the proposed amendments have been reviewed and been found to comply with the California Environmental Quality Act (CEQA); the amendments are not considered to be a project under CEQA. Any permits issued in relation to Accessory Dwelling Units (ADUs) or Junior Accessory Dwelling Units (JADUs) would be ministerial and thus not subject to CEQA.

ATTACHMENT 2

Deletions shown as ~~Strikethrough~~

Additions shown as Underline

Table 18.20.020 – Allowed Uses Residential Zones.

Zone Classification Symbol	Zone Classification	General Plan Land Use Designation
Residential		
RS-1 ₁	Large Lot Residential	Low Medium Density Residential
RS-2 ₁	Small Lot Residential	Low Medium Density Residential
RS-3 ₁	Medium-Low Density Multi-Unit Residential	Medium Density Residential
RS-4 ₁	Residential Single-Family	Specific Plan (Westside)
RM-1 ₁	Medium Density Multi-Unit Residential	Medium Density Residential
RM-2 ₁	High Density Multi-Unit Residential	High Density Residential
RM-3 ₁	Very High Density Multi-Unit Residential	High Density Residential
Commercial		
CA	Commercial Automotive	Commercial Automotive
CL	Limited Commercial	Specific Plan (Westside)
CS	Service Commercial	Service Commercial
Mixed-Use		
MCR-1 ₁	Mixed Commercial-Residential	Specific Plan (Westside)

Zone Classification Symbol	Zone Classification	General Plan Land Use Designation
MCR-2 ₁	Mixed Commercial-Residential (Smart Growth Area)	Specific Plan (Westside)
MXC-1 ₁	Minor Mixed Use Corridor	Minor Mixed Use
MXC-2 ₁	Major Mixed Use Corridor	Major Mixed Use
MXD-1 ₁	Minor Mixed Use District	Minor Mixed Use
MXD-2 ₁	Major Mixed Use District	Major Mixed Use
Industrial		
IL	Light Industrial	Industrial
IM	Medium Industrial	Industrial
IH	Heavy Industrial	Industrial
Institutional		
I	Institutional	Institutional
Open Space		
OS	Open Space	Open Space
OSR	Open Space Reserve	
Military		
M	Military	Military
San Diego Unified Port District		
UPD	Port Master Plan	San Diego Unified Port District
Specific Plan		

Zone Classification Symbol	Zone Classification	General Plan Land Use Designation
SP ₁	Specific Plan	Specific Plan

[ADUs and JADUs permitted subject to Sections 18.30.380 and 18.30.390](#)

Table 18.21.040 – Development Standards Residential Zones

Development	Requirement By Zoning District						
	RS-1	RS-2	RS-3	RS-4	RM-1	RM-2	RM-3
Minimum setbacks, Primary structure							
Front	20'	20'	15'	10'/ 15(a)	15'	10'	10'
Side—Interior	5'	5'	5'	3/0(b)	5'	5'	5'
Side—Exterior	10'	10'	5'	10'(a)	5'	5'	10'
Rear	25'	25'	10'	15'	5'	5'	5'
Minimum setbacks, Accessory structure							
Front	20'	20'	15'	10/ 15'(c)	15'	10'	10'
Side—Interior	5'	5'	5'	3'	5'	5'	5'
Side—Corner	5'	5'	5'	10'	5'	5'	5'

Development	Requirement By Zoning District						
	RS-1	RS-2	RS-3	RS-4	RM-1	RM-2	RM-3
Rear	5'	5'	5'	3'	5'	5'	5'
Detached building separation	5'	5'	5'	6'	5'	5'	5'
Number of detached buildings	3 per full 5,000 ft ² of lot area	3 per full 5,000 ft ² of lot area	3 per full 5,000 ft ² of lot area	3			
Minimum lot area	10,000 SF	5,000 SF	5,000 SF	2,500 SF	5,000 SF	5,000 SF	5,000 SF
Minimum street frontage (Standard)	60'	50'	50'	25'	50'	50'	50'
Minimum street frontage (lots on the bulb of a cul-de-sac)	36'	36'	36'	15'	36'	36'	36'
Maximum density	One du per lot	One du per lot	One du per 2,900 SF of lot area	One du for each 2,500 SF of lot area	One du per 1,900 SF of lot area	One du per 900 SF of lot area	One du per 580 SF of lot area
Minimum usable open space	N/A	N/A	N/A	N/A	See Section 18.41.040		

Development	Requirement By Zoning District						
	RS-1	RS-2	RS-3	RS-4	RM-1	RM-2	RM-3
Maximum lot coverage	75%	75%	75%	N/A	75%	75%	75%
Maximum height, primary structure	35'	35'	35'	35'	45'	65'	95'
Maximum stories, primary structure	2	2	3	3	4	6	9
Maximum height, accessory structure	35'	35'	35'	35'	45'	65'	95'
	Shall not exceed the number of stories or height of the primary structure.				Shall not exceed the allowed maximum height of accessory structures in adjacent zone within 100-feet of the adjacent zone.		
Maximum area (total), accessory structures— Excluding up to 400 SF of covered parking and area dedicated to an ADU	10% of lot size (d)	10% of lot size (d)	10% of lot size (d)	None	None	None	None

Notes:

(a) Stoops and porches may extend into the front yard up to the front property line or in the case of a corner parcel, to the side property line. Garages shall maintain a fifteen-foot front yard setback.

(b) A zero foot minimum side yard, for one side yard on the parcel, is permitted provided that there is a six-foot separation to the adjacent residential structure and that there is a minimum three-foot side yard setback on the opposite side.

(c) Except for stoops and porches, accessory structures shall not be located in the front yard setback. Porches or stoops should be at least six feet deep.

(d) No single accessory structure shall have a footprint greater than that of half of the primary structure [excluding area dedicated to an ADU](#).

~~18.21.050 - Second units.~~

~~A. Purpose. The purpose of this section is to provide regulations for the establishment of accessory dwelling units in the residential zones. Accessory dwelling units help advance the city's growth and planning policies by:~~

- ~~1. Accommodating new housing units while preserving the character of existing neighborhoods;~~
- ~~2. Allowing efficient use of the city's existing housing stock and infrastructure;~~
- ~~3. Providing housing options and choices that respond to varying income levels, changing household sizes and lifestyle needs; and,~~
- ~~4. Providing a means for residents—particularly seniors, single parents, younger singles and younger couples, and empty nesters—to remain in their homes and neighborhoods, and obtain and preserve income, security, companionship, and assistance.~~

~~B. Development Standards.~~

- ~~1. Shall be permitted on properties with only one single-family residence on the lot or constructed in conjunction with a single-family residence~~
- ~~2. Shall not be allowed where the city manager or his/her designee determines that roadways, public utilities or services are inadequate;~~
- ~~3. Shall not be allowed on lots that exceed the allowed number of dwelling units;~~
- ~~4. The development standards for accessory structures shall apply to second units, except that the setback requirements for primary structures shall apply and the floor area shall not exceed the maximum area allowed for accessory structures, but in no case shall exceed one thousand two hundred square feet.~~

~~C. Architectural Compatibility. A second dwelling unit shall incorporate the same or substantially similar architectural features with respect to roof pitch, compatible building materials, colors, and design details of the primary dwelling unit.~~

~~D. Parking. One off-street parking space, in addition to that which is required by this code for the primary residence shall be provided. Parking spaces include garages, carports, or uncovered parking.~~

18.30.380 - Accessory Dwelling Units.

A. Purpose. The purpose of this section is to provide for the construction of Accessory Dwelling Units (ADUs) in areas zoned to allow residential uses pursuant to Government

Code Section 65852.2. ADUs help advance the goals and policies of the City's Housing Element by:

1. Providing an affordable type of home to construct without the cost of acquiring new land, dedicated parking, and costly infrastructure;
 2. Accommodating new housing units while preserving the character of existing neighborhoods;
 3. Allowing efficient use of the city's existing housing stock and infrastructure;
 4. Providing housing options and choices that respond to varying income levels, changing household sizes and lifestyle needs; and,
 5. Providing a means for residents—particularly seniors, single parents, young singles, and younger couples—to remain in their homes and neighborhoods, and obtain and preserve income, security, companionship, and assistance.
- B. Consistency with state law. This section is intended to be consistent with Government Code Section 65852.2. If inconsistency is found with this section and state law, state law shall prevail.
- C. Definitions. For the purposes of this section Accessory Dwelling Unit (ADU) is defined in Section 18.50.010.
- D. ADUs permitted.
1. One ADU is permitted on a lot if all the following are met:
 - a. The lot includes a proposed or existing dwelling.
 - b. The lot is in a zone that allows for a residential use as indicated in Table 18.20.020.
 - c. The proposed ADU is located where the city manager or his/her designee has not determined that public utilities or services are inadequate or the ADU will adversely impact traffic flow or public safety.
 - d. The ADU meets the standards of subsection F.
 2. Two detached ADUs are permitted on a lot with a multi-family residential use if all the following are met:
 - a. The lot includes an existing multi-family residential dwelling.
 - b. Each ADU does not exceed a total floor area of 1,000 square feet and 16 feet in height.
 3. Multiple ADUs are permitted within the portions of existing multi-family residential structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

a. At least one ADU is permitted within an existing multi-family residential structures and up to 25 percent of the existing number of multi-family dwelling units is allowed.

E. Review. The approval of an ADU is subject to a ministerial decision process outlined in Section 18.12.030. For the purposes of this subsection, a staff person designated by the city manager shall review and act on a building permit application for an ADU within 60 days after a complete application is received. An ADU proposed with a permit application for a new primary dwelling shall not be approved until the primary dwelling receives approval. An applicant may request a variance subject to Section 18.12.120 in conjunction with an application for an ADU.

F. ADU Development Standards.

1. Density. ADUs are consistent with the allowable density for the lot upon which the ADU is located and the ADU is a residential use that is consistent with existing General Plan and zoning designations for the lot.
2. Location. An ADU may be either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing dwelling. An ADU may be attached to, located within, or detached from an existing or proposed primary dwelling unit, including garages and habitable or non-habitable accessory structures.
3. Parking. No additional parking is required for an ADU. If an ADU is constructed within existing garage or covered parking, then no replacement parking spaces may be required.
4. Height. The maximum height of an ADU is as follows:
 - a. On a property with a single-family residential primary dwelling, the height of the ADU, attached or detached, shall not exceed the height of the primary dwelling or 16 feet, whichever is greater. For an ADU constructed above a garage or on a lot smaller than 5,000 square feet, the height shall not exceed 25 feet.
 - b. On a property with a multi-family residential structure, the height of a detached ADU shall not exceed 16 feet.
5. Setbacks.
 - a. For all ADUs, the front setback shall be a minimum of 15 feet.
 - b. For all ADUs, the exterior and interior side yard setback shall be a minimum of four feet and the rear yard setback shall be a minimum of four feet.

c. No setback shall be required for an existing living area or permitted accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

6. Landscaping.

a. One 24-inch box tree shall be planted within the required 15 foot front yard setback for ADUs or in the abutting parkway. Existing trees that are at least 15 feet high and 15 feet in width may be used to satisfy this requirement.

7. Building Design Standards. ADUs shall conform to adopted single-family infill standards in Section 18.42.070.C.

8. Size of unit.

a. The minimum size of an ADU is a total floor area of 150 square feet.

b. The total floor area of an ADU attached to a primary dwelling unit shall not exceed 50% of the total floor area of the existing primary dwelling or 1,000 square feet, whichever is greater, save and except (d) and (e) below.

c. The total floor area of a detached ADU shall not exceed 1,000 square feet save and except (d) and (e) below.

d. A detached ADU may have a total floor area up to 1,200 square feet if all the following requirements are met:

1. The front setback of the ADU exceeds the front setback of the existing or proposed primary dwelling unit.

2. No existing parking spaces are removed or the existing spaces are replaced with covered parking.

3. One additional parking space is provided for the ADU.

e. An ADU constructed within the footprint of an existing dwelling or a detached structure shall not be subject to a maximum square footage of total floor area.

f. As provided in state law, an attached or detached ADU with a maximum size of 850 square feet or 1,000 square feet with more than one bedroom shall be permitted in any circumstance subject to a maximum height of 16 feet, four foot side and rear setbacks, and compliance with all building codes.

9. A minimum lot size shall not be required for an ADU under this ordinance.
 10. No passageway shall be required for an ADU under this ordinance.
 11. ADUs are only required to provide fire sprinklers if they are required for the primary residence.
- G. Limitations and other requirements
1. An ADU shall not be sold or otherwise conveyed separate from the primary residence.
 2. An ADU may serve as a rental unit or be occupied by family members, guests, or in-home health care providers and others at no cost.
 3. Neither the ADU nor the primary dwelling unit shall be rented for a term of less than 31 days. ADUs on multi-family properties shall be subject to this provision, except the restriction shall not apply to existing multi-family units.
 4. Owner occupancy of the primary unit or ADU is not required.
 5. Trash and recycling. Receptacles are required and shall conform to the requirements of Section 7.10.040 of the Code of Ordinances.
 6. Prohibited units. No structure of a temporary nature shall be used as a residence or ADU, neither temporarily nor permanently. Refer to Section 18.20.030.A.
 7. Fees. An ADU with less than 750 square feet is exempt from any impact fees imposed by the city. For ADUs 750 square feet or more, impact fees shall be charged proportionately in relation to the square footage of the primary dwelling unit.
 8. Before a building permit may be issued for an ADU, the record owner shall enter into an agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following provisions: the ADU may not be sold or conveyed separately from the primary dwelling unit; the agreement may be enforced against future purchasers; and the ADU may not be rented for a period of less than 31 days. The City shall submit the agreement to the County Recorder for recordation. The agreement shall run with the land for life of the ADU.
- H. Nonconforming zoning conditions. The correction of existing nonconforming uses, structures, or parcels pursuant to Chapter 18.11 shall not be required as a condition of approval for an ADU.

18.30.390 - Junior Accessory Dwelling Units.

- A. Purpose. The purpose of this section is to provide for the construction of Junior Accessory Dwelling Units (JADUs) in areas zoned to allow residential uses pursuant to Government

Code Section 65852.22. JADUs help advance the goals and policies of the City's Housing Element by:

1. Providing an affordable type of home to construct without the cost of acquiring new land, dedicated parking, and costly infrastructure;
 2. Accommodating new housing units while preserving the character of existing neighborhoods;
 3. Allowing efficient use of the city's existing housing stock and infrastructure;
 4. Providing housing options and choices that respond to varying income levels, changing household sizes and lifestyle needs; and,
 5. Providing a means for residents—particularly seniors, single parents, young singles, and younger couples—to remain in their homes and neighborhoods, and obtain and preserve income, security, companionship, and assistance.
- B. Consistency with state law. This section is intended to be consistent with Government Code Section 65852.22. If inconsistency is found with this section and state law, state law shall prevail.
- C. Definitions. For the purposes of this section junior accessory dwelling unit (JADU) is defined in Section 18.50.010.
- D. JADUs permitted.
1. One JADU is permitted on a lot if the following are met:
 - a. The lot includes a proposed or existing single-family dwelling.
 - b. The lot is in a zone that allows for a residential use as indicated in Table 18.20.020.
 - c. The JADU meets the standards of subsection F.
 - d. There is no existing ADU or JADU on the lot or there is an existing detached ADU that does not exceed a total floor area of 800 square feet and does not exceed a height of 16 feet.
 - e. The proposed JADU is located where the city manager or his/her designee has not determined that public utilities or services are inadequate or the JADU will adversely impact traffic flow or public safety.
- E. Review. The approval of a JADU is subject to a ministerial decision process outlined in Section 18.12.030. For the purposes of this subsection, a staff person designated by the city manager shall review and act on a building permit application for a JADU within 60 days after a complete application is received. A JADU proposed with a permit application for a new primary dwelling shall not be approved until the primary dwelling receives approval.
- F. Development standards.

1. A JADU may have a total floor area of not less than 150 square feet and not more than 500 square feet, and is permitted within an existing or proposed single-family residential dwelling unit. A JADU constructed within an existing structure may construct an additional 150 square feet for ingress and egress only.
2. A JADU shall have a separate exterior entry from the primary dwelling unit and shall provide a kitchen or an efficiency kitchen.
3. Parking. Replacement parking spaces are required when a JADU is created within an existing attached garage. Covered spaces are not required.

G. Limitations and other requirements.

1. The owner must occupy the single-family residence in which the JADU will be permitted. The owner may reside in either the remaining portion of the structure or the newly created JADU. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
2. Before a building permit may be issued for a JADU, the record owner shall enter into an agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following provisions: the JADU may not be sold or conveyed separately from the primary dwelling unit; the agreement may be enforced against future purchasers; the JADU shall not be rented for a period of less than 31 days; and the record owner shall reside on the premises. The City shall submit the agreement to the County Recorder for recordation. The agreement shall run with the land for life of the JADU.

Table 18.45.050 – Schedule of Off-Street Parking Requirements by Land Use (partial)

Uses and Structures	Minimum Parking Spaces Required (Unless Otherwise Specified)
Residential Uses	
Dwelling, single detached (RS-1 zone)	2 covered spaces, plus one additional uncovered space per bedroom greater than four bedrooms or one additional uncovered space for dwellings greater than 2,500 SF, whichever is greater.

Uses and Structures	Minimum Parking Spaces Required (Unless Otherwise Specified)
Dwelling, single detached (all other RS and RM zones, except within the Westside Specific Plan area)	One covered space and one uncovered space, plus one additional uncovered space per bedroom greater than four bedrooms or one additional uncovered space for dwellings greater than 2,500 SF, whichever is greater.
Dwelling, single attached	1.5 spaces per dwelling unit in a garage or carport
Dwelling, multiple	1.3 spaces per 1-bedroom dwelling unit plus 1.5 spaces per 2-bedroom or more unit, and conveniently located guest parking of ½ space per unit for 20 units or less, plus ¼ space for each unit over 20. Half of the required guest parking spaces may include parking spaces on dedicated public streets along the sides of the streets that are adjacent to the site.
Fraternity, sorority house, or dormitory	1.5 spaces for each sleeping room
Mobile home parks	2 spaces per unit
Rectory	1 garage space per bedroom
Rooming or boarding house	1 space per guest room
Second dwelling unit	1 space in addition to primary residence parking requirements

Chapter 18.50 – GLOSSARY

~~Second unit. "Second unit" is a small, self-contained residential unit built on the same lot as an existing primary residence or built in conjunction with a primary residence. It provides complete independent living facilities for one or more persons. Second units are also referred to as "accessory dwelling units," "in-law apartments," "granny flats," "ancillary apartments" or~~

~~"carriage houses." Second units may be attached to or detached from the primary residence. Refer to Section 18.21.050 for second unit regulations.~~

Accessory Dwelling Unit (ADU): "Accessory Dwelling Unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An ADU also includes an efficiency unit and a manufactured home, as defined in Section 18007 of the Health and Safety Code. Refer to Section 18.030.380 for ADU regulations.

Junior Accessory Dwelling Unit (JADU): "Junior Accessory Dwelling Unit" means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing structure. Refer to Section 18.030.390 for JADU regulations.

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Council of the City of National City will hold a Public Hearing after the hour of 6:00 p.m., **Tuesday, September 7, 2021**, via **LIVE WEBCAST** from the City Council Chambers, Civic Center, 1243 National City Blvd., National City, CA., to consider:

INTRODUCTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY AMENDING SECTIONS 18.20.020 (ZONE CLASSIFICATIONS), 18.21.040 (DEVELOPMENT STANDARDS RESIDENTIAL ZONES), 18.21.050 (SECOND UNITS), 18.45 (OFF-STREET PARKING AND LOADING), AND 18.50 (GLOSSARY), AND ADDITION OF SECTIONS 18.30.380 AND 18.30.390 OF TITLE 18 (ZONING) OF THE NATIONAL CITY MUNICIPAL CODE RELATED TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS.

Due to the precautions taken to combat the spread of coronavirus (COVID-19), the City Council Chambers, are closed to the public. Anyone interested in this Public Hearing may view the City Council Meeting on the City's webpage at <https://www.nationalcityca.gov/webcast>

Interested parties may register to speak during the City Council zoom meeting, but must register by 4:00 p.m. the day of the meeting. The City Council will also accept written public comments regarding this matter via e-mail sent to clerk@nationalcityca.gov. Written comments from the public (limited to a maximum of three minutes) must be submitted via e-mail by 4:00 p.m. on the day of the City Council Meeting. For information on registering to speak or on submitting written comments, please visit the City Clerk's webpage at <https://www.nationalcityca.gov/government/city-clerk/public-comments>.

If you challenge the nature of the proposed action in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice via e-mail, or through written correspondence delivered to the undersigned prior to the Public Hearing.

August 24, 2021

Shelley Chapel, Deputy City Clerk

Published in the Star News: Friday, August 26, 2021.

ATTACHMENT 4

RESOLUTION NO. 2021-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NATIONAL CITY, CALIFORNIA, RECOMMENDING ADOPTION TO THE CITY COUNCIL OF A CODE AMENDMENT AMENDING SECTIONS 18.20.020 (ZONE CLASSIFICATIONS), 18.21.040 (DEVELOPMENT STANDARDS RESIDENTIAL ZONES), 18.21.050 (SECOND UNITS), 18.45 (OFF-STREET PARKING AND LOADING), AND 18.50 (GLOSSARY), AND ADDITION OF SECTIONS 18.30.380 AND 18.30.390 OF TITLE 18 (ZONING) OF THE NATIONAL CITY MUNICIPAL CODE.

APPLICANT: CITY-INITIATED.

CASE FILE NO. 2021-18 A

WHEREAS, pursuant to the terms and provisions of the Government Code of the State of California, proceedings were duly initiated for the amendment of the National City Municipal Code, per Title 18 (Zoning); and,

WHEREAS, the Planning Commission of the City of National City, California, considered said proposed amendment at a duly advertised public hearing held on August 16, 2021 at which time the Planning Commission considered evidence; and,

WHEREAS, at said public hearings the Planning Commission considered the staff report provided for Case File No. 2021-18 A, which is maintained by the City and incorporated herein by reference; along with any other evidence presented at said hearing; and,

WHEREAS, the Planning Commission recommends adoption to the City Council of the City of National City amendment to Sections 18.20.020 (Zone Classifications), 18.21.040 (Development Standards Residential Zones), 18.21.050 (Second units), 18.45 (Off-street Parking and Loading), and 18.50 (Glossary), and addition of sections 18.30.380 and 18.30.390 of Title 18 (Zoning) of the National City Municipal Code; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law; and,

WHEREAS, this action is taken in an effort to comply with applicable State and Federal law; and,

WHEREAS, the action hereby taken is found to be essential for the preservation of the public health, safety and general welfare.

ATTACHMENT 5

NOW, THEREFORE, BE IT RESOLVED by the City Planning Commission of the City of National City, California, that the evidence presented to the Planning Commission at the public hearing held on May 4, 2020, support the following findings:

1. That the proposed amendments to Sections 18.20.020, 18.21.040, 18.21.050, 18.45, and 18.50, and addition of Sections 18.30.380 and 18.30.390 are consistent with the General Plan, as Goal H-1 encourages the maintenance and enhancement of the quality of existing residential neighborhoods and Goal H-4 encourages the provision of a sufficient number of housing units and range of housing types to meet the current and projected needs of all economic segments of the community.
2. That the proposed amendments have been reviewed and been found to comply with the California Environmental Quality Act (CEQA); the amendments are not considered to be a project under CEQA. Any permits issued in relation to Accessory Dwelling Units (ADUs) or Junior Accessory Dwelling Units (JADUs) would be ministerial and thus not subject to CEQA.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of August 16, 2021, by the following vote:

AYES: DelaPaz, Roman, Sendt, Valenzuela, Yamane

NAYS:

ABSENT: Natividad, Sanchez

ABSTAIN:



CHAIRPERSON



Public Hearing

Code Amendments of NCMC Sections
18.20.020, 18.21.040, 18.21.050,
18.45, and 18.50, and Addition of
Sections 18.30.380 and 18.30.390
Related to Accessory Dwelling Units
and Junior Accessory Dwelling Units

Overview:

- Housing production not keeping pace with demand
- Lack of housing is impacting affordability and causing average housing costs to rise significantly
- Widening the range of housing types can increase the housing supply and help more low-income residents thrive
- In addition to expanded housing options, a robust ADU Ordinance will help the City to meet its RHNA allocation (5,437)
- The Ordinance also consistent with goals and policies of the Housing Element, and with state ADU regulations

ATTACHMENT 6

Overview (cont.):

What is an ADU?

- An ADU is a complete independent living facility for one or more persons and has a few variations:
 - Detached: Separated from the primary structure
 - Attached: Unit is attached to the primary structure
 - Converted Existing Space: Space (e.g., attached garage, storage area, or accessory structure) on the lot of the primary residence that is converted into an independent living unit

What is a JADU?

- A JADU (Junior Accessory Dwelling Unit) is a specific type of conversion of existing space that is contained entirely within an existing or proposed single-family residence

Overview (Cont.):

- Current regulations related to Accessory Dwelling Units (ADUs) in Section 18.21.050 of the Land Use Code (LUC) are voided by State law
 - Most recent updates to sections related to ADUs and Junior Accessory Dwelling Units (JADUs) took effect January 1, 2021
- Approval of ADUs and JADUs in National City are currently regulated by State law unless the City adopts an ordinance in compliance to the most recent changes
- State law also mandates that cities should encourage ADUs
- Staff also working on a draft ordinance related to Mobile Tiny Homes

Proposed Changes:

- Remove Section 18.21.050 of the LUC related to “Second Units”
- Adopt new ordinances under Section 18.30.380 for ADUs and Section 18.30.390 for JADUs
- Clean up related sections such as land uses, off-street parking, and definitions for consistency with new sections
- Intention is to clarify the regulations that permit ADUs and JADUs in the City as well as promote compatibility of these housing types within existing neighborhoods.

Proposed Changes (cont.):

- Proposed changes for ADUs that are in addition to State requirements include:
 - Allow ADUs to be constructed over garages
 - Establish a minimum front setback of 15 feet and side and rear setbacks of four feet
 - Require a tree in the front yard ADU setback or abutting parkway
 - Require conformance with existing single-family infill standards
 - Reduce the maximum size of most detached ADUs to 1,000 square feet. 1,200 square feet is permissible if certain requirements are met
 - An ADU constructed within the footprint of an existing home will not have a maximum size

Proposed Changes (cont.):

- Proposed changes for JADUs that are in addition to State requirements include:
 - Permitting JADUs on lots with an existing single-family dwelling that are zoned to allow residential use. This will clarify that JADUs are permitted in Mixed-Use zones.

Findings:

General Plan Conformance

- Consistent with current Housing Element
 - Goal H-1: Maintain and enhance the quality of existing residential neighborhoods
 - Goal H-4: Provide a sufficient number of housing units and range of housing types to meet the current and projected needs of all economic segments of the community.
- Consistent with draft Housing Element for next cycle
 - Policy 1.4: Promote the development of accessory dwelling units (ADUs) throughout National City to meet residential housing needs.

CEQA Compliance

- Amendments not considered a project under CEQA

Public Comment:

- Comments were received from a property owner asking that 2-story ADUs be permitted in cases of an existing single-story home
 - The existing and proposed language generally requires ADUs to match design of primary dwelling (e.g. number of stories, roof pitch, etc.)
- Proposed Ordinance allows 2-story ADUs on lots with single-story primary residence for lots < 5,000 ft²
 - Property owner still wishes to construct 2-story's, regardless of lot size

Summary / Next Steps:

- Adoption of Ordinance
- Staff will prepare an ADU policy handbook to guide property owners on the ADU/JADU process:
 - Building permits
 - Fire Department requirements
 - Utility questions (gas/electric, water, sewer)
- Publish information on City website

Options:

- Introduce the Ordinance approving the amendments to Sections 18.20.020, 18.21.040, 18.21.050, 18.45, and 18.50, and addition of Sections 18.30.380 and 18.30.390 of the Land Use Code based on the attached findings or findings to be determined by the City Council; or

- Continue the item to a specific date.

- File the report (Deny amendments)

ORDINANCE NO. 2021 –

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA AMENDING SECTIONS 18.20.020 (ZONE CLASSIFICATIONS), 18.21.040 (DEVELOPMENT STANDARDS RESIDENTIAL ZONES), 18.21.050 (SECOND UNITS), 18.45 (OFF-STREET PARKING AND LOADING), AND 18.50 (GLOSSARY), AND ADDITION OF SECTIONS 18.30.380 AND 18.30.390 OF TITLE 18 (ZONING) OF THE NATIONAL CITY MUNICIPAL CODE

WHEREAS, pursuant to the terms and provisions of the California Government Code, proceedings were duly initiated for the amendment of the National City Municipal Code (“NCMC”); and

WHEREAS, on August 16, 2021, a noticed Public Hearing was held by the Planning Commission, and all persons interested were given the opportunity to appear and be heard before the National City Planning Commission; and

WHEREAS, the Planning Commission regularly and duly certified its report to the City Council of National City and has recommended approval of amending NCMC Title 18: and

WHEREAS, pursuant to a published 10-day notice of the adoption of said ordinance, a public hearing was held by the City Council on September 7, 2021, and at said Public Hearing, all persons interested were given the opportunity to appear and be heard before the City Council; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. All protests, if any, against said amendment to the Municipal Code and each of them be and hereby are denied and overruled.

Section 2. Table 18.20.020 (Allowed Uses Residential Zones) is hereby amended to read as follows:

Zone Classification Symbol	Zone Classification	General Plan Land Use Designation
Residential		
RS-1 ₁	Large Lot Residential	Low Medium Density Residential

Zone Classification Symbol	Zone Classification	General Plan Land Use Designation
RS-2 ₁	Small Lot Residential	Low Medium Density Residential
RS-3 ₁	Medium-Low Density Multi-Unit Residential	Medium Density Residential
RS-4 ₁	Residential Single-Family	Specific Plan (Westside)
RM-1 ₁	Medium Density Multi-Unit Residential	Medium Density Residential
RM-2 ₁	High Density Multi-Unit Residential	High Density Residential
RM-3 ₁	Very High Density Multi-Unit Residential	High Density Residential
Commercial		
CA	Commercial Automotive	Commercial Automotive
CL	Limited Commercial	Specific Plan (Westside)
CS	Service Commercial	Service Commercial
Mixed-Use		
MCR-1 ₁	Mixed Commercial-Residential	Specific Plan (Westside)
MCR-2 ₁	Mixed Commercial-Residential (Smart Growth Area)	Specific Plan (Westside)
MXC-1 ₁	Minor Mixed Use Corridor	Minor Mixed Use
MXC-2 ₁	Major Mixed Use Corridor	Major Mixed Use
MXD-1 ₁	Minor Mixed Use District	Minor Mixed Use

Zone Classification Symbol	Zone Classification	General Plan Land Use Designation
MXD-2 ₁	Major Mixed Use District	Major Mixed Use
Industrial		
IL	Light Industrial	Industrial
IM	Medium Industrial	Industrial
IH	Heavy Industrial	Industrial
Institutional		
I	Institutional	Institutional
Open Space		
OS	Open Space	Open Space
OSR	Open Space Reserve	
Military		
M	Military	Military
San Diego Unified Port District		
UPD	Port Master Plan	San Diego Unified Port District
Specific Plan		
SP ₁	Specific Plan	Specific Plan

₁ADUs and JADUs permitted subject to Sections 18.30.380 and 18.30.390

Section 3. Table 18.21.040 (Development Standards Residential Zones) is hereby amended to read as follows:

Development	Requirement By Zoning District						
	RS-1	RS-2	RS-3	RS-4	RM-1	RM-2	RM-3
Minimum setbacks, Primary structure							
Front	20'	20'	15'	10/ 15(a)	15'	10'	10'
Side—Interior	5'	5'	5'	3/0(b)	5'	5'	5'
Side—Exterior	10'	10'	5'	10'(a)	5'	5'	10'
Rear	25'	25'	10'	15'	5'	5'	5'
Minimum setbacks, Accessory structure							
Front	20'	20'	15'	10/ 15'(c)	15'	10'	10'
Side—Interior	5'	5'	5'	3'	5'	5'	5'
Side—Corner	5'	5'	5'	10'	5'	5'	5'
Rear	5'	5'	5'	3'	5'	5'	5'
Detached building separation	5'	5'	5'	6'	5'	5'	5'
Number of detached buildings	3 per full 5,000 ft ² of lot area	3 per full 5,000 ft ² of lot area	3 per full 5,000 ft ² of lot area	3			
Minimum lot area	10,000 SF	5,000 SF	5,000 SF	2,500 SF	5,000 SF	5,000 SF	5,000 SF
Minimum street frontage (Standard)	60'	50'	50'	25'	50'	50'	50'

Development	Requirement By Zoning District						
	RS-1	RS-2	RS-3	RS-4	RM-1	RM-2	RM-3
Minimum street frontage (lots on the bulb of a cul-de-sac)	36'	36'	36'	15'	36'	36'	36'
Maximum density	One du per lot	One du per lot	One du per 2,900 SF of lot area	One du for each 2,500 SF of lot area	One du per 1,900 SF of lot area	One du per 900 SF of lot area	One du per 580 SF of lot area
Minimum usable open space	N/A	N/A	N/A	N/A	See <u>Section 18.41.040</u>		
Maximum lot coverage	75%	75%	75%	N/A	75%	75%	75%
Maximum height, primary structure	35'	35'	35'	35'	45'	65'	95'
Maximum stories, primary structure	2	2	3	3	4	6	9
Maximum height, accessory structure	35'	35'	35'	35'	45'	65'	95'
	Shall not exceed the number of stories or height of the primary structure.				Shall not exceed the allowed maximum height of accessory structures in adjacent zone within 100-feet of the adjacent zone.		
Maximum area (total), accessory structures— Excluding up to 400 SF of covered parking and area dedicated to an ADU	10% of lot size (d)	10% of lot size (d)	10% of lot size (d)	None	None	None	None

Notes:

(a) Stoops and porches may extend into the front yard up to the front property line or in the case of a corner parcel, to the side property line. Garages shall maintain a fifteen-foot front yard setback.

(b) A zero foot minimum side yard, for one side yard on the parcel, is permitted provided that there is a six-foot separation to the adjacent residential structure and that there is a minimum three-foot side yard setback on the opposite side.

(c) Except for stoops and porches, accessory structures shall not be located in the front yard setback. Porches or stoops should be at least six feet deep.

(d) No single accessory structure shall have a footprint greater than that of half of the primary structure excluding area dedicated to an ADU.

Section 4. Section 18.21.050 (Second units) is hereby repealed.

Section 5. Section 18.30.380 is hereby added to read as follows:

18.30.380 - Accessory Dwelling Units.

A. Purpose. The purpose of this section is to provide for the construction of Accessory Dwelling Units (ADUs) in areas zoned to allow residential uses pursuant to Government Code Section 65852.2. ADUs help advance the goals and policies of the City's Housing Element by:

1. Providing an affordable type of home to construct without the cost of acquiring new land, dedicated parking, and costly infrastructure;
2. Accommodating new housing units while preserving the character of existing neighborhoods;
3. Allowing efficient use of the city's existing housing stock and infrastructure;
4. Providing housing options and choices that respond to varying income levels, changing household sizes and lifestyle needs; and,
5. Providing a means for residents—particularly seniors, single parents, young singles, and younger couples—to remain in their homes and neighborhoods, and obtain and preserve income, security, companionship, and assistance.

- B. Consistency with state law. This section is intended to be consistent with Government Code Section 65852.2. If inconsistency is found with this section and state law, state law shall prevail.
- C. Definitions. For the purposes of this section Accessory Dwelling Unit (ADU) is defined in Section 18.50.010.
- D. ADUs permitted.
1. One ADU is permitted on a lot if all the following are met:
 - a. The lot includes a proposed or existing dwelling.
 - b. The lot is in a zone that allows for a residential use as indicated in Table 18.20.020.
 - c. The proposed ADU is located where the city manager or his/her designee has not determined that public utilities or services are inadequate or the ADU will adversely impact traffic flow or public safety.
 - d. The ADU meets the standards of subsection F.
 2. Two detached ADUs are permitted on a lot with a multi-family residential use if all the following are met:
 - a. The lot includes an existing multi-family residential dwelling.
 - b. Each ADU does not exceed a total floor area of 1,000 square feet and 16 feet in height.
 3. Multiple ADUs are permitted within the portions of existing multi-family residential structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
 - a. At least one ADU is permitted within an existing multi-family residential structures and up to 25 percent of the existing number of multi-family dwelling units is allowed.
- E. Review. The approval of an ADU is subject to a ministerial decision process outlined in Section 18.12.030. For the purposes of this subsection, a staff person

designated by the city manager shall review and act on a building permit application for an ADU within 60 days after a complete application is received. An ADU proposed with a permit application for a new primary dwelling shall not be approved until the primary dwelling receives approval. An applicant may request a variance subject to Section 18.12.120 in conjunction with an application for an ADU.

F. ADU Development Standards.

1. Density. ADUs are consistent with the allowable density for the lot upon which the ADU is located and the ADU is a residential use that is consistent with existing General Plan and zoning designations for the lot.
2. Location. An ADU may be either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing dwelling. An ADU may be attached to, located within, or detached from an existing or proposed primary dwelling unit, including garages and habitable or non-habitable accessory structures.
3. Parking. No additional parking is required for an ADU. If an ADU is constructed within existing garage or covered parking, then no replacement parking spaces may be required.
4. Height. The maximum height of an ADU is as follows:
 - a. On a property with a single-family residential primary dwelling, the height of the ADU, attached or detached, shall not exceed the height of the primary dwelling or 16 feet, whichever is greater. For an ADU constructed above a garage or on a lot smaller than 5,000 square feet, the height shall not exceed 25 feet.
 - b. On a property with a multi-family residential structure, the height of a detached ADU shall not exceed 16 feet.
5. Setbacks.
 - a. For all ADUs, the front setback shall be a minimum of 15 feet.

- b. For all ADUs, the exterior and interior side yard setback shall be a minimum of four feet and the rear yard setback shall be a minimum of four feet.
- c. No setback shall be required for an existing living area or permitted accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

6. Landscaping.

- a. One 24-inch box tree shall be planted within the required 15 foot front yard setback for ADUs or in the abutting parkway. Existing trees that are at least 15 feet high and 15 feet in width may be used to satisfy this requirement.

7. Building Design Standards. ADUs shall conform to adopted single-family infill standards in Section 18.42.070.C.

8. Size of unit.

- a. The minimum size of an ADU is a total floor area of 150 square feet.
- b. The total floor area of an ADU attached to a primary dwelling unit shall not exceed 50% of the total floor area of the existing primary dwelling or 1,000 square feet, whichever is greater, save and except (d) and (e) below.
- c. The total floor area of a detached ADU shall not exceed 1,000 square feet save and except (d) and (e) below.
- d. A detached ADU may have a total floor area up to 1,200 square feet if all the following requirements are met:

1. The front setback of the ADU exceeds the front setback of the existing or proposed primary dwelling unit.
 2. No existing parking spaces are removed or the existing spaces are replaced with covered parking.
 3. One additional parking space is provided for the ADU.
- e. An ADU constructed within the footprint of an existing dwelling or a detached structure shall not be subject to a maximum square footage of total floor area.
- f. As provided in state law, an attached or detached ADU with a maximum size of 850 square feet or 1,000 square feet with more than one bedroom shall be permitted in any circumstance subject to a maximum height of 16 feet, four foot side and rear setbacks, and compliance with all building codes.
9. A minimum lot size shall not be required for an ADU under this ordinance.
10. No passageway shall be required for an ADU under this ordinance.
11. ADUs are only required to provide fire sprinklers if they are required for the primary residence.

G. Limitations and other requirements

1. An ADU shall not be sold or otherwise conveyed separate from the primary residence.
2. An ADU may serve as a rental unit or be occupied by family members, guests, or in-home health care providers and others at no cost.
3. Neither the ADU nor the primary dwelling unit shall be rented for a term of less than 31 days. ADUs on multi-family properties shall be subject to this provision, except the restriction shall not apply to existing multi-family units.
4. Owner occupancy of the primary unit or ADU is not required.
5. Trash and recycling. Receptacles are required and shall conform to the requirements of Section 7.10.040 of the Code of Ordinances.

6. Prohibited units. No structure of a temporary nature shall be used as a residence or ADU, neither temporarily nor permanently. Refer to Section 18.20.030.A.
 7. Fees. An ADU with less than 750 square feet is exempt from any impact fees imposed by the city. For ADUs 750 square feet or more, impact fees shall be charged proportionately in relation to the square footage of the primary dwelling unit.
 8. Before a building permit may be issued for an ADU, the record owner shall enter into an agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following provisions: the ADU may not be sold or conveyed separately from the primary dwelling unit; the agreement may be enforced against future purchasers; and the ADU may not be rented for a period of less than 31 days. The City shall submit the agreement to the County Recorder for recordation. The agreement shall run with the land for life of the ADU.
- H. Nonconforming zoning conditions. The correction of existing nonconforming uses, structures, or parcels pursuant to Chapter 18.11 shall not be required as a condition of approval for an ADU.

Section 6. Section 18.30.390 is hereby added to read as follows:

18.30.390 - Junior Accessory Dwelling Units.

- A. Purpose. The purpose of this section is to provide for the construction of Junior Accessory Dwelling Units (JADUs) in areas zoned to allow residential uses pursuant to Government Code Section 65852.22. JADUs help advance the goals and policies of the City's Housing Element by:
1. Providing an affordable type of home to construct without the cost of acquiring new land, dedicated parking, and costly infrastructure;
 2. Accommodating new housing units while preserving the character of existing neighborhoods;
 3. Allowing efficient use of the city's existing housing stock and infrastructure;

Zoning
Ordinance
NCMC Sections 18.20.020, 18.21.040, 18.21.050
18.45, 18.50, 18.30.380, 18.30.390

Ordinance No. 2021 - _____
September 21, 2021

4. Providing housing options and choices that respond to varying income levels, changing household sizes and lifestyle needs; and,
 5. Providing a means for residents—particularly seniors, single parents, young singles, and younger couples—to remain in their homes and neighborhoods, and obtain and preserve income, security, companionship, and assistance.
- B. Consistency with state law. This section is intended to be consistent with Government Code Section 65852.22. If inconsistency is found with this section and state law, state law shall prevail.
- C. Definitions. For the purposes of this section junior accessory dwelling unit (JADU) is defined in Section 18.50.010.
- D. JADUs permitted.
1. One JADU is permitted on a lot if the following are met:
 - a. The lot includes a proposed or existing single-family dwelling.
 - b. The lot is in a zone that allows for a residential use as indicated in Table 18.20.020.
 - c. The JADU meets the standards of subsection F.
 - d. There is no existing ADU or JADU on the lot or there is an existing detached ADU that does not exceed a total floor area of 800 square feet and does not exceed a height of 16 feet.
 - e. The proposed JADU is located where the city manager or his/her designee has not determined that public utilities or services are inadequate or the JADU will adversely impact traffic flow or public safety.
- E. Review. The approval of a JADU is subject to a ministerial decision process outlined in Section 18.12.030. For the purposes of this subsection, a staff person designated by the city manager shall review and act on a building permit application for a JADU within 60 days after a complete application is received. A

JADU proposed with a permit application for a new primary dwelling shall not be approved until the primary dwelling receives approval.

F. Development standards.

1. A JADU may have a total floor area of not less than 150 square feet and not more than 500 square feet, and is permitted within an existing or proposed single-family residential dwelling unit. A JADU constructed within an existing structure may construct an additional 150 square feet for ingress and egress only.
2. A JADU shall have a separate exterior entry from the primary dwelling unit and shall provide a kitchen or an efficiency kitchen.
3. Parking. Replacement parking spaces are required when a JADU is created within an existing attached garage. Covered spaces are not required.

G. Limitations and other requirements.

1. The owner must occupy the single-family residence in which the JADU will be permitted. The owner may reside in either the remaining portion of the structure or the newly created JADU. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
2. Before a building permit may be issued for a JADU, the record owner shall enter into an agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following provisions: the JADU may not be sold or conveyed separately from the primary dwelling unit; the agreement may be enforced against future purchasers; the JADU shall not be rented for a period of less than 31 days; and the record owner shall reside on the premises. The City shall submit the agreement to the County Recorder for recordation. The agreement shall run with the land for life of the JADU.

Section 7. Table 18.45.040 (Schedule of Off-Street Parking Requirements by Land Use) is hereby amended to read as follows:

Zoning 13 of 20
Ordinance
NCMC Sections 18.20.020, 18.21.040, 18.21.050
18.45, 18.50, 18.30.380, 18.30.390

Ordinance No. 2021 - _____
September 21, 2021

Uses and Structures	Minimum Parking Spaces Required (Unless Otherwise Specified)
Residential Uses	
Dwelling, single detached (RS-1 zone)	2 covered spaces, plus one additional uncovered space per bedroom greater than four bedrooms or one additional uncovered space for dwellings greater than 2,500 SF, whichever is greater.
Dwelling, single detached (all other RS and RM zones, except within the Westside Specific Plan area)	One covered space and one uncovered space, plus one additional uncovered space per bedroom greater than four bedrooms or one additional uncovered space for dwellings greater than 2,500 SF, whichever is greater.
Dwelling, single attached	1.5 spaces per dwelling unit in a garage or carport
Dwelling, multiple	1.3 spaces per 1-bedroom dwelling unit plus 1.5 spaces per 2-bedroom or more unit, and conveniently located guest parking of ½ space per unit for 20 units or less, plus ¼ space for each unit over 20. Half of the required guest parking spaces may include parking spaces on dedicated public streets along the sides of the streets that are adjacent to the site.
Fraternity, sorority house, or dormitory	1.5 spaces for each sleeping room
Mobile home parks	2 spaces per unit
Rectory	1 garage space per bedroom
Rooming or boarding house	1 space per guest room
Second dwelling unit	1 space in addition to primary residence parking requirements
Senior housing	1 space per unit plus 1 guest space for each 10 units

Uses and Structures	Minimum Parking Spaces Required (Unless Otherwise Specified)
RS-4 (Westside Specific Plan): Units greater than 1,200 square feet	2 spaces per unit
RS-4 (Westside Specific Plan): Units less than 1,200 square feet	1.7 spaces per unit
Commercial and Office Uses	
Banks and financial institutions	3 spaces per 1,000 square feet floor area
Offices, administrative, clerical, and professional	Number of required parking spaces varies depending on the amount of floor area as identified in the column to the left.
• First 5,000 square feet	• 1 space per 200 square feet floor area
• 5,000 to 10,000 square feet	• 1 space per 250 square feet floor area
• 10,000 to 30,000 square feet	• 1 space per 300 square feet floor area
• 30,000 to 100,000 square feet	• 1 space per 350 square feet floor area
• Over 100,000 square feet	• 1 space per 400 square feet floor area
Offices, medical/dental office or outpatient clinic, veterinary hospitals and clinics	1 space per 300 square feet floor area
Lodging - Hotel, motel, bed and breakfast inn	1 for each guest bedroom, plus 1 for the manager's unit

Uses and Structures	Minimum Parking Spaces Required (Unless Otherwise Specified)
Restaurant, bar, nightclub, pool hall, bowling alley, or similar establishment	10 spaces per 1,000 square feet floor area
Gasoline service station	1 space per 1,000 square feet of lot area; less the footprint of any convenience store area, plus 3.3 spaces per 1,000 square feet of convenience store area
Commercial recreation, indoor	2.5 spaces per 1,000 square feet floor area
Retail sales	1 for each 250 square feet of floor area
Personal services	1 space per 300 square feet of floor area
Shopping centers with multiple tenants	1 space per 200 square feet floor area
Vehicle repair or service, including car wash	1 space per 500 square feet floor area
Vehicle sales or rental (new and used)	1 space per 500 square feet floor area plus one per every 2,500 square feet outdoor display area
Theater/auditorium, stadium/sports arena	1 space per 5 seats
Mausoleum/crematory	25 spaces per 1,000 square feet of seating area
CL zone (Westside Specific Plan): Office	2.9 spaces per 1,000 square feet floor area
CL zone (Westside Specific Plan): Retail	3.6 spaces per 1,000 square feet floor area
CL zone (Westside Specific Plan): Industrial	2 spaces per 1,000 square feet floor area
Mixed-Uses in the MXD and MXC Zones	

Uses and Structures	Minimum Parking Spaces Required (Unless Otherwise Specified)
Nonresidential uses	Minimum: 2 spaces per 1,000 square feet floor area
Residential - studio, 1 bedroom, and 2 bedroom units	Minimum: 1 space per unit
Residential - 3 or more bedroom units	Minimum: 1.5 spaces per unit
MCR Zones in the Westside Specific Plan	
Residential units greater than 1200 square feet	1.5 spaces per unit
Residential units less than 1200 square feet	1 space per unit
Office uses	2.9 spaces per 1,000 square feet floor area
Retail uses	3.6 spaces per 1,000 square feet floor area
Industrial uses	2 spaces per 1,000 square feet floor area
Industrial Uses	
Industrial manufacturing and processing uses, waterfront related industry, wholesaling, warehousing, and distribution	1 space for each 1,000 square feet of floor area
Industrial/building supplies and equipment, sales and rentals	1 space per 800 square feet floor area
Research and development	1 space per 400 square feet of floor area
Recycling facilities	2 spaces per 1,000 square feet floor area

Uses and Structures	Minimum Parking Spaces Required (Unless Otherwise Specified)
Animal boarding/kennel	1 space per 500 square feet floor area
Trucking and transportation terminal	2 spaces per 1,000 square feet floor area plus 1 space for every 2 fleet vehicles
Institutional Uses	
Hospital or other inpatient medical institution	1 space per 3 beds, excluding bassinets
Civic, fraternal, community, and cultural facilities	1 space per every 200 square feet of floor space open to the public plus 1 space per each 300 square feet of administrative office area
Public/religious assembly, fraternal lodge or club, banquet hall/facilities, and similar establishments	1 space for every 35 square feet of seating area
Convention center	1 space per 50 square feet floor area
Child day care center, preschool, or nursery school	2 spaces per 1,000 square feet floor area
Schools, elementary and middle	1.5 spaces per classroom plus one space for each 300 square feet of office area
Schools, high	1 space per each 150 square feet of classroom area plus one space for each 300 square feet office area
Schools, trade, college/university, business, adult education	1 space per 40 square feet of classroom area plus 1 space per 300 square feet of office area
Open Space/Agriculture	

Uses and Structures	Minimum Parking Spaces Required (Unless Otherwise Specified)
Neighborhood and community farms	Minimum 2 parking spaces, plus one additional space for every acre of garden site lot area over 2 acres. Each garden site that includes a farm stand shall provide 1 additional space for every 250 feet of floor area and outdoor display space.

Section 8. The following definitions in Chapter 18.50 (Glossary) are hereby amended to read as follows:

The definition of “Second unit” is hereby repealed.

Accessory Dwelling Unit (ADU): “Accessory Dwelling Unit” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An ADU also includes an efficiency unit and a manufactured home, as defined in Section 18007 of the Health and Safety Code. Refer to Section 18.030.380 for ADU regulations.

Junior Accessory Dwelling Unit (JADU): “Junior Accessory Dwelling Unit” means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing structure. Refer to Section 18.030.390 for JADU regulations.

Section 9. Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and adopted this Ordinance and each section, sentence,

clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

Section 10. This Ordinance shall take effect and be in force thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days after its passage, it or a summary of it, shall be published once, with the names of the members of the City Council voting for and against the same in the Star News, a newspaper of general circulation published in the County of San Diego, California.

PASSED and ADOPTED this 21st day of September, 2021.

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Resolution of the City Council of the City of National City ratifying and authorizing the Mayor to execute a one-year agreement between the City of National City and McAlister Institute for Treatment and Education, Incorporated \(“McAlister”\) for the provision of homeless case management and supportive services for an amount not to exceed \\$313,532. \(Housing Authority\)](#)

Please scroll down to view the backup material.


**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO. |

ITEM TITLE:

Resolution of the City Council of the City of National City, California, ratifying and authorizing the Mayor to execute a one-year agreement between the City of National City and McAlister Institute for Treatment and Education, Incorporated ("McAlister") for the provision of homeless case management and supportive services for an amount not to exceed \$313,532.

PREPARED BY: Angelita Palma 
Housing Programs Manager

DEPARTMENT: Housing Authority


PHONE: (619) 336-4219

APPROVED BY: 

EXPLANATION:

See attached explanation.

FINANCIAL STATEMENT:

APPROVED:  Finance
APPROVED: _____ MIS

ACCOUNT NO.

Revenue Account: 501-45477-3463 - Permanent Local Housing Allocation - \$313,532
Expenditure Account: 501-419-477-* - Permanent Local Housing Allocation- \$313,532
Funds are available through appropriations authorized by City Council Resolution 2021-90 on June 15, 2021.
There is no match required from the City's General Fund for the agreement with McAlister.

ENVIRONMENTAL REVIEW:

No CEQA Exemption - This action is not subject to review under the California Environmental Quality Act (CEQA).

ORDINANCE: INTRODUCTION: FINAL ADOPTION:

STAFF RECOMMENDATION:

Adopt the Resolution.

BOARD / COMMISSION RECOMMENDATION:

Not applicable to this report.

ATTACHMENTS:

1. Background
2. Agreement
3. Resolution

Resolution of the City Council of the City of National City, California, ratifying and authorizing the Mayor to execute a one-year agreement between the City of National City and McAlister Institute for Treatment and Education, Incorporated (“McAlister”) for the provision of homeless case management and supportive services for an amount not to exceed \$313,532.

Background

On August 18, 2020, City Council adopted a resolution to ratify the application for the Permanent Local Housing Allocation (PLHA) Program and appropriate the first year of funding for emergency rental assistance that may be used to assist households impacted by COVID-19, which are currently experiencing homelessness, or at risk of becoming homeless.

The PLHA program provides an ongoing funding source that can be paired with other one-time State and Federal funding sources; however, no match is required from the City. The City of National City is eligible to receive \$393,191 in the first year, and ongoing funding to the City over the next five years is projected at \$2,359,146. However, this initial projection for PLHA Program funding was created by the California Department of Housing and Community Development (HCD) prior to COVID-19 and may be less than expected.

City staff prepared and submitted an application on July 27, 2020, which included a plan to fund emergency rental assistance for the first and second year of the five-year program, to fund pre-development costs and/or provide gap financing for future rental housing projects and to consider funding a new program to provide loans to assist in the construction of accessory dwelling units for low-income households. The programs funded as part of the plan were consistent with the goals of the City’s Housing Element of the General Plan.

On June 15, 2021, staff recommended amending the PLHA approved Plan. In Years One and Two, funds will be used to assist households experiencing or at-risk of homelessness, including but not limited to providing outreach rapid rehousing, supportive/case management services to allow people to obtain and retain housing, and operating and capital cost for navigation centers and emergency shelters. In Years Three, Four, and Five, the City of National City will use its PLHA Funds for the pre-development, development, acquisition, rehabilitation, and preservation of affordable rental and ownership housing, including accessory dwelling units (ADUs), which meet the needs of a growing workforce earning up to 150 percent of Area Median Income (AMI). ADUs shall be available for occupancy for a term of no less than 30 days.

The McAlister Institute (McAlister) has been conducting outreach and case management in National City through a contract with the County of San Diego; however, McAlister’s contract with the County closed on June 30, 2021. To continue and augment homeless outreach efforts, case management, emergency services Resolution 2020-90 Section 3, signed on June 15, 2021, approved entering into an agreement with McAlister subject to City Council ratification.

McAlister has two (2) homeless outreach workers dedicated to serving National City through their South Bay Women’s Recovery Center (SBWRC). This year, SBWRC homeless outreach workers have served 808 unduplicated persons and made 1,102 contacts in National City. McAlister’s outreach and case management staff brings extensive experience in outreach to engage, identify,

accept, and receive referrals of homeless individuals who would benefit from case management services and who need housing support. Once an individual is identified, McAlister's integrated treatment team and network of homeless service provider partners collaborate to create a pathway to housing.

With the Approval of the PLHA Plan, funding is now available for McAlister to provide rapid rehousing, rental assistance, and supportive/case management services that allow people to obtain and retain housing:

- Rapid Rehousing will be used to provide housing relocation and stabilization services and short and/or medium rental assistance as necessary to house households as quickly as possible into permanent housing and achieve stability.
- Rental assistance will be available to households for at least six (6) months.
- Street Outreach funds will be used to provide essential services necessary to reach out to unsheltered homeless people and connect them with emergency shelter, housing, or critical service.
- Supportive/Case Management will assess, arrange, coordinate, and monitor the delivery of individualized services to meet the needs of the program participants (24 CFR Section 576.101).

**AGREEMENT
BY AND BETWEEN
THE CITY OF NATIONAL CITY
AND
MCALISTER INSTITUTE FOR TREATMENT & EDUCATION, INC.**

THIS AGREEMENT is entered into on this _____ day of _____, 20____, by and between the CITY OF NATIONAL CITY, a municipal corporation (the “CITY”), and MCALISTER INSTITUTE FOR TREATMENT & EDUCATION, INC. (“McAlister Institute”), a California nonprofit corporation (the “CONSULTANT”).

R E C I T A L S

WHEREAS, the CITY desires to employ a CONSULTANT to provide homeless case management and supportive services.

WHEREAS, the CITY has determined that the CONSULTANT is qualified by experience and ability to perform the services desired by the CITY, and the CONSULTANT is willing to perform such services.

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY AGREE AS FOLLOWS:

1. **ENGAGEMENT OF CONSULTANT.** The CITY agrees to engage the CONSULTANT to provide homeless case management services, and the CONSULTANT agrees to perform the services set forth here in accordance with all terms and conditions contained herein.

The CONSULTANT represents that all services shall be performed directly by the CONSULTANT or under direct supervision of the CONSULTANT.

2. **EFFECTIVE DATE AND LENGTH OF AGREEMENT.** This Agreement will become effective on *July 1, 2021*. The duration of this Agreement is for the period of July 1, 2021 through June 30, 2022. Completion dates or time durations for specific portions of the project are set forth in Exhibit “A”. This Agreement may be extended by mutual agreement upon the same terms and conditions for an additional one (1) year term. The Parties may exercise up to three one-year extensions. Any extension of this Agreement must be approved by Resolution of the City of National City.

3. **SCOPE OF SERVICES.** The CONSULTANT will perform services as set forth in the attached Exhibit “A”.

The CONSULTANT shall be responsible for all research and reviews related to the work and shall not rely on personnel of the CITY for such services, except as authorized in advance by the CITY. The CONSULTANT shall appear at meetings specified in Exhibit “A” to keep staff and City Council advised of the progress on the project.

The CITY may unilaterally, or upon request from the CONSULTANT, from time to time reduce or increase the Scope of Services to be performed by the CONSULTANT under this Agreement. Upon doing so, the CITY and the CONSULTANT agree to meet in good faith

and confer for the purpose of negotiating a corresponding reduction or increase in the compensation associated with said change in services.

4. **PROJECT COORDINATION AND SUPERVISION.** The Neighborhood Services Manager is hereby designated as the Project Coordinator for the CITY and will monitor the progress and execution of this Agreement. The CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this Agreement for the CONSULTANT. The South Bay Enhanced Services Center (SBESC) Manager is thereby designated as the Project Director for the CONSULTANT.

5. **COMPENSATION AND PAYMENT.** The compensation for the CONSULTANT shall be based on monthly billings covering actual work performed. Billings shall include labor classifications, respective rates, hours worked and also materials, if any. The total cost for all work described in Exhibit "A" shall not exceed \$313,532. Monthly invoices will be processed for payment and remitted within thirty (30) days from receipt of invoice, provided that work is accomplished consistent with Exhibit "A," as determined by the CITY.

The CONSULTANT shall maintain all books, documents, papers, employee time sheets, accounting records, and other evidence pertaining to costs incurred, and shall make such materials available at its office at all reasonable times during the term of this Agreement and for three (3) years from the date of final payment under this Agreement, for inspection by the CITY, and for furnishing of copies to the CITY, if requested.

6. **ACCEPTABILITY OF WORK.** The CITY shall decide any and all questions which may arise as to the quality or acceptability of the services performed and the manner of performance, the acceptable completion of this Agreement, and the amount of compensation due. In the event the CONSULTANT and the CITY cannot agree to the quality or acceptability of the work, the manner of performance and/or the compensation payable to the CONSULTANT in this Agreement, the CITY or the CONSULTANT shall give to the other written notice. Within ten (10) business days, the CONSULTANT and the CITY shall each prepare a report which supports their position and file the same with the other party. The CITY shall, with reasonable diligence, determine the quality or acceptability of the work, the manner of performance and/or the compensation payable to the CONSULTANT.

7. **DISPOSITION AND OWNERSHIP OF DOCUMENTS.** The Memoranda, Reports, and other documents prepared by the CONSULTANT for this project, whether paper or electronic, shall: (1) be free from defects; (2) become the property of the CITY for use with respect to this project; and (3) shall be turned over to the CITY upon completion of the project, or any phase thereof, as contemplated by this Agreement.

Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the CITY, and CONSULTANT thereby expressly waives and disclaims any copyright in, and the right to reproduce, all written material, drawings, plans, specifications, or other work prepared under this Agreement, except upon the CITY'S prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the CITY, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

The CONSULTANT agrees that the CITY may use, reuse, alter, reproduce, modify, assign, transfer, or in any other way, medium, or method utilize the CONSULTANT'S written

work product for the CITY'S purposes, and the CONSULTANT expressly waives and disclaims any residual rights granted to it by Civil Code Sections 980 through 989 relating to intellectual property and artistic works.

Any modification or reuse by the CITY of documents, drawings, or specifications prepared by the CONSULTANT shall relieve the CONSULTANT from liability under Section 14, but only with respect to the effect of the modification or reuse by the CITY, or for any liability to the CITY should the documents be used by the CITY for some project other than what was expressly agreed upon within the Scope of Services of this project, unless otherwise mutually agreed.

CITY understands that services provided by CONSULTANT may be clinical in nature, containing confidential, medically privileged or other privacy protected information. As such, documents of a clinical nature are not subject to this paragraph.

8. **INDEPENDENT CONTRACTOR.** Both parties hereto in the performance of this Agreement will be acting in an independent capacity and not as agents, employees, partners, or joint venturers with one another. Neither the CONSULTANT nor the CONSULTANT'S employees are employees of the CITY, and are not entitled to any of the rights, benefits, or privileges of the CITY'S employees, including but not limited to retirement, medical, unemployment, or workers' compensation insurance.

This Agreement contemplates the personal services of the CONSULTANT and the CONSULTANT'S employees, and it is recognized by the parties that a substantial inducement to the CITY for entering into this Agreement was, and is, the professional reputation and competence of the CONSULTANT and its employees. Neither this Agreement, nor any interest herein, may be assigned by the CONSULTANT without the prior written consent of the CITY. Nothing herein contained is intended to prevent the CONSULTANT from employing or hiring as many employees, or SUBCONSULTANTS, as the CONSULTANT may deem necessary for the proper and efficient performance of this Agreement. All agreements by CONSULTANT with its SUBCONSULTANT(S) shall require the SUBCONSULTANT(S) to adhere to the applicable terms of this Agreement.

9. **CONTROL.** Neither the CITY, nor its officers, agents, or employees shall have any control over the conduct of the CONSULTANT or any of the CONSULTANT'S employees, except as set forth in this Agreement. The CONSULTANT, or the CONSULTANT'S agents, servants, or employees are not in any manner agents, servants, or employees of the CITY. The CONSULTANT and its agents, servants, and employees are wholly independent from the CITY and CONSULTANT'S obligations to the CITY are solely prescribed by this Agreement.

10. **COMPLIANCE WITH APPLICABLE LAW.** The CONSULTANT, in the performance of the services to be provided herein, shall comply with all applicable state and federal statutes and regulations, and all applicable ordinances, rules, and regulations of the City of National City, whether now in force or subsequently enacted. The CONSULTANT and each of its SUBCONSULTANT(S), shall obtain and maintain a current City of National City business license prior to and during performance of any work pursuant to this Agreement.

11. **LICENSES, PERMITS, ETC.** The CONSULTANT represents and covenants that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally

required to practice its profession. CONSULTANT must promptly produce a copy of any such license, permit, or approval to CITY upon request. The CONSULTANT represents and covenants that the CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, or approval which is legally required for the CONSULTANT to practice its profession.

12. **STANDARD OF CARE.**

A. The CONSULTANT, in performing any services under this Agreement, shall perform in a manner consistent with that level of care and skill ordinarily exercised by members of the CONSULTANT'S trade or profession currently practicing under similar conditions and in similar locations. The CONSULTANT shall take all special precautions necessary to protect the CONSULTANT'S employees and members of the public from risk of harm arising out of the nature of the work and/or the conditions of the work site.

B. Unless disclosed in writing prior to the date of this Agreement, the CONSULTANT warrants to the CITY that it is not now, nor has it for the five (5) years preceding, been debarred by a governmental agency or involved in debarment, arbitration or litigation proceedings concerning the CONSULTANT'S professional performance or the furnishing of materials or services relating thereto.

C. The CONSULTANT is responsible for identifying any unique products, treatments, processes or materials whose availability is critical to the success of the project the CONSULTANT has been retained to perform, within the time requirements of the CITY, or, when no time is specified, then within a commercially reasonable time. Accordingly, unless the CONSULTANT has notified the CITY otherwise, the CONSULTANT warrants that all products, materials, processes or treatments identified in the project documents prepared for the CITY are reasonably commercially available. Any failure by the CONSULTANT to use due diligence under this sub-section will render the CONSULTANT liable to the CITY for any increased costs that result from the CITY'S later inability to obtain the specified items or any reasonable substitute within a price range that allows for project completion in the time frame specified or, when not specified, then within a commercially reasonable time.

13. **NON-DISCRIMINATION PROVISIONS.** The CONSULTANT shall not discriminate against any employee or applicant for employment because of age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. The CONSULTANT will take positive action to ensure that applicants are employed without regard to their age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the CITY setting forth the provisions of this non-discrimination clause.

14. **CONFIDENTIAL INFORMATION.** The CITY may from time to time communicate to the CONSULTANT certain confidential information to enable the CONSULTANT to effectively perform the services to be provided herein. The CONSULTANT shall treat all such information as confidential and shall not disclose any part thereof without the prior written consent of the CITY. The CONSULTANT shall limit the use and circulation of such

information, even within its own organization, to the extent necessary to perform the services to be provided herein. The foregoing obligation of this Section 14, however, shall not apply to any part of the information that (i) has been disclosed in publicly available sources of information; (ii) is, through no fault of the CONSULTANT, hereafter disclosed in publicly available sources of information; (iii) is already in the possession of the CONSULTANT without any obligation of confidentiality; or (iv) has been or is hereafter rightfully disclosed to the CONSULTANT by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party.

The CONSULTANT shall not disclose any reports, recommendations, conclusions or other results of the services or the existence of the subject matter of this Agreement without the prior written consent of the CITY. In its performance hereunder, the CONSULTANT shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm or corporation.

CONSULTANT shall be liable to CITY for any damages caused by breach of this condition, pursuant to the provisions of Section 15.

15. **INDEMNIFICATION AND HOLD HARMLESS.** To the maximum extent provided by law, The CONSULTANT agrees to defend, indemnify and hold harmless the City of National City, its officers, officials, agents, employees, and volunteers against and from any and all liability, loss, damages to property, injuries to, or death of any person or persons, and all claims, demands, suits, actions, proceedings, reasonable attorneys' fees, and defense costs, of any kind or nature, including workers' compensation claims, of or by anyone whomsoever, resulting from or arising out of the CONSULTANT'S performance or other obligations under this Agreement; provided, however, that this indemnification and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of the CITY, its agents, officers, employees or volunteers. CITY will cooperate reasonably in the defense of any action, and CONSULTANT shall employ competent counsel, reasonably acceptable to the City Attorney.

The indemnity, defense, and hold harmless obligations contained herein shall survive the termination of this Agreement for any alleged or actual omission, act, or negligence under this Agreement that occurred during the term of this Agreement.

16. **EMPLOYEE PAYMENTS AND INDEMNIFICATION.**

16.1 **PERS Eligibility Indemnification.** If CONSULTANT's employee(s) 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 of the CITY, CONSULTANT shall indemnify, defend, and hold harmless CITY for the payment of any employer and employee contributions for PERS benefits on behalf of the employee as well as for payment of any penalties and interest on such contributions which would otherwise be the responsibility of the CITY.

CONSULTANT'S employees providing service under this Agreement shall not: (1) qualify for any compensation and benefit under PERS; (2) be entitled to any benefits under PERS; (3) enroll in PERS as an employee of CITY; (4) receive any employer contributions paid by CITY for PERS benefits; or (5) be entitled to any other PERS-related benefit that would accrue to a CITY employee. CONSULTANT's employees hereby waive any claims to benefits or compensation described in this Section 16. This Section 16 applies to CONSULTANT

notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary.

16.2 Limitation of CITY Liability. The payment made to CONSULTANT under this Agreement shall be the full and complete compensation to which CONSULTANT and CONSULTANT's officers, employees, agents, and subcontractors are entitled for performance of any work under this Agreement. Neither CONSULTANT nor CONSULTANT's officers, employees, agents, and subcontractors are entitled to any salary or wages, or retirement, health, leave or other fringe benefits applicable to CITY employees. The CITY will not make any federal or state tax withholdings on behalf of CONSULTANT. The CITY shall not be required to pay any workers' compensation insurance on behalf of CONSULTANT.

16.3 Indemnification for Employee Payments. CONSULTANT agrees to defend and indemnify the CITY for any obligation, claim, suit, or demand for tax, retirement contribution including any contribution to PERS, social security, salary or wages, overtime payment, or workers' compensation payment which the CITY may be required to make on behalf of (1) CONSULTANT, (2) any employee of CONSULTANT, or (3) any employee of CONSULTANT construed to be an employee of the CITY, for work performed under this Agreement. This is a continuing obligation that survives the termination of this Agreement.

17. WORKERS' COMPENSATION. The CONSULTANT shall comply with all of the provisions of the Workers' Compensation Insurance and Safety Acts of the State of California, the applicable provisions of Division 4 and 5 of the California Labor Code and all amendments thereto; and all similar State or federal acts or laws applicable; and shall indemnify, and hold harmless the CITY and its officers, employees, and volunteers from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description, including reasonable attorney's fees and defense costs presented, brought or recovered against the CITY or its officers, employees, or volunteers, for or on account of any liability under any of said acts which may be incurred by reason of any work to be performed by the CONSULTANT under this Agreement.

18. INSURANCE. The CONSULTANT, at its sole cost and expense, shall purchase and maintain, and shall require its SUBCONSULTANT(S), when applicable, to purchase and maintain throughout the term of this Agreement, the following insurance policies:

A. If checked, **Professional Liability Insurance** (errors and omissions) with minimum limits of \$1,000,000 per occurrence.

B. **Automobile Insurance** covering all bodily injury and property damage incurred during the performance of this Agreement, with a minimum coverage of \$1,000,000 combined single limit per accident. Such automobile insurance shall include owned, non-owned, and hired vehicles. The policy shall name the CITY and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided.

C. **Commercial General Liability Insurance**, with minimum limits of either \$2,000,000 per occurrence and \$4,000,000 aggregate, or \$1,000,000 per occurrence and \$2,000,000 aggregate with a \$2,000,000 umbrella policy, covering all bodily injury and property damage arising out of its operations, work, or performance under this Agreement. The policy shall name the CITY and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided. The general aggregate limit must apply

solely to this “project” or “location”. The “project” or “location” should be noted with specificity on an endorsement that shall be incorporated into the policy.

D. **Workers’ Compensation Insurance** in an amount sufficient to meet statutory requirements covering all of CONSULTANT’S employees and employers’ liability insurance with limits of at least \$1,000,000 per accident. In addition, the policy shall be endorsed with a waiver of subrogation in favor of the CITY. Said endorsement shall be provided prior to commencement of work under this Agreement.

If CONSULTANT has no employees subject to the California Workers’ Compensation and Labor laws, CONSULTANT shall execute a Declaration to that effect. Said Declaration shall be provided to CONSULTANT by CITY.

E. The aforesaid policies shall constitute primary insurance as to the CITY, its officers, officials, employees, and volunteers, so that any other policies held by the CITY shall not contribute to any loss under said insurance. Said policies shall provide for thirty (30) days prior written notice to the CITY’S Risk Manager, at the address listed in subsection G below, of cancellation or material change.

F. If required insurance coverage is provided on a “claims made” rather than “occurrence” form, the CONSULTANT shall maintain such insurance coverage for three years after expiration of the term (and any extensions) of this Agreement. In addition, the “retro” date must be on or before the date of this Agreement.

G. The Certificate Holder for all policies of insurance required by this Section shall be:

City of National City
c/o Risk Manager
1243 National City Boulevard
National City, CA 91950-4397

H. Insurance shall be written with only insurers authorized to conduct business in California that hold a current policy holder’s alphabetic and financial size category rating of not less than A:VII according to the current Best’s Key Rating Guide, or a company of equal financial stability that is approved by the CITY’S Risk Manager. In the event coverage is provided by non-admitted “surplus lines” carriers, they must be included on the most recent List of Approved Surplus Line Insurers (“LASLI”) and otherwise meet rating requirements.

I. This Agreement shall not take effect until certificate(s) or other sufficient proof that these insurance provisions have been complied with, are filed with and approved by the CITY’S Risk Manager. If the CONSULTANT does not keep all insurance policies required by this Section 18 in full force and effect at all times during the term of this Agreement, the CITY may treat the failure to maintain the requisite insurance as a breach of this Agreement and terminate the Agreement as provided herein.

J. All deductibles and self-insured retentions in excess of \$10,000 must be disclosed to and approved by the CITY. CITY reserves the right to modify the insurance requirements of this Section 18, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

K. If the CONSULTANT maintains broader coverage or higher limits (or both) than the minimum limits shown above, the CITY shall be entitled to the broader coverage or higher

limits (or both) maintained by the CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the CITY.

19. **LEGAL FEES.** If any party brings a suit or action against the other party arising from any breach of any of the covenants or agreements or any inaccuracies in any of the representations and warranties on the part of the other party arising out of this Agreement, then in that event, the prevailing party in such action or dispute, whether by final judgment or out-of-court settlement, shall be entitled to have and recover of and from the other party all costs and expenses of suit, including attorneys' fees.

For purposes of determining who is to be considered the prevailing party, it is stipulated that attorney's fees incurred in the prosecution or defense of the action or suit shall not be considered in determining the amount of the judgment or award. Attorney's fees to the prevailing party if other than the CITY shall, in addition, be limited to the amount of attorney's fees incurred by the CITY in its prosecution or defense of the action, irrespective of the actual amount of attorney's fees incurred by the prevailing party.

20. **TERMINATION.**

A. This Agreement may be terminated with or without cause by either party. Termination without cause shall be effective only upon 30-day's written notice. During said 30-day period the CONSULTANT shall perform all services in accordance with this Agreement.

B. This Agreement may also be terminated immediately by the CITY for cause in the event of a material breach of this Agreement, misrepresentation by the CONSULTANT in connection with the formation of this Agreement or the performance of services, or the failure to perform services as directed by the CITY.

C. Termination with or without cause shall be effected by delivery of written Notice of Termination as provided for herein.

D. In the event of termination, all finished or unfinished Memoranda Reports, Maps, Drawings, Plans, Specifications and other documents prepared by the CONSULTANT, whether paper or electronic, shall immediately become the property of and be delivered to the CITY, and the CONSULTANT shall be entitled to receive just and equitable compensation for any work satisfactorily completed on such documents and other materials up to the effective date of the Notice of Termination, not to exceed the amounts payable hereunder, and less any damages caused the CITY by the CONSULTANT'S breach, if any. Thereafter, ownership of said written material shall vest in the CITY all rights set forth in Section 7.

E. The CITY further reserves the right to immediately terminate this Agreement upon: (1) the filing of a petition in bankruptcy affecting the CONSULTANT; (2) a reorganization of the CONSULTANT for the benefit of creditors; or (3) a business reorganization, change in business name or change in business status of the CONSULTANT.

21. **NOTICES.** All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered; or sent by overnight mail (Federal Express or the like); or sent by registered or certified mail, postage prepaid, return receipt requested; or sent by ordinary mail, postage prepaid; or telegraphed or cabled; or delivered or sent by telex, telecopy, facsimile or fax; and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if sent by overnight mail, the business day following its deposit in such overnight mail facility, (iii) if mailed by registered, certified or ordinary mail, five (5) days (ten (10) days if the address is outside the

State of California) after the date of deposit in a post office, mailbox, mail chute, or other like facility regularly maintained by the United States Postal Service, (iv) if given by telegraph or cable, when delivered to the telegraph company with charges prepaid, or (v) if given by telex, telecopy, facsimile or fax, when sent. Any notice, request, demand, direction or other communication delivered or sent as specified above shall be directed to the following persons:

To CITY:

Manager
Neighborhood Services
City of National City
1243 National City Boulevard
National City, CA 91950-4397

To CONSULTANT:

Chief Executive Officer
McAlister Institute for Treatment & Education, Inc.
1400 N. Johnson Avenue, Suite 101
El Cajon, CA 92020

Notice of change of address shall be given by written notice in the manner specified in this Section. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or communication sent. Any notice, request, demand, direction or other communication sent by cable, telex, telecopy, facsimile or fax must be confirmed within forty-eight (48) hours by letter mailed or delivered as specified in this Section.

22. CONFLICT OF INTEREST AND POLITICAL REFORM ACT OBLIGATIONS. During the term of this Agreement, the CONSULTANT shall not perform services of any kind for any person or entity whose interests conflict in any way with those of the City of National City. The CONSULTANT also agrees not to specify any product, treatment, process or material for the project in which the CONSULTANT has a material financial interest, either direct or indirect, without first notifying the CITY of that fact. The CONSULTANT shall at all times comply with the terms of the Political Reform Act and the National City Conflict of Interest Code. The CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the CITY in which the CONSULTANT has a financial interest as defined in Government Code Section 87103. The CONSULTANT represents that it has no knowledge of any financial interests that would require it to disqualify itself from any matter on which it might perform services for the CITY.

If checked, the CONSULTANT shall comply with all of the reporting requirements of the Political Reform Act and the National City Conflict of Interest Code. Specifically, the CONSULTANT shall file a Statement of Economic Interests with the City Clerk of the City of National City in a timely manner on forms which the CONSULTANT shall obtain from the City Clerk.

The CONSULTANT shall be strictly liable to the CITY for all damages, costs or expenses the CITY may suffer by virtue of any violation of this Section 22 by the CONSULTANT.

23. **PREVAILING WAGES.** State prevailing wage rates may apply to work performed under this Agreement. State prevailing wages rates apply to all public works contracts as set forth in California Labor Code, including but not limited to, Sections 1720, 1720.2, 1720.3, 1720.4, and 1771. Consultant is solely responsible to determine if State prevailing wage rates apply and, if applicable, pay such rates in accordance with all laws, ordinances, rules, and regulations.

24. **ADMINISTRATIVE PROVISIONS.**

A. *Computation of Time Periods.* If any date or time period provided for in this Agreement is or ends on a Saturday, Sunday or federal, state or legal holiday, then such date shall automatically be extended until 5:00 p.m. Pacific Time of the next day which is not a Saturday, Sunday or federal, state, or legal holiday.

B. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

C. *Captions.* Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

D. *No Obligations to Third Parties.* Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, or obligate any of the parties hereto, to any person or entity other than the parties hereto.

E. *Exhibits and Schedules.* The Exhibits and Schedules attached hereto are hereby incorporated herein by this reference for all purposes. To the extent any exhibits, schedules, or provisions thereof conflict or are inconsistent with the terms and conditions contained in this Agreement, the terms and conditions of this Agreement shall control.

F. *Amendment to this Agreement.* The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

G. *Assignment & Assumption of Rights.* CONSULTANT shall not assign this Agreement, in whole or in part, to any other party without first obtaining the written consent of CITY.

H. *Waiver.* The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

I. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California. The venue for any legal action arising under this Agreement shall be in either state or federal court in the County of San Diego, State of California.

J. *Audit.* If this Agreement exceeds ten-thousand dollars (\$10,000), the parties shall be subject to the examination and audit of the State Auditor for a period of three (3) years after final payment under the Agreement, per Government Code Section 8546.7.

K. *Entire Agreement.* This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of any party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

L. *Successors and Assigns.* This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

M. *Subcontractors or Subconsultants.* The CITY is engaging the services of the CONSULTANT identified in this Agreement. The CONSULTANT shall not subcontract any portion of the work, unless such subcontracting was part of the original proposal or is allowed by the CITY in writing. In the event any portion of the work under this Agreement is subcontracted, the subconsultant(s) shall be required to comply with and agree to, for the benefit of and in favor of the CITY, both the insurance provisions in Section 18 and the indemnification and hold harmless provision of Section 15 of this Agreement.

N. *Construction.* The parties acknowledge and agree that (i) each party is of equal bargaining strength, (ii) each party has actively participated in the drafting, preparation and negotiation of this Agreement, (iii) each such party has consulted with or has had the opportunity to consult with its own, independent counsel and such other professional advisors as such party has deemed appropriate, relative to any and all matters contemplated under this Agreement, (iv) each party and such party's counsel and advisors have reviewed this Agreement, (v) each party has agreed to enter into this Agreement following such review and the rendering of such advice, and (vi) any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement, or any portions hereof, or any amendments hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

CITY OF NATIONAL CITY


By: _____
Alejandra Sotelo Solis, Mayor

APPROVED AS TO FORM:

By: _____
Gabriela M. Torres
Deputy City Attorney

**McALISTER INSTITUTE FOR
TREATMENT & EDUCATION, INC.**

*(Corporation – signatures of two corporate officers required)
(Partnership or Sole proprietorship – one signature)*

By: 

(Name)

Jeanne McAlister

(Print)

Chief Executive Officer

(Title)

By: 

(Name)

Marisa Varond

(Print)

Executive Director

(Title)

**AGREEMENT
BY AND BETWEEN
THE CITY OF NATIONAL CITY
AND
MCALISTER INSTITUTE FOR TREATMENT & EDUCATION, INC.**

EXHIBIT A – SCOPE OF SERVICES

Homeless Case Management Services

The target population for the provision of Homeless Case Management Services are individuals who are homeless or at risk of homelessness and who may have a serious mental illness and/or substance use disorder. Homeless Case Managers designate a portion of their time for street outreach, with the remaining time serving designated individuals with case management services. This includes the following:

- Outreach and engagement in accordance with the [San Diego Continuum of Care Street Outreach Standards](#)
- Screening for mental health, physical health, and substance use disorders
- Linkage to services which may include:
 - > Mental Health
 - > Substance Use Disorder
 - > Physical Health
 - > Social Services
 - > Housing
 - > Employment Services
 - > Advocacy
 - > Other services as indicated
- Referral and placement in emergency homeless shelters
- Short-term care coordination and case management with average caseload of 25 clients
- Coordination and collaboration with other providers to include psychiatric hospitals and other fee-for-service (FFS) providers.
- Complete Vulnerability Index-Services Prioritization Decision Assistance tool (VI-SPADT) for clients engaged for services.
- Data entered into the Homeless Management Information System (HMIS) Coordinated Entry System (CES) and Services Point.
- Collaboration with Community Through Hope to address basic needs.

Homeless Case Managers (HCMs) respond to community requests, as directed by the City. HCMs will be notified of any known environmental safety hazards at the time of the initial referral and HCMs will notify the City of any safety concerns identified. HCMs will complete a follow up report for the requested activities.

Reporting Requirements

Monthly and year-end summary report will be due 15 days following the end of the previous month and 15 days following the end of the year. Report should be emailed to the City’s Project Coordinator. Monthly and year-end reports provided should include a Homeless Outreach Case Management Data Collection Log and an Outreach Tracking Log.

RESOLUTION NO. 2021-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, RATIFYING AND AUTHORIZING THE MAYOR TO EXECUTE A ONE YEAR AGREEMENT BETWEEN THE CITY OF NATIONAL CITY AND MCALISTER INSTITUTE FOR TREATMENT AND EDUCATION, INCORPORATED FOR THE PROVISION OF HOMELESS CASE MANAGEMENT AND SUPPORTIVE SERVICES FOR AN AMOUNT NOT TO EXCEED \$313,532

WHEREAS, the City of National City (“City”) desires to employ McCalister Institute for Treatment and Education, Incorporated (“McCalister”) to provide homeless case management and supportive services; and

WHEREAS, on June 15, 2020, City Council approved Resolution 2021-90 authorizing the entering into an agreement with McCalister subject to City Council ratification; and

WHEREAS, the agreement will be effective from July 1, 2021, to June 30, 2022, and allow an option for three (3) one year extensions; and

WHEREAS, City staff requests City Council ratify and authorize the Mayor to execute a one-year agreement with McCalister for homeless case management and supportive services for an amount not to exceed \$313,532.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1: City staff requests City Council ratify and authorize the Mayor to execute a one-year agreement with McCalister for homeless case management and supportive services for an amount not to exceed \$313,532.

Section 2: The City Clerk shall certify the passage and adoption of this Resolution and enter it into the book of original Resolution.

///

Resolution No. 2021 –
Page Two

PASSED and ADOPTED this 7th day of September, 2021

Alejandra Sotelo-Solis, Mayor

ATTEST:

Luz Molina, City Clerk

APPROVED AS TO FORM:

Charles E. Bell Jr., City Attorney

The following page(s) contain the backup material for Agenda Item: [Notice of Decision – Planning Commission approval of a Conditional Use Permit for the addition of live entertainment and expansion of approved operating hours for alcohol sales at an existing restaurant \(Gerry’s Grill\) located at 3030 Plaza Bonita Road, Suite 2510. \(Applicant: Steve Rawlings\) \(Case File 2021-12 CUP\) \(Planning\)](#)

Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO.

ITEM TITLE:

Notice of Decision – Planning Commission approval of a Conditional Use Permit for the addition of live entertainment and expansion of approved operating hours for alcohol sales at an existing restaurant (Gerry’s Grill) located at 3030 Plaza Bonita Rd. Suite 2510. (Applicant: Steve Rawlings) (Case File 2021-12 CUP)

PREPARED BY:  Martin Reeder, AICP

DEPARTMENT: Community Development

PHONE: 619-336-4313

APPROVED BY: 

EXPLANATION:

Gerry’s Grill has applied for a Conditional Use Permit (CUP) modification to extend the hours of operation to 11:00 p.m. Sunday through Thursday and to 1:00 a.m. on Fridays and Saturdays. The applicant is also requesting to offer live entertainment on Thursdays, Fridays, and Saturdays.

The Planning Commission conducted a public hearing on August 16, 2021. Commissioners asked questions regarding business operations and the proposed entertainment hours of operation. The Commission voted to recommend approval of the request based on the attached findings and recommended Conditions of Approval, modifying the applicant’s request of closing at 1 a.m. on Fridays and Saturdays to midnight. A condition was added to require licensed security during performances.

The attached Planning Commission staff report describes the proposal in detail.

FINANCIAL STATEMENT:

APPROVED: _____ **Finance**

ACCOUNT NO.

APPROVED: _____ **MIS**

ENVIRONMENTAL REVIEW:

Not a project per California Environmental Quality Act (CEQA)

ORDINANCE: **INTRODUCTION:** **FINAL ADOPTION:**

STAFF RECOMMENDATION:

Staff concurs with the decision of the Planning Commission and recommends that the Notice of Decision be filed.

BOARD / COMMISSION RECOMMENDATION:

The Planning Commission recommended approval of the Conditional Use Permit.
Ayes: DelaPaz, Roman, Sendt, Valenzuela, Yamane Absent: Natividad, Sanchez

ATTACHMENTS:

- | | |
|-------------------------------------|---------------------------|
| 1. Overhead | 3. Resolution No. 2021-06 |
| 2. Planning Commission Staff Report | 4. Reduced Plans |



ATTACHMENT 1



COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

PLANNING COMMISSION STAFF REPORT

Title: PUBLIC HEARING – CONDITIONAL USE PERMIT FOR THE ADDITION OF LIVE ENTERTAINMENT AND EXPANSION OF APPROVED OPERATING HOURS FOR ALCOHOL SALES AT AN EXISTING RESTAURANT (GERRY'S GRILL) LOCATED AT 3030 PLAZA BONITA ROAD, SUITE 2510

Case File No.: 2021-12 CUP

Location: Westfield Plaza Bonita

Assessor's Parcel Nos.: 561-471-07

Staff report by: Martin Reeder, AICP – Principal Planner

Applicant: Rawlings Consulting

Zoning designation: MXD-2 (Major Mixed-Use District)

Adjacent use and zoning:

- North: Single-Family Residential across Sweetwater Rd. / RS-2 (Small Lot Res.)
- East: Bonita Creek development / RS-3 (Medium-Low Den. Multi-Unit Res.)
- South: Sweetwater River Park / OS (Open Space)
- West: Interstate 805 Freeway / OS

Environmental review: Not a project per California Environmental Quality Act (CEQA) as defined in Section 15378

Staff recommendation: Approve

ATTACHMENT 2

Staff Recommendation

Staff recommends approval of the request for extended operating hours and for live entertainment, subject to the attached recommended conditions. The sale of alcohol and live entertainment are conditionally-allowed uses in the Major Mixed-Use District zone and would be accessory to food sales at the restaurant.

Executive Summary

The property was originally approved for a CUP for alcohol sales in 2007 in association with El Torito restaurant, which has since closed. The current business (Gerry's Grill) applied for a new Conditional Use Permit (CUP) in 2018 to replace the then-expired El Torito CUP. The applicant is applying for a CUP modification to extend the hours of operation to 11:00 p.m. Sunday through Thursday and to 1:00 a.m. on Fridays and Saturdays. The applicant is also requesting to offer live entertainment on Thursdays, Fridays, and Saturdays.

Site Characteristics

The project site is Gerry's Grill, a restaurant at the southwest entrance to the Westfield Plaza Bonita shopping center. The mall is located in the southeast corner of National City, south of Sweetwater Road on a 71-acre site in the Major Mixed-Use District (MXD-2) zone, and it includes approximately 1,026,000 square feet of building area and 4,400 parking spaces.

Gerry's Grill is a 6,962 square foot restaurant with 145 indoor seats, including a bar and lounge area, and 28 outdoor seats in a fenced patio area. The patio faces the parking lot to the west, with Plaza Bonita Road and Interstate 805 beyond. The restaurant has been in business since 2018. There are currently seven restaurants with CUPs for on-site alcohol sales at Westfield Plaza Bonita, including the subject restaurant. Gerry's Grill is located on the west side of the mall facing the Sweetwater River Park area. No residences are in this area.

Proposed Use

The applicant is proposing to expand the approved hours of operation for beer and wine sales and add live entertainment at the restaurant. Proposed operating hours are 11:00 a.m. to 11:00 p.m. Sunday through Thursday and 11:00 a.m. to 1:00 a.m. Friday and Saturday. Live entertainment is proposed Thursday (solo performer) from 7:30 p.m. to 10:00 p.m. and Friday and Saturday (band) from 8:30 p.m. to 11:30 p.m. No dancing is proposed.

Analysis

The latest that other restaurants in Westfield Plaza Bonita were open was midnight. However, that restaurant (Hooters) has since closed. With the restaurant being on the opposite side of the mall to residences, and with it having a separate entrance, the chance for noise impacts is reduced. Nonetheless, a Condition of Approval has been added to require compliance with the maximum noise standards in Table III of Title 12 (Noise) of the Municipal Code. Although extended hours of alcohol sales increase the potential for consuming more alcohol, Conditions of Approval required Responsible Beverage Sales and Service (RBSS), which aims to reduce the likelihood of over-consumption of alcohol.

Section 18.30.050 of the Land Use Code allows for on-site alcohol sales with an approved CUP. Additional requirements for alcohol CUPs include expanded notification, a community meeting, and distance requirements. The same is required for modification of an existing CUP.

Mailing – All property owners and occupants within a distance of 660 feet are required to be notified of a public hearing for alcohol-related CUP applications. Notice of this public hearing was sent to 530 occupants and owners.

Community Meeting - Pursuant to Section 18.30.050 (C) of the National City Zoning Code, a community meeting was held Monday, July 19, 2021 at 5:00 p.m. at the subject restaurant. The meeting advertisement is attached (Attachment 9); there was one attendee from the Institute for Public Strategies (IPS). The applicant stated that the same 530 occupants and owners that were notified of the Planning Commission meeting were notified of the community meeting.

Distance Requirements - Chapter 18.030.050 (D) of the National City Zoning Code requires a 660-foot distance from any public school; there are no schools within 660 feet of the site. In addition, restaurants with greater than 30% of their area devoted to seating are exempt from this distance requirement. The property in question has over 40% of its floor area devoted to seating.

Alcohol Sales Concentration/Location

Per the California Department of Alcoholic Beverage Control (ABC), there are currently 10 on-site sale licenses in this census tract (32.04) where a maximum of four are recommended, meaning that the census tract is considered by ABC to be over-saturated with regard to alcohol sales outlets however, one of the 10

outlets is the subject business. For reference, there are seven on-site alcohol outlets in the census tract within National City (the other three are in Chula Vista). The outlets are:

Name	Address	License Type*	CUP
Applebee's	3030 Plaza Bonita Road #1298	47	Y
Red Robin	3030 Plaza Bonita Road #2520	47	Y
Broken Yolk	3030 Plaza Bonita Road #1106	41	Y
Outback Steakhouse	2980 Plaza Bonita Road	47	Y
Gerry's Grill	3030 Plaza Bonita Road #2510	47	Y
Funky Burgers & Fries	3030 Plaza Bonita Road #1108	41	Y
Crab Pub	3030 Plaza Bonita Road #1430	41	Y

* Type 41 - On-Sale of Beer and Wine

* Type 47 - On-Sale of Beer, Wine, and Liquor

Census tract 32.04 includes the area south of the Interstate 54, north of Bonita Road, west of Sweetwater Road, and east of the Interstate 805. The attached census tract map shows the location of the subject tract (Attachment 7).

Hours of Operation

The current CUP limits alcohol sales to 11:00 p.m. Proposed operating hours are 11:00 a.m. to 11:00 p.m. Sunday through Thursday (no change) and 11:00 a.m. to 1:00 a.m. Friday and Saturday. Live entertainment is proposed Thursday (solo performer) from 7:30 p.m. to 10:00 p.m. and Friday and Saturday (band) from 8:30 p.m. to 11:30 p.m. The Police Department rates businesses where the sale of alcohol occurs after 11:00 p.m. as a "three" on their rating system, which usually indicates a higher risk.

Police Department (PD)

The ABC Risk Assessment provided by PD allocated a total of 16 points, which places it in the Medium Risk category. Medium risk is considered 13 to 18 points. The addition of live music (without dancing) added two more points to the score from the previous CUP Risk Assessment in 2018.

Institute for Public Strategies

IPS provided comments (Attachment 8) recommending RBSS training for all staff. This is a condition of the previous approval and will remain for the current request, if approved.

Public Comment

No public comment was received as part of the public hearing notice. However, one community member raised concerns at a recent City Council meeting after receiving notice of the community meeting. Concerns were related to increased alcohol consumption and incidents of intoxicated driving.

Findings for Approval

The Municipal Code contains six required findings for CUPs as follows:

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code.

The use is allowable within the MXD-2 zone pursuant to a CUP and the proposed use meets the required guidelines in the Land Use Code for alcohol sales, as discussed in the staff report.

2. The proposed use is consistent with the General Plan and any applicable specific plan.

Alcohol sales and live entertainment are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. A restaurant use is consistent with the MXD-2 land use designation contained in the Land Use and Community Character element of the General Plan.

3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity.

No expansion of the building is proposed. The proposal involves an existing restaurant space, which was previously analyzed for traffic impacts when it was constructed.

4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints.

The proposed alcohol sales and live entertainment would be accessory to the primary use of food sales. A restaurant existed on the site previously.

5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located.

The proposed use would be subject to conditions that limit the hours that alcohol is served and the hours that live entertainment is conducted. All previous conditions of approval would continue to be in effect, except as modified by this request.

6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

The project is not considered a project under CEQA, as no development is proposed. In addition, the proposed use is similar to other commercial uses in the area, which are permitted in the MXD-2 zone.

The following two findings are also included with alcohol CUPs:

7. The proposed use is deemed essential and desirable to the public convenience or necessity.

In this case, live entertainment and the extension of operating hours will contribute to the viability of the restaurant, an allowed use in the MXD-2 zone.

Findings for Denial

Due to the high crime in the area, there is also a finding for denial as follows:

1. Granting the permit would constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located.

Extension of the hours that alcohol is served, in addition to live entertainment, may increase the propensity for over-consumption of alcohol and increase the potential for impacts to the surrounding area.

Conditions of Approval

Previous conditions of approval not modified by this request will remain in place. Conditions of Approval include those specific to on-site alcohol sales per Council Policy 707 (hours of operation, employee training, accessory sales, etc.). Additional conditions modify existing hours, require that sale of alcohol only occur in conjunction with the sale of food, annual business license renewal (standard condition on new permits), and compliance with noise standards in the Municipal Code.

Summary

The proposed use is consistent with the General Plan due to alcohol sales for on-site consumption and live entertainment both being conditionally-allowed uses in the MXD-2 zone. The alcohol sales use would continue to be accessory to the existing restaurant use in an established commercial area. The addition of live entertainment, while increasing the potential for morphing, will also be accessory to the restaurant use. The inclusion of conditions requiring that alcohol not be sold without a food purchase, and requiring compliance with noise standards is intended to alleviate concerns related to area impacts.

Options

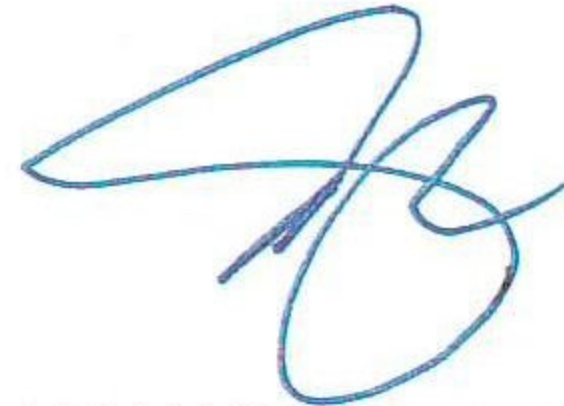
1. Approve 2021-12 CUP subject to the conditions listed within, based on the attached findings, or findings to be determined by the Planning Commission; or
2. Deny 2021-12 CUP based on the attached finding or findings to be determined by the Planning Commission; or,
3. Continue the item to a specific date in order to obtain additional information.

Attachments

1. Recommended Findings
2. Recommended Conditions of Approval
3. Overhead
4. Applicant's Plans (Exhibit A, Case File No. 2021-12 CUP, dated 7/1/2021)
5. Public Hearing Notice (Sent to 530 property owners & occupants)
6. Public comment
7. Census Tract & Police Beat Maps
8. PD and Institute for Public Strategies comments
9. Community Meeting Advertisement
10. Resolutions



MARTIN REEDER, AICP
Principal Planner



ARMANDO VERGARA
Director of Community Development

RECOMMENDED FINDINGS FOR APPROVAL

2021-12 CUP – Gerry's Grill

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, because the use is permitted within the MXD-2 zone pursuant to a CUP and the proposed use meets the required guidelines in the Land Use Code for alcohol sales, as discussed in the staff report.
2. The proposed use is consistent with the General Plan and any applicable specific plan, because alcohol sales and live entertainment are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. A restaurant use is consistent with the MXD-2 land use designation contained in the Land Use and Community Character element of the General Plan.
3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, because no expansion of the building is proposed. The proposal involves an existing restaurant space, which was previously analyzed for traffic impacts when it was constructed.
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, because the proposed alcohol sales and live entertainment would be accessory to the primary use of food sales. A restaurant existed on the site previously.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the proposed use would be subject to conditions that limit the hours that alcohol is served and the hours that live entertainment is conducted. All previous conditions of approval would continue to be in effect, except as modified by this request.
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and is not considered a project under CEQA, as no development is proposed. In addition, the proposed use is similar to other commercial uses in the area, which are permitted in the MXD-2 zone.

7. The proposed use is deemed essential and desirable to the public convenience or necessity, because live entertainment and the extension of operating hours will contribute to the viability of the restaurant, an allowed use in the MXD-2 zone.

RECOMMENDED FINDING FOR DENIAL

2021-12 CUP – Gerry's Grill

1. Granting the permit would constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because extension of the hours that alcohol is served, in addition to live entertainment, may increase the propensity for over-consumption of alcohol and increase the potential for impacts to the surrounding area.

RECOMMENDED CONDITIONS OF APPROVAL

2018-22 CUP – 3030 Plaza Bonita Rd. #2510

General

1. This Conditional Use Permit authorizes the sale of alcohol for on-site consumption at a new restaurant located at 3030 Plaza Bonita Rd. #2510. Plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2018-22 CUP, dated 9/11/2018.
2. Before this *Conditional Use Permit* shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by the Planning Department, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the *Conditional Use Permit*. The applicant shall also submit evidence to the satisfaction of the Planning Department that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the *Conditional Use Permit* are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Deputy City Manager prior to recordation.
3. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
4. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
5. This *Conditional Use Permit* may be revoked if the operator is found to be in violation of any Conditions of Approval.

Planning

6. All sellers of alcohol shall receive Responsible Beverage Service and Sales (RBSS) training, including all owners, and managers. The RBSS training must be certified by the Department of Alcoholic Beverage Control (ABC). Proof of completion of an approved RBSS program must be provided prior to issuance of a city business license. As part of the RBSS training, the permittee shall make available a domestic violence training session as provided by the Institute of Public Strategies.
7. The sale of alcoholic beverages shall be permitted only between the hours of 10:00 a.m. to 10:00 p.m. Sunday, 11:00 a.m. to 10:00 p.m. Monday through Thursday and 10:00 a.m. to 11:00 p.m. Friday and Saturday.

8. The sale of alcohol shall not exceed the sale of food. With the annual renewal of the City business license, the business proprietor shall submit a statement clearly indicating total alcoholic beverage sales and total food sales. Said statement shall be subject to audit and verification by employees of the City, who are authorized to examine, audit and inspect such books and records of the license, as may be necessary in their judgment to verify that the sale of alcohol does not exceed the sale of food. All information obtained by an investigation of records shall remain confidential.
9. Alcohol shall be available only in conjunction with the purchase of food.
10. Permittee shall post signs in the patio dining area, including all exits to outdoor seating areas, indicating that alcoholic beverages must be consumed inside the restaurant or patio area and may not be taken off-premises.
11. No live entertainment is permitted without modification of this CUP or issuance of a Temporary Use Permit.



CITY OF NATIONAL CITY - PLANNING DIVISION
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

NOTICE OF PUBLIC HEARING

CONDITIONAL USE PERMIT FOR THE ADDITION OF LIVE ENTERTAINMENT
AND EXPANSION OF APPROVED OPERATING HOURS FOR ALCOHOL SALES
AT AN EXISTING RESTAURANT (GERRY'S GRILL)
LOCATED AT 3030 PLAZA BONITA ROAD, SUITE 2510.
CASE FILE NO.: 2021-12 CUP

The National City Planning Commission will hold a public hearing at their regular online meeting after the hour of 6:00 p.m. **Monday, August 16, 2021**, on the proposed request. The meeting will be LIVE WEBCAST from the City Council Chambers, Civic Center, 1243 National City Boulevard, National City, California, on the proposed request. (Applicant: City-initiated)

Due to the precautions taken to combat the continued spread of coronavirus (COVID-19), City Council Chambers are closed to the public. Anyone interested in this public hearing may observe it on the City's website at <http://www.nationalcityca.gov/government/city-clerk/council-webcast>.

The applicant is proposing to expand the approved hours of operation for beer and wine sales and add live entertainment at the restaurant. Proposed operating hours are 11:00 a.m. to 11 p.m. Sunday through Thursday and 11:00 a.m. to 1:00 a.m. Friday and Saturday. Live entertainment is proposed Thursday (solo performer) from 7:30 p.m. to 10 p.m. and Friday and Saturday (band) from 8:30 p.m. to 11:30 p.m.

Information is available for review at the City's Planning Division, Civic Center. Members of the public are invited to comment. Written comments should be received by the Planning Division on or before 12:00 p.m., **August 16, 2021**, who can be contacted at 619-336-4310 or planning@nationalcityca.gov.

If you challenge the nature of the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

From: Ana Morales
To: council: Clerk
Subject: General Public Comment regarding Gerry's Grill use permit modification
Date: Tuesday, August 3, 2021 1:50:16 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

To the Honorable Mayor and Council of the City of National City:

Mayor Alejandra Sotelo-Solis
Vice Mayor Jose Rodriguez
Councilmember Marcus Bush
Councilmember Mona Rios
Councilmember Ron Morrison

I would like to express my disagreement to the use permit modification requested by Gerry's Grill at 3050 Plaza Bonita Rd, National City, CA.

I would like to ask the Mayor and Council of the City of National City to consider NOT accepting a use permit modification to extend the sale and dispensing of alcoholic beverages for on-site consumption until 1am and the live music until 11:30p for Gerry's grill.

While it is true that extending the hours of sale for alcoholic beverages will bring in more revenue to the City, it would be at the expense of the safety of this community. Extending the amount of time alcoholic drinks are sold will inevitably increase the amount of consumption and consequently raise the amount of drunk driving incidents.

Due to the isolated location of the restaurant/grill/bar there are fewer opportunities for other modes of transportation for intoxicated individuals compared to say the Gaslamp in San Diego. Downtown SD has trolley, many bus routes, and lots of uber of lyft options due to the high volume of bars and busy nightlife. We don't have the same options here in this isolated location. By the same token, we don't have a strong law enforcement presence near either. Most people will need to drive to get home even if they have been drinking. Alcohol consumption is conducive to driving under the influence, especially late at night. Most people don't go out to eat at 12am, they go out to drink.

As a resident of National City that lives next to the Plaza Bonita Mall I already have to cope with hearing vehicles racing nearby and drivers doing wheelies in the mall parking lot on weekends, to now have an increase in drivers that might be intoxicated.

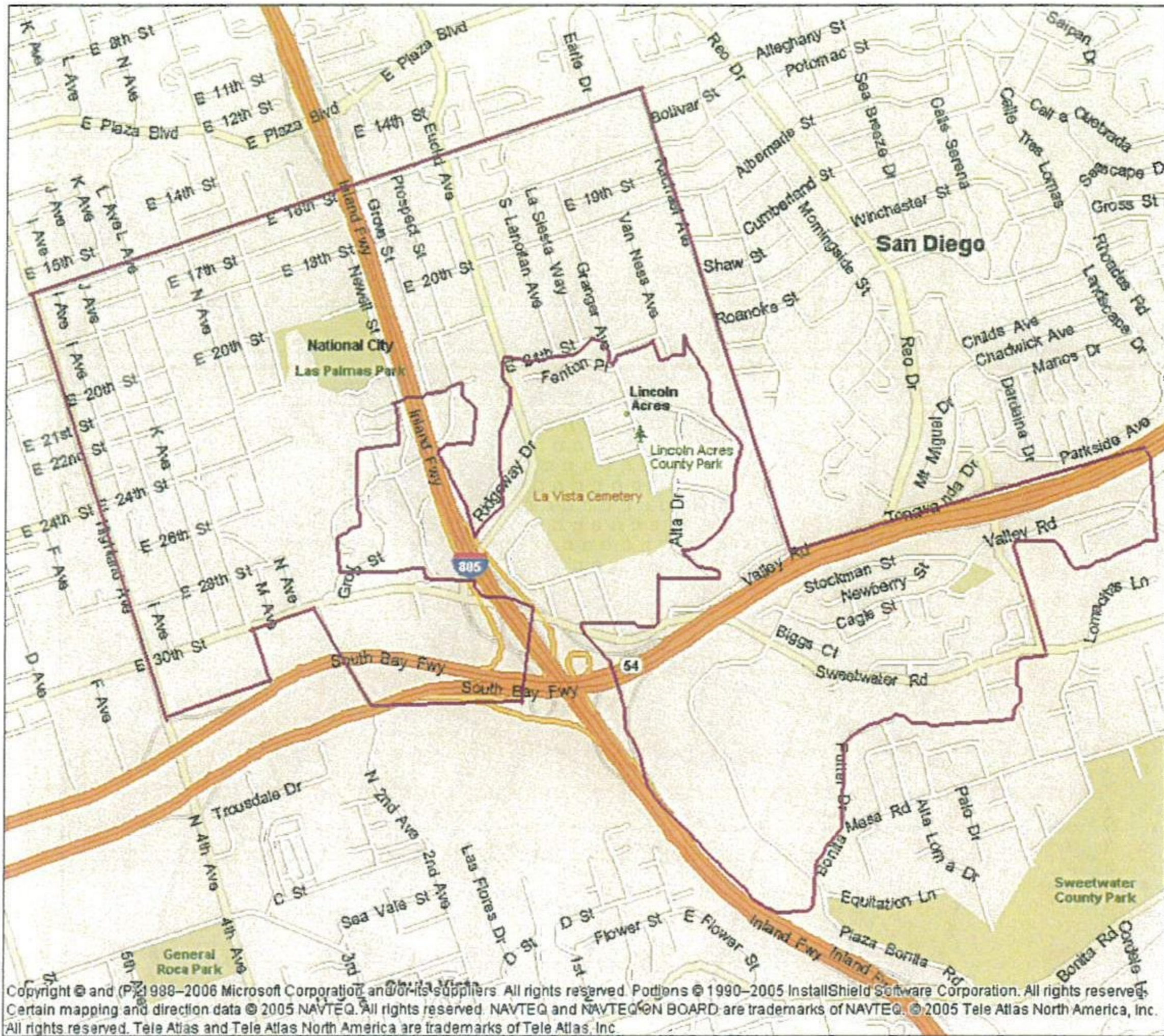
As a new parent, I am concerned for the safety and well-being of my family. I want to keep my family and neighborhood safe, especially during those unwanted late-night visits to ER/urgent care or to the pharmacy to pick up medicine for my child.

I think our community can also agree we need to make sure our neighbors and young students working those late-night shifts on the weekends are able to get home safely.

Let's keep our community and families safe.

Thank you for your time and consideration in reviewing this request.

Ana Morales
National City Resident



City of National City Beat 23

Source: Microsoft Mappoint
NCPD CAU, 4/18/07



NATIONAL CITY POLICE DEPARTMENT
ALCOHOL BEVERAGE CONTROL
RISK ASSESSMENT

DATE: 08/10/2021

BUSINESS NAME: Gerry's Grill

ADDRESS: 3030 Plaza Bonita Road # 2510, National City, CA 91950

OWNER NAME: Gerardo B. Apoliarioa DOB: 11/01/1967

OWNER ADDRESS: 31005 Courthouse Dr. Union City, Ca 94587

(add additional owners on page 2)

I. Type of Business

- Restaurant (1 pt)
- Market (2 pts)
- Bar/Night Club (3 pts)
- Tasting Room (1pt)

II. Hours of Operation

- Daytime hours (1 pt)
- Close by 11pm (2 pts)
- Close after 11pm (3 pts)

III. Entertainment

- Music (1 pt)
- Live Music (2 pts)
- Dancing/Live Music (3 pts)
- No Entertainment (0 pts)

IV. Crime Rate

- Low (1 pt)
- Medium (2 pts)
- High (3 pts)

V. Alcohol Businesses per Census Tract

- Below (1 pt)
- Average (2 pts)
- Above (3 pts)

Notes:

Currently, there are 4 on sale licenses allowed in tract 32.04

Currently, there are 10 active on sale licenses in tract 118.02

VI. Calls for Service at Location (for previous 6 months)

- Below (1 pt)
- Average (2 pts)
- ✓ Above (3 pts)

VII. Proximity Assessment (1/4 mile radius of location)

- ✓ Mostly commercial businesses (1 pt)
- Some businesses, some residential (2 pts)
- Mostly residential (3 pts)

Low Risk (12pts or less) Medium Risk (13 – 18pts) High Risk (19 – 24pts) Total Points <u>16</u>
--

VIII. Owner(s) records check

- ✓ No criminal incidents (0 pts)
- Minor criminal incidents (2 pts)
- Multiple/Major criminal incidents (3 pts)

OWNER NAME: Gerardo B. Apoliario DOB: 11/01/1967

OWNER ADDRESS: 31005 Courthouse Dr. Union City, Ca 94587

OWNER NAME: _____ DOB: _____

OWNER ADDRESS: _____

Recommendation:

Completed by: W. Walters, Sergeant Badge ID: 398

Environmental Scan for Alcohol License C.U.P.

Gerry's Grill Restaurant

3030 Plaza Bonita Road, Ste. 2510, National City, CA 91950

July 19, 2021



Photo of the outside of the building for Gerry's Grill in Westfield Plaza Bonita in National City

Google Earth View of 3030 Plaza Bonita Road, Ste. 2510 and Surrounding Area

The applicant is proposing to expand hours of operation for beer and wine sales and add live entertainment at an existing restaurant (ABC Type 47 license). The business is located east of the 805 Freeway off Sweetwater Road in National City.

The proposed operation hours requested are 11:00 a.m. to 11:00 p.m. Sunday through Thursday and 11:00 a.m. to 1:00 a.m. Friday and Saturday. Live entertainment with no dancing is proposed Thursday from 7:30 p.m. to 10:00 p.m. and Friday and Saturday a band from 8:30 p.m. to 11:30 p.m.

IPS staff attended the Community meeting on July 19, 2021 and was very satisfied that the business owner will respect the hours requested.

Considerations

Should the CUP be modified, we would recommend that:

1. Staff, management, and owner be required to attend the Responsible Beverage Sales and Service training.

Funded by the San Diego County Health and Human Services Agency
 2615 Camino del Rio So. #300 • San Diego, California, 92108 • Phone: 619.476-9100 • Fax: 619.476-9104

www.publicstrategies.org

You are invited to attend a:
COMMUNITY MEETING

Date: Monday, July 19, 2021

Time: 5 PM – 6 PM

Address: Gerry's Grill – 3050 Plaza Bonita Rd, National City, CA

This meeting is to inform citizens of a use permit modification to extend the sale and dispensing of beer, wine, and distilled spirits for on-site consumption until 1 am on Friday and Saturday and to have live music. The proposed hours of operation are Sunday – Thursday 11 am – 11 pm and Friday and Saturday 11 am – 1 am. The proposed hours for live entertainment are Thursday 7:30 pm – 10 pm and Friday and Saturday 8:30 pm – 11:30 pm.

We are looking forward to meeting you and discussing any concerns or questions you may have regarding this proposed restaurant operations. If you can't attend the meeting, or if you have any questions before then, please feel free to contact Steve Rawlings, the Applicant's representative, at 951-667-5152 or via email at SER@Rawlingspm.com.

This notice is being sent to you in fulfillment of the City of National City requirements. This outreach effort to our neighbors is necessary because an application for development or use has been filed with the City of National City Planning Department.

RESOLUTION NO. 2021-06

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF NATIONAL CITY, CALIFORNIA
APPROVING A CONDITIONAL USE PERMIT FOR THE ADDITION OF
LIVE ENTERTAINMENT AND EXPANSION OF
APPROVED OPERATING HOURS FOR ALCOHOL SALES
AT AN EXISTING RESTAURANT (GERRY'S GRILL)
LOCATED AT 3030 PLAZA BONITA ROAD, SUITE 2510
CASE FILE NO. 2021-12 CUP
APN: 561-471-07

WHEREAS, the Planning Commission of the City of National City considered a Conditional Use Permit for the addition of live entertainment and expansion of approved operating hours for alcohol sales at an existing restaurant (Gerry's Grill) located at 3030 Plaza Bonita Road, suite 2510 at a duly advertised public hearing held on August 16, 2021, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearings the Planning Commission considered the staff report contained in Case File No. 2021-12 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of National City, California, that the testimony and evidence presented to the Planning Commission at the public hearing held on August 16, 2021, support the following findings:

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, because the use is permitted within the MXD-2 zone pursuant to a CUP and the proposed use meets the required guidelines in the Land Use Code for alcohol sales, as discussed in the staff report.
2. The proposed use is consistent with the General Plan and any applicable specific plan, because alcohol sales and live entertainment are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. A restaurant use is consistent with the MXD-2 land use designation contained in the Land Use and Community Character element of the General Plan.

ATTACHMENT 3

3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, because no expansion of the building is proposed. The proposal involves an existing restaurant space, which was previously analyzed for traffic impacts when it was constructed.
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, because the proposed alcohol sales and live entertainment would be accessory to the primary use of food sales. A restaurant existed on the site previously.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the proposed use would be subject to conditions that limit the hours that alcohol is served and the hours that live entertainment is conducted. All previous conditions of approval would continue to be in effect, except as modified by this request.
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and is not considered a project under CEQA, as no development is proposed. In addition, the proposed use is similar to other commercial uses in the area, which are permitted in the MXD-2 zone.
7. The proposed use is deemed essential and desirable to the public convenience or necessity, because live entertainment and the extension of operating hours will contribute to the viability of the restaurant, an allowed use in the MXD-2 zone.

BE IT FURTHER RESOLVED that the application for a Conditional Use Permit is approved subject to the following conditions:

General

1. This Conditional Use Permit authorizes the extension of alcohol sales hours (as stated in Condition No. 7 below) and the addition of live entertainment (subject to the hours stated in Condition No. 8 below) at an existing restaurant located at 3030 Plaza Bonita Road, Ste. 2510. Any plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2021-12 CUP, dated 7/1/2021.
2. Unless specifically modified by this resolution, all Conditions of Approval of Planning Commission Resolution 2018-19 shall remain in full force and effect.

3. Before this *Conditional Use Permit* shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by the Planning Division, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the *Conditional Use Permit*. The applicant shall also submit evidence to the satisfaction of the Planning Division that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the *Conditional Use Permit* are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Director of Community Development prior to recordation.
4. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
5. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
6. This *Conditional Use Permit* may be revoked if the operator is found to be in violation of any Conditions of Approval.

Planning

7. The sale of alcoholic beverages shall only be permitted between the hours of 11:00 a.m. and 11:00 p.m. Sunday through Thursday and between 11:00 a.m. and 12:00 a.m. Friday and Saturday.
8. Live entertainment shall be permitted between the hours of 7:30 p.m. and 10:00 p.m. on Thursdays and 8:30 p.m. and 11:30 p.m. Friday and Saturday. Live entertainment on Thursdays shall be limited to a single performer. A band is permitted on Fridays and Saturdays. A licensed security guard shall be on site during all live music performances.
9. Alcohol shall be available only in conjunction with the purchase of food.
10. All activities shall comply with the limits contained in Table III of Title 12 (Noise) of the National City Municipal Code.
11. A licensed security guard shall be on site during all live music performances.
12. The operator of the business shall maintain an active business license and ensure that the business license is renewed annually.

Police

13. The permittee shall comply with all regulatory provisions of the Business and Professions Code that pertain to the sale, serving, and consumption of alcoholic beverages.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final on the day following the City Council meeting where the Planning Commission resolution is set for review, unless an appeal in writing is filed with the City Clerk prior to 5:00 p.m. on the day of that City Council meeting. The City Council may, at that meeting, appeal the decision of the Planning Commission and set the matter for public hearing.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of August 16, 2021, by the following vote:

AYES: DelaPaz, Roman, Sendt, Valenzuela, Yamane

NAYS:

ABSENT: Natividad, Sanchez

ABSTAIN:



CHAIRPERSON

Site Plan

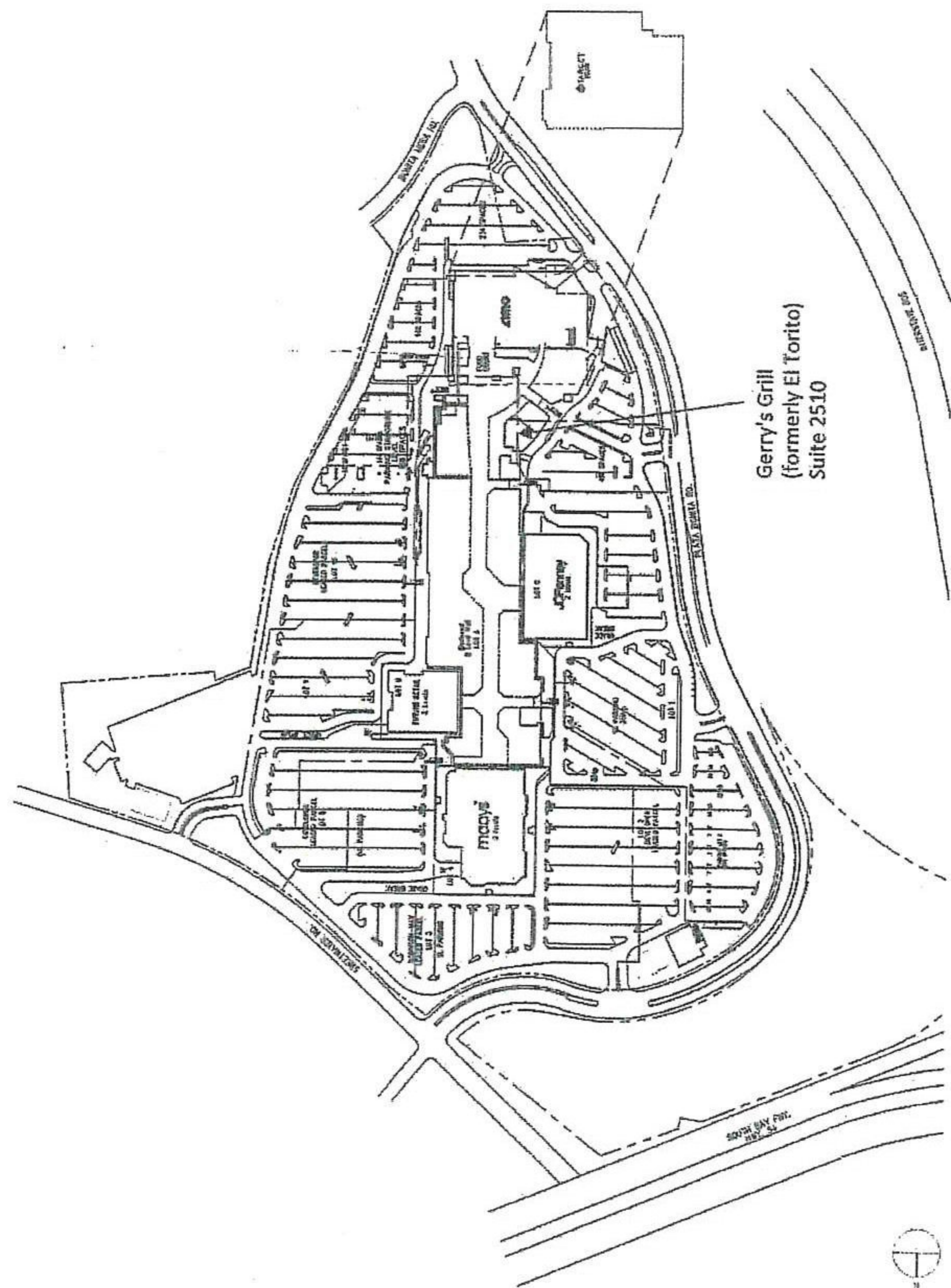
Applicant
 Alcoholic Beverage Specialists
 26023 Jefferson Avenue, Suite B
 Murrieta, CA 92562
 Attn: Steve Rawlings

Project Address
 3030 Plaza Bonita, Suite 2510
 National City, CA

PFM ARCHITECTURE
 1515 RED OAK ST. SUITE 100
 NATIONAL CITY, CA 92061
 TEL: 619.441.1111

Paul Christensen
 Paul Christensen Design LLC
 5112 Lakeside Drive
 Riverside, CA 92505
 TEL: 951.514.8248
 WWW.PAULCHRISTENSENDESIGN.COM

Gerry's Grill
 3030 Plaza Bonita
 Suite 2510
 National City, CA



Gerry's Grill
 (formerly El Torito)
 Suite 2510

ATTACHMENT 4

Exhibit A
 Case File No.: 2021-12 CUP
 Date: 7/1/2021

Gerry's Grill
 3030 Plaza Bonita
 Suite 2510
 National City, CA

Paul Chitt Design
 Paul Chitts Design LLC
 414 Lakeside Drive
 National City, CA 92061
 Tel: 619.594.8500
 www.paulchittsdesign.com

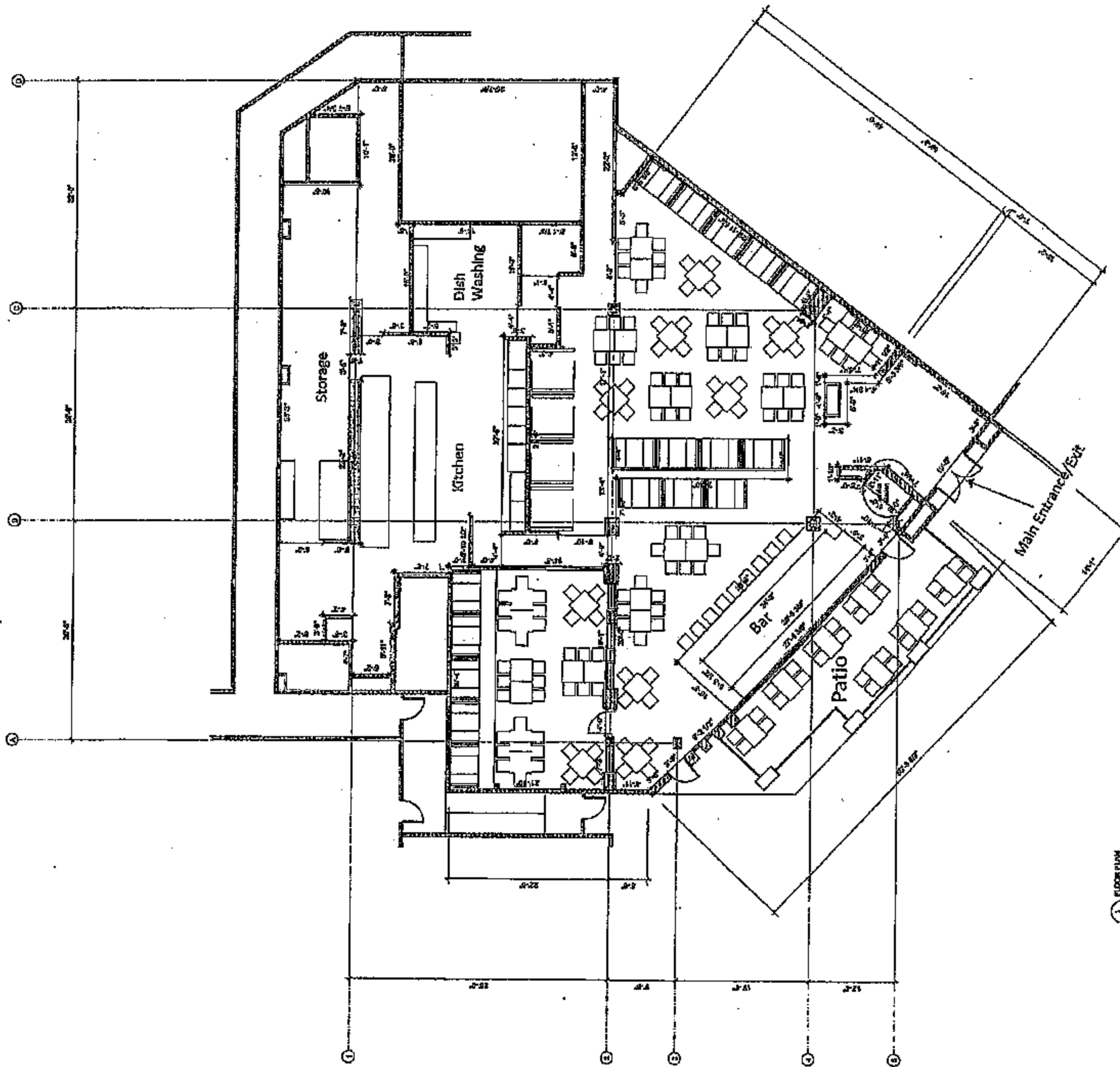
PFM ARCHITECTURE
 1415 9th Street, Suite 200
 National City, CA 92061
 Tel: 619.594.8500

Project Address
 3030 Plaza Bonita, suite 2510
 National City, CA

Applicant
 Alcoholic Beverage Specialists
 26023 Jefferson Avenue, Suite B
 Murietta, CA 92562
 Attn: Steve Rawlings

Floor Plan

A-01



The following page(s) contain the backup material for Agenda Item: [Discussion and direction pertaining to amending the National City Municipal Code Title 2 - Administration by adding Chapter 2.02 - City Attorney. \(City Attorney\)](#)
Please scroll down to view the backup material.

**CITY OF NATIONAL CITY, CALIFORNIA
COUNCIL AGENDA STATEMENT**

MEETING DATE: September 7, 2021

AGENDA ITEM NO. _____

ITEM TITLE:

Discussion and direction pertaining to amending the National City Municipal Code Title 2 – Administration by adding Chapter 2.02 – City Attorney.

PREPARED BY: Charles E. Bell, Jr., City Attorney

DEPARTMENT: City Attorney's Office

APPROVED BY: Charles E. Bell, Jr.

EXPLANATION:

The City Attorney's Office requests City Council direction to draft an ordinance amending the National City Municipal Code Title 2 – Administration by adding Chapter 2.02 – City Attorney. Currently, the City Attorney's Office website is the only location that provides information on the departments (1) Overview and (2) Duties and Activities. An amendment will establish the City Attorney's role and authority in the National City Municipal Code. Additionally, an amendment will bring the City of National City in line with the City of Carlsbad, Chula Vista, Encinitas, Escondido, San Diego, San Marcos, Santee, and Vista. These cities also have an internal City Attorney Office.

FINANCIAL STATEMENT:

APPROVED: _____ **Finance**

ACCOUNT NO.

APPROVED: _____ **MIS**

Not Applicable

ENVIRONMENTAL REVIEW:

This action does not constitute a project under California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(2).

ORDINANCE: INTRODUCTION:

FINAL ADOPTION:

STAFF RECOMMENDATION:

Staff recommends City Council give direction to proceed with drafting an ordinance amending the National City Municipal Code Title 2 – Administration by adding Section 2.02 – City Attorney.

BOARD / COMMISSION RECOMMENDATION:

ATTACHMENTS:

The following page(s) contain the backup material for Agenda Item: [City Manager Report.](#)
[\(City Manager\)](#)

Please scroll down to view the backup material.

Item # ____
09/07/21

City Manager Report

(City Manager)

The following page(s) contain the backup material for Agenda Item: [Community Benefit Agreements/Project Labor Standards and Policies](#).
Please scroll down to view the backup material.

Item # ____
09/07/21

**Community Benefit Agreements/Project Labor
Standards and Policies**